

Appendix 1

Draft response to the Government's consultation on proposed changes to national planning policy

a) Affordable Housing

Q1. Do you have any comments or suggestions about the proposal to amend the definition of affordable housing in national planning policy to include a wider range of low cost home ownership options?

Epping Forest District Council understands that the proposals currently being consulted on would introduce a further low cost home ownership option, through the provision of Starter Homes. Further detail is awaited on exactly how this might be implemented, and is often the case, it is difficult reach a complete view without the full details.

In Epping Forest District, on suitable sites, 40% of the total numbers of properties are sought as affordable housing. Within this 40%, 70% are required to be affordable homes for rent with the remaining 30% being provided as Shared Ownership. With the introduction of Starter Homes, it is not clear what capacity there will continue to be for provision of Shared Ownership properties. There is a concern that this affordable option for home ownership will no longer be available.

It is likely that most councils will wish to maximise the amount of affordable rented housing obtained on development sites and, dependent on the level of Starter Homes prescribed in Regulations must be provided, the overall amount of affordable rented housing is likely to be reduced in any event, leaving little or no scope for Shared Ownership to be provided. The Council is concerned that, although Starter Homes will provide an important benefit for certain people wanting to access home ownership, there will be a further category of people who will still be unable to afford a Starter Home, but could afford a Shared Ownership home – but for whom this option will no longer be available.

The Council is also concerned about the effect the requirement to include Starter Homes on sites will have on the level of affordable rented housing that is provided. Any reduction on the amount of affordable rented housing that can be provided would impact on those that are in the highest categories of housing need, resulting in more people being in unsuitable housing for longer, and more people being added to the Council's Housing Register, which already comprises in excess of 1,500 households from within Epping Forest District.

The overall premise of Starter Homes is questioned. Such properties will not be available as affordable housing in perpetuity, and can be sold on the open market following five years of occupation. This is likely to only serve the first owner, therefore providing only a short term solution to the provision of more affordable homes for those entering the housing market. It is suggested that, at the very least, the initial occupation term should be extended to at least 10 years. This would provide scope for existing Starter Homes to be available, as Starter Homes, to other households in the future.

Another concern is that, it is not clear what, if any, mechanism will exist to transfer Starter Homes to another type of affordable housing, should there be insufficient demand for those properties as Starter Homes. It is suggested that the first recourse in such an instance, should be for any such properties to be transferred into either shared ownership or affordable rented properties.

Epping Forest District is a high value area, and the recently completed Strategic Housing Market Assessment (2015) identifies that average house prices in Epping Forest District are in excess of £276,000, and for the most part, in excess of £332,000. Clearly, some properties will be beneath these average values, but it suggests the opportunities for accessing a range of types/sizes of Starter Home will be limited at best. Starter Homes are most likely to comprise one-bed flats, which would only meet the housing needs of a limited range of people.

Further Epping Forest District borders four London Boroughs (Enfield, Redbridge, Havering and Waltham Forest). There is a very real concern that the disparity between the property value limit in London Boroughs (£450,000) compared with Districts immediately outside of London such as Epping Forest (£250,000), could lead to demand for properties from people currently in residence outside of the District. It is not clear what the mechanism for registering an interest in purchasing a Starter Home would be, or how this would be managed.

It is not clear whether extensions would be permitted on appropriate properties. Any extension would increase the value of a property, therefore putting it further out of reach of the people it is intended to help.

Q2. Do you have any views on the implications of the proposed change to the definition of affordable housing on people with protected characteristics as defined in the Equalities Act 2010? What evidence do you have on this matter?

The Council does not have evidence to offer on this matter, but would question the legality, under the Equalities Act of applying an upper age limit on those able to buy a Starter Home, since this would appear to discriminate unfairly against first time buyers over 40 years of age.

If the intention is to enable more first time buyers to access the housing market, it should not matter how old they are. Clarity would also be required for instances where for example one partner is under 40 years of age, and the other is over 40 years of age; or where a buyer turns 40 during the purchase process.

b) Increasing residential density around commuter hubs

Q3. Do you agree with the Government's definition of commuter hub? If not, what changes do you consider are required?

The principle of focusing development around commuter hubs is supported, and the Council has extant planning policies that seek this broad approach. However, there is no mention within the consultation document of the capacity of public transport services, and their ability to support growth in housing development in the vicinity.

In Epping Forest District, access to frequent public transport services (as defined within the consultation document) would mean that development should be encouraged in close proximity to Central Line stations, where these are further served by appropriate bus connections. However, the Central Line is very congested at peak times, and the demand for commuter parking far outstrips supply.

There is a disparity between the charging regimes for London Underground services compared with mainline rail services, meaning people are often willing to travel considerable

distances to access the Underground network. Reliance on the bus network, where a large proportion of this is privately operated, increases the risk that services will cease, therefore reducing the opportunities for residents to avoid personal car use. Public transport provision in the District is restricted to the larger settlements, with the links between settlements also often limited. Unless travel to and from London is required, the opportunities for use of public transport are not as readily available as perhaps may be first thought.

Focusing further growth around the Central Line stations is considered appropriate in principle, but careful consideration of parking provision, design and access to amenity space would also be needed. Epping Forest District Council would not wish for the unintended consequences of poorly designed schemes to become problematic for existing and new residents. Further, the impacts on other infrastructure provision would need to be considered in determining whether development is appropriate, including, but not limited to education, health and social facilities. In addition it is important to take into account the capacity of the local highway network to cope with the level of additional journeys generated, particularly at peak times such as school pick up and dropping off times.

As currently drafted, the proposed definition of a commuter hub is very broad and would arguably apply to all public transport interchanges by virtue of inclusion of reference to being able to continue the journey by walking or cycling.

Q4. Do you have any further suggestions for proposals to support higher density development around commuter hubs through the planning system?

The NPPF already includes a position of policy support for this approach as a matter of principle. It seems unnecessary to further adjust the policy approach in this regard. In an area such as Epping Forest District, where development opportunities within existing settlements are relatively limited, elected Members and residents alike wish to be fully engaged in the process. Strengthening the prescription of national planning policy at the expense of limiting the weight able to be accorded to local considerations, appears to be in direct contradiction to other stated aims around public engagement and the ethos envisaged by the introduction of Neighbourhood Planning.

Q5. Do you agree that the Government should not introduce a minimum level of residential densities in national policy for areas around commuter hubs? If not, why not?

Yes. Development proposals should respond to the character and surrounding environment of the scheme. Overall design and massing, access to amenity space, car parking and other matters are just as important, or arguably more so, than an arbitrary approach to density on all available sites. As above, consideration of the capacity of the overall infrastructure of an area is required to ensure developments are successful.

c) Supporting new settlements, development on brownfield land and small sites, and delivery of housing agrees in Local Plans

Q6. Do you consider that national planning policy should provide greater policy support for new settlements in meeting development needs? If not, why not?

No. The NPPF already provides support (para 52) for new settlements in appropriate locations, where evidence suggests this is necessary. The Council is of the view that it

should be for each authority, or relevant group of authorities working in cooperation in accordance with a defined Housing Market Area (HMA), to determine whether new settlement(s) are required. The Local Plan process is the appropriate mechanism for bringing forward new settlements, and all of the associated infrastructure requirements. The proposed strengthening of guidance around the operation of the Duty to Co-operate, as heralded in the Productivity Plan (July 2015), may be helpful in order to determine the appropriate distribution of housing across a HMA.

Q7. Do you consider that it would be beneficial to strengthen policy on development of brownfield land for housing? If not, why not and are there any unintended impacts that we should take into account?

In principle, the emphasis on using brownfield land as a priority is supported. However, it is important to recognise that the creation and maintenance of sustainable and balanced communities is reliant on providing sites for a range of different land uses in addition to housing.

Details on the implementation of the Brownfield Register are not yet known and it is difficult to judge the extent to which any further strengthening of national policy would be necessary without knowing the full requirements on this matter.

Whilst recognising the benefits of maximising development on brownfield land where possible, there is a concern around the extent to which such an approach may be damaging to the character of an area. In Epping Forest District, the majority of planning applications received are for developments of less than 10 units, and it is often found that these small schemes create a high level of public interest. If there is a presumption in favour at the outset, subject only to approval of a small range of details, it would appear likely that a number of existing residents would be frustrated in not feeling that their voices have been heard. As per the response to question 4, it would appear there is a contradiction between this approach, and that envisaged by the introduction of Neighbourhood Planning.

Concerns on the implementation of this approach in respect of brownfield land in the Green Belt are explored across a number of the subsequent questions.

Q8. Do you consider that it would be beneficial to strengthen policy on development of small sites for housing? If not, why not? How could the change impact on the calculation of the local planning authorities' five year land supply?

Q9. Do you agree with the Government proposal to define a small site as a site of less than 10 units? If not, what other definition do you consider is appropriate, and why?

Taking Q8 and Q9 together, it is not considered that any further change to planning policy is needed in this regard.

Amendments would be required to the way in which Local Planning Authorities calculate the five year land supply, and it could perhaps be assumed that a subset of the information would need to be created to monitor the numbers of homes coming forward on small sites where there is an in-principle agreement to development.

Epping Forest District Council considers that a threshold of 5 units or less would be appropriate. In addition, to prevent threshold abuse, it may also be appropriate to introduce a site size threshold in addition. An appropriate figure for identification of small sites might be below 0.25ha. Please see details provided in response to Q7 for further information.

Q10. Do you consider that national planning policy should set out that local planning authorities should put in place a specific positive local policy for assessing applications for development on small sites not allocated in the Local Plan?

No. It would seem unnecessary for national planning policy to be this prescriptive. It should therefore be left for each local authority to determine the appropriate approach to the development of small sites for its area. It may not be necessary to adopt a specific approach to the redevelopment of small sites, but to take each opportunity on its merits.

Q11. We would welcome your views on how best to implement the housing delivery test, and in particular:

- **What do you consider should be the baseline against which to monitor delivery of new housing?**
- **What should constitute significant under-delivery, and over what time period?**
- **What steps do you think should be taken in response to significant under-delivery?**
- **How do you see this approach working when the housing policies in the Local Plan are not up-to-date?**

Care must be taken to avoid weakening of the planning system through the introduction of these proposed amendments. It is not clear whether a new “housing delivery test” would differ greatly from the current approach of calculating and monitoring the five year supply of deliverable sites. It should be recognised, that in most cases, local authorities do not usually own and manage land that is subject to development proposals. Whilst authorities are responsible for giving planning consent, and creating a positive environment in which appropriate development may occur, once consent is granted the onus is on the development industry to deliver. It is felt neither appropriate nor reasonable to penalise authorities where planning consent is granted, but developers for whatever reason have chosen not to implement consents in a timely manner. Where necessary to do so, the mechanisms already exist for planning obligations to be renegotiated to take into account shifting economic viability considerations. In addition, consideration needs to be given to the availability of suitably qualified and skilled tradesmen that will be required to build new homes at the rate that the Government is seeking.

Local Plans are currently required to plan for appropriate housing growth over a minimum of 15 years, with reducing levels of certainty throughout the plan period (NPPF para 47). Any measure of successful housing delivery should be calculated on at least a five year basis; anything less would be likely to penalise authorities where anomalies occur. The basis for any calculation should be set out clearly within national guidance to prevent a continuation of the current position in which significant time is spent in determining planning applications, at appeal and as part of Local Plan preparation, establishing the correct way to measure a five year land supply.

It would appear appropriate that “significant under delivery” is measured on a percentage basis over a five year period. It would appear that this proposal is linked to another CLG consultation on changes to the New Homes Bonus. A full report on this matter will be considered by the Council’s Resources Select Committee on 9 February 2016.

Where an authority is deemed to have triggered any threshold that is put in place, a mechanism for further investigation prior to sanction would be required. Consequences for significant under delivery would need to be understood, and it is unlikely that a “one size fits all” approach to remedial actions would be appropriate. Equally, the onus is not entirely on

local authorities to ensure delivery, and there must also be a mechanism for those that are in receipt of planning consent to deliver their schemes in a timely manner.

This cannot be a blunt instrument, but must be treated as an incentive to deliver growth. What reward would there be for meeting (and exceeding) any targets set out?

It is not clear what “up to date” means in this context, and any amendment to the NPPF or PPG should be clear on this. Given the raft of changes in the recent past, this could refer to instances where a Local Plan predates the NPPF, or where local circumstances indicate a review of the policy approach is required. Frequent changes to the planning policy narrative do not help local authorities to progress production of up to date Local Plans in a timely manner. There should be a transitional period prior to any housing delivery test being introduced, to provide an opportunity for local planning authorities to put adopted plans in place or make necessary amendments.

Q12. What would be the impact of a housing delivery test on development activity?

It is unclear to the Council how the introduction of a housing delivery test would assist in terms of implementation. It would however be hoped that where planning consent is granted, delivery rates will increase. As always, the detail is important, and delivery of new homes is reliant on far more than the planning system.

d) Supporting delivery of starter homes

Q13. What evidence would you suggest could be used to justify retention of land for commercial or similar use? Should there be a fixed time limit on land retention for commercial use?

Epping Forest District Council currently requires evidence to be presented with applications for change of use from an existing/previous employment use. This evidence needs to demonstrate that there is no viable alternative to the use being sought, and that reasonable steps have been taken to market the property for the current commercial use. The intention of this policy is to ensure that a range of appropriate commercial property/land opportunities remains available for use by businesses, although recognising that the demand for commercial uses is constantly changing.

As noted in the response to question 7 above, an integral part of achieving sustainable development is to ensure there is an appropriate balance between all types of development.

Q14. Do you consider that the starter homes exception site policy should be extended to unviable or underused retail, leisure and non-residential institutional brownfield land?

No. It is not clear how such a policy approach would accord with other campaigns for example, around the protection of pubs, and indeed any Assets of Community Value which are registered as such with local authorities.

A blanket approach to the provision of residential development on land previously used for other purposes could have an unintended consequence of putting pressure on the remaining uses to change working practices, relocate or close, if there are, for example, complaints from new residents about noise/nuisance.

The overall purpose of the planning system should be on the achievement of sustainable development, which should remain about balancing the requirements for homes and jobs whilst respecting the existing environment.

Q15. Do you support the proposal to strengthen the starter homes exception site policy? If not, why not?

Additional detail on the application of this policy approach would be welcomed.

The proposed grounds on which planning permission might be refused appear narrow, however, and it is disappointing there is no reference to the overall achievement of sustainable development, and the creation of successful places. It is considered that the “design” clause should also include a reference to amenity to both protect the interests of existing and proposed residents.

Q16. Should starter homes form a significant element of any housing component within mixed use developments and converted unlet commercial units?

No. The proportion of Starter Homes within mixed use developments should be the same as for developments of solely residential units. Requiring developments to contain a high proportion of a particular tenured property could potentially be harmful to achieving an overall mix of housing types within a locality.

Q17. Should rural exception sites be used to deliver starter homes in rural areas? If so, should local planning authorities have the flexibility to require local connection tests?

The NPPF now allows for market homes to be provided as part of rural exception schemes, if they are required to make the development viable. Previously, all dwellings had to be provided as affordable housing in perpetuity.

It is suggested that the emphasis for rural exception schemes should continue to be on seeking to provide affordable housing in perpetuity – which, of course, Starter Homes will not do, since they can become market housing after 5 years.

As much affordable housing in perpetuity as possible should be retained within rural exception schemes, to enable such provision to be available to local residents in the future. It is therefore suggested that Starter Homes should only be allowed to be included within rural exception schemes, where they are required to assist with the viability of the development and, even then, should be provided instead of market housing (which would otherwise be required to make developments viable).

The Council strongly agrees that local planning authorities should be afforded the flexibility to require local connection tests. This is important in areas such as Epping Forest District where housing costs are very high making it very difficult for local people to buy property and remain in the area.

Q18. Are there any other policy approaches to delivering starter homes in rural areas that you would support?

No.

Q19. Should local communities have the opportunity to allocate sites for small scale starter home developments in their Green Belt through neighbourhood plans?

Epping Forest District Council recognises there is merit to identifying possible brownfield land opportunities within the Green Belt and this is a matter that needs to be considered in the context of the preparation of the Local Plan. The proposed approach would give further weight to the Neighbourhood Planning approach, which has seen a number of local Town/Parish councils frustrated by the limitations of the Neighbourhood Planning remit. However, there is a concern that devolving the ability to undertake small scale reviews of the Green Belt may lead to a disjointed approach with regards to a very important strategic policy consideration.

The evidence required to permit development in the Green Belt requires that exceptional circumstances are demonstrated. It is not clear from the consultation whether Town/Parish Councils would be expected to meet this requirement. If they are, there would be a significant resource implication for Town/Parish Councils, and it is not clear whether they would be equipped in terms of resources and skills to deliver such evidence.

If this proposal is to be taken forward, there should be a clear definition of what is considered "small scale". Within Epping Forest District, where the majority of planning applications are for 10 or less units, it would be considered appropriate to set this limit to 5 or fewer units with a 0.25ha site size threshold.

The Council is currently undertaking a comprehensive review of the Green Belt in the District, with a view to determining the extent to which land performs against the nationally defined purposes of the Green Belt. It is important that the achievement of sustainable development remains at the core of decisions around the allocation of land for development. Consideration of the Green Belt Review, alongside a raft of other evidence, will indicate the most appropriate locations for growth in Epping Forest District. Where a Town/Parish Council seeks to allocate a small scale opportunity to develop Starter Homes in the Green Belt, this should be founded on full and robust evidence, to ensure that the overall integrity and purpose of the Green Belt is not undermined. This evidence should be brought forward in concert with the Local Planning Authority, to ensure there is no conflict in approach.

The overall Objectively Assessed Need is determined at Housing Market Area level which often crosses local authority boundaries. This evidence is used as a starting point to determine the most appropriate housing target for an area, taking into account policy constraints and aspirations. Any consideration of the need to release Green Belt land must take account of the requirement for new homes to be delivered. There is the potential for a difference of opinion where a Town/Parish Council identify small scale opportunities for Starter Homes, and the District/Borough authority identify a larger, more strategic allocation for a range of development types. In this instance it would be necessary to give very careful consideration as to how such a difference might be reconciled.

Further, there is an inherent conflict in this approach, in that Neighbourhood Plans are not bound by the Duty to Cooperate in the same way that a District/Borough Local Plan is; the Green Belt, and potential release of land from within it, would be identified as a cross boundary strategic matter, therefore triggering discussions and actions under the Duty to Cooperate. It is not clear where the remits for each type of Plan would fall, and what would be done in the event of conflict between the two plan levels.

It is also not clear how the infrastructure requirements that will arise from the development of new Starter Homes will be addressed. It has been stated that Starter Homes will not be subject to the normal range of planning contributions (whether s106 obligations or CIL),

however, the increase in population arising would inevitably place additional demands and strain on existing services. This may be of particular importance on sites that are currently in the Green Belt which, by their nature, are likely to be more remote from existing services. Given the nature of Starter Homes (with their focus on young people), the demand for school places and health facilities particularly will increase as there will be an increase in the number of children.

Q20. Should planning policy be amended to allow redevelopment of brownfield sites for starter homes through a more flexible approach to assessing the impact on openness?

No. Piecemeal encroachment into the Green Belt that impacts on the overall integrity of the Green Belt should not be permitted. There is a concern that by amending the way in which openness is assessed in respect of Starter Homes, will undermine the purpose and function of the Green Belt. It is not appropriate to adjust the definition of a strategic policy approach for a single type of development.

In any event, where previously developed land exists, there will already have been an impact on the openness of the particular site, and this would be taken into account when considering proposals for redevelopment.

e) Transitional arrangements

Q21. We would welcome your views on our proposed transitional arrangements.

The transitional arrangements are insufficient. The changes proposed within this consultation will require evidence on Objectively Assessed Housing Need to be reviewed and revised.

Where a number of authorities are working together, such a review will take at least 12 months, this including time to seek Member agreement, but also in terms of the capacity of consultants to deliver a number of reviews in a short time frame.

f) General questions

Q22. What are your views on the assumptions and data sources set out in this document to estimate the impact of the proposed changes? Is there any other evidence which you think we need to consider?

No.

Q23. Have you any other views on the implications of our proposed changes to national planning policy on people with protected characteristics as defined in the Equalities Act 2010? What evidence do you have on this matter?

See response to question 2.