

Appendix 2: Draft Response to Housing White Paper Questions

Question 1

Do you agree with the proposals to:

a) Make clear in the National Planning Policy Framework that the key strategic policies that each local planning authority should maintain are those set out currently at paragraph 156 of the Framework, with an additional requirement to plan for the allocations needed to deliver the area's housing requirement?

In principle, however there are two matters worthy of comment – first, the list in Paragraph 156 applies to a full local plan, the governments proposed strategic plans may more appropriately deal with a lesser range of matters, and in particular those prepared jointly. Second, the matter regarding allocations is already implicit within paragraph 157 bullet points 4 and 5.

b) Use regulations to allow Spatial Development Strategies to allocate strategic sites, where these strategies require unanimous agreement of the members of the combined authority?

EFDC has no views on this matter.

c) Revise the National Planning Policy Framework to tighten the definition of what evidence is required to support a 'sound' plan?

The ambition to ensure that evidence is proportionate is welcomed. In doing so, as always, there will need to be local discretion as there will be occasions where local circumstances may require some bespoke evidence work.

Question 2

What changes do you think would support more proportionate consultation and examination procedures for different types of plan and to ensure that different levels of plans work together?

We would support the principles in relation to the recommendations set out in the Local Plan Expert Group Report to Government March 2016 at page 32 as follows (recognising that the White Paper is proposing that a local planning authority would not be required to prepare a single plan):

9.9 The principle amendment that is required is to enable the authority to change the plan in response to public consultation. We recommend that the Local Plans Regulations are amended to allow local planning authorities to make modifications to the draft of the local plan following consultation and prior to submission.

9.10 Those modifications should also be the subject of consultation but this does not need to slow the submission of the plan because those representations would be made available to the local plan Inspector well before the commencement of examination hearings. If this recommendation is accepted, therefore, authorities would:

i. Publish a fully drafted local plan and invite representations;

ii. Consider if they wish to modify the plan in response to those representations;

iii. Submit the local plan to the Secretary of State for examination together with a schedule of proposed modifications; and

iv. Invite further representations but only on the schedule of modifications.

9.11 This simple change would remove the necessity for authorities to introduce the additional stage of plan making which often takes place (the preferred local plan). It would streamline plan making and enhance meaningful community involvement.

9.12 What is also important, however, is that the community has the opportunity early in the plan making process to engage and express its view about what it wants to see achieved through the local plan. Accordingly, we recommend that the first stage of consultation on a local plan must take place early enough to allow community engagement on a vision and high level options for the local plan area.

Question 3: Do you agree with the proposals to:

a) amend national policy so that local planning authorities are expected to have clear policies for addressing the housing requirements of groups with particular needs, such as older and disabled people?

The NPPF, at paragraph 50 bullet point 1, states that local planning authorities should plan for the needs of different groups including for older people and people with disabilities, along with the needs of other groups. To amend national policy as described could imply that greater weight should be given to making provision for older people and people with disabilities than to other groups whereas the focus should be about supporting a range of groups using the Strategic Housing Market Assessment to understand the local priorities as is currently the case. Of more relevance is the way that accessible homes are treated in relation to Local Plan policy. At present the PPG sets out that:

Based on their housing needs assessment and other available datasets it will be for local planning authorities to set out how they intend to approach demonstrating the need for Requirement M4(2) (accessible and adaptable dwellings), and/or M4(3) (wheelchair user dwellings), of the Building Regulations. There is a wide range of published official statistics and factors which local planning authorities can consider and take into account, including:

- *the likely future need for housing for older and disabled people (including wheelchair user dwellings)*
- *size, location, type and quality of dwellings needed to meet specifically evidenced needs (for example retirement homes, sheltered homes or care homes)*
- *the accessibility and adaptability of existing housing stock*
- *how needs vary across different housing tenures*
- *the overall impact on viability*

EFDC would suggest that, taking into account the Housing White Paper's proposition that the extent of evidence should be reviewed with a view to streamlining what is needed, and recognising the importance of providing equal access to all in respect of housing, the requirement to demonstrate the need for 'Requirement M4(2) (accessible and adaptable dwellings)' should be removed and that

it becomes an automatic requirement in developments in order to ensure the longevity of the social sustainability of all new development and to support equality of choice for all. This would be a more realistic and pragmatic approach to addressing the needs for older and disabled people and would provide choice in both the type and location of development that is available to older people and people with disabilities.

b) from early 2018, use a standardised approach to assessing housing requirements as the baseline for five year housing supply calculations and monitoring housing delivery, in the absence of an up-to-date plan?

Without having an opportunity to see, and make comment on, the methodology proposed it is not possible to respond to this. Notwithstanding this, there is a need for clarification as to how such an approach would apply to local plans, such as that which is currently being prepared by EFDC, which it is anticipated will have been submitted to the Secretary of State for Examination at that point. Very serious consideration also needs to be given to the implications that this may have on areas where groups of authorities have come together and agreed a distribution for housing through mechanisms such as Memorandums of Understanding, having considered the outputs from SHMAs, but where the individual local authorities are working to different timelines for the development of their local plans. This is the case for the local authorities of Epping Forest, Uttlesford, East Hertfordshire and Harlow Districts.

In addition to the above, the introduction of any standardised approach must take into account the time, resources and costs involved as a result of having to revisit work already undertaken through recently published SHMAs as these are all implications of bringing such an approach into effect. To overcome this, serious thought should be given to the potential for providing a freely available toolkit on the lines of that previously developed by the Local Housing Requirement Assessment Working Group on its 'How Many Homes' website, rather than local authorities having to 'start from scratch.'

Question 4

Do you agree with the proposals to amend the presumption in favour of sustainable development so that:

a) authorities are expected to have a clear strategy for maximising the use of suitable land in their areas?;

Such an approach could be read as 'getting as much development on a piece of land as possible regardless of any other considerations'. This could unintentionally dilute the core planning principle currently set out in the NPPF that planning should 'not simply be about scrutiny, but instead be a creative exercise in finding ways to enhance and improve the places in which people live their lives'. It is vital that an appropriate balance is achieved. Whilst it is fully appreciated that the best use should be made of available land, this should not be at the cost of quality of place (both existing and new).

b) it makes clear that identified development needs should be accommodated unless there are strong reasons for not doing so set out in the NPPF?;

EFDC is already very clear of the NPPF position in relation to accommodating identified development needs and would question what difference this would make in practice.

c) the list of policies which the Government regards as providing reasons to restrict development is limited to those set out currently in footnote 9 of the National Planning Policy Framework (so these are no longer presented as examples), with the addition of Ancient Woodland and aged or veteran trees?

This would assist with clarification and interpretation of the NPPF in this regard.

d) its considerations are re-ordered and numbered, the opening text is simplified and specific references to local plans are removed?

It is not clear what benefit there is to removing the reference to 'a golden thread'. This is important in emphasising that the three strands of sustainable development should be taken account of across the spectrum of planning related activities. Furthermore this seems counter to the proposal later on in the White Paper to amend the NPPF to encourage local planning authorities to consider the social and economic benefits of estate regeneration.

Question 5: Do you agree that regulations should be amended so that all local planning authorities are able to dispose of land with the benefit of planning consent which they have granted to themselves?

Yes, although it will be important to ensure that there are appropriate safeguards built in to ensure that there is no public perception of 'bias' in the decision-making process.

Question 6: How could land pooling make a more effective contribution to assembling land, and what additional powers or capacity would allow local authorities to play a more active role in land assembly (such as where 'ransom strips' delay or prevent development)?

It is suggested that local planning authorities should be given powers to reasonably require owners of land, that are key to unlocking developments, to either sell the land or allow access across the land, subject to appropriate levels of compensation being provided by the relevant developer(s). This would align with Compulsory Purchase Order principles.

Question 7: Do you agree that national policy should be amended to encourage local planning authorities to consider the social and economic benefits of estate regeneration when preparing their plans and in decisions on applications, and use their planning powers to help deliver estate regeneration to a high standard?

See response to Question 4 above. Furthermore, as the NPPF makes it clear that sustainable development comprises the three strands of economic, social and environmental sustainability this applies as much to estate regeneration as it does with any other form of planning related proposal, as do bullet point 2 and bullet point 4 of the NPPF Core planning principles which state that planning should:

- Not simply be about scrutiny, but instead be a creative exercise in finding ways to enhance and improve the places in which people live their lives; and

- Always seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings.

Question 8: Do you agree with the proposals to amend the National Planning Policy Framework to:

a) highlight the opportunities that neighbourhood plans present for identifying and allocating small sites that are suitable for housing?;

Yes. This is an important element of planning in local communities and small sites make a real contribution to the delivery of housing and support local building firms and their suppliers. They can also often have more flexibility to achieve design solutions that are responsive to local character as they are not so constrained by development models based on standard house types.

b) encourage local planning authorities to identify opportunities for villages to thrive, especially where this would support services and help meet the authority's housing needs?;

Yes. At present the NPPF separates out the policy framework for rural housing and the rural economy rather than bringing these elements together with a focus on supporting thriving rural communities. This would be more in keeping with the three strands of sustainable development and recognise the challenges that face rural communities which can often be very different from those of urban communities.

c) give stronger support for 'rural exception' sites – to make clear that these should be considered positively where they can contribute to meeting identified local housing needs, even if this relies on an element of general market housing to ensure that homes are genuinely affordable for local people?;

The NPPF already makes provision for this but there could be some benefit in strengthening this further. This would also recognise that there should be opportunities for the provision of housing across both the affordable and private sectors, including for rent, to support the objective of achieving mixed and balanced communities and that there is a need for new housing across all tenures in rural communities, and not just as a mechanism for cross-subsidising the affordable housing element of rural exception sites. However, it is important that the inclusion of market housing is truly to enable rural exception schemes to be viable, and not just to increase the payment to the landowner for a site that otherwise has little value anyway. It is therefore essential that, where an element of market housing is proposed, the proposed developer of a rural exception scheme is required to provide a Viability Appraisal to the local planning authority at the pre-application stage to demonstrate the viability need for the proposed number of market homes.

EFDC has undertaken a number of successful rural exception schemes to date, without the need for any market housing to be included, and its Draft Local Plan reflects the approach suggested above.

d) make clear that on top of the allowance made for windfall sites, at least 10% of sites allocated for residential development in local plans should be sites of half a hectare or less?;

Whilst the principle of this is supported there is a need to consider the potential resource implications for identifying and allocating a potentially larger number of sites. In addition setting a

percentage size requirement on sites may not match the portfolio of potential sites available in all local authority areas across England.

e) expect local planning authorities to work with developers to encourage the sub-division of large sites?; and

Developers of large sites already frequently sub-divide them and ‘sell-on’ to other developers as this minimises financial risk and widens choice and allows for a site to be developed out quicker which reduces a developers longer term financial liabilities. The challenge is whether developers are prepared to sub-divide sites to increase the supply of sites for small and medium-sized housebuilders. Whilst local planning authorities can encourage such an approach if a developer says no there are is nothing further that a local planning authority can do.

f) encourage greater use of Local Development Orders and area-wide design codes so that small sites may be brought forward for development more quickly?.

The mechanisms for taking this approach could have significant resource implications for already stretched local planning authorities and can take time to get in place. Consequently they are more appropriate for larger development sites, including for those which are likely to be sub-divided -as per e) above – to ensure consistency of design ethos and also facilitate speed of delivery for sites with a longer build-out timeframe.

Question 9: How could streamlined planning procedures support innovation and high-quality development in new garden towns and villages?

As set out in the successful Harlow and Gilston Garden Town Expression of Interest submitted by EFDC, East Hertfordshire District Council and Harlow Council (October 2016) the following would support innovative and high-quality development in garden towns and villages:

“Financial & delivery innovation:

The Councils would also welcome the opportunity to discuss possible legislation to support the creation of a high quality Garden Town in an innovative and locally led way. This could involve exploring appropriate delivery vehicle structures to enable local leadership, use of New Town powers, and any other associated powers or flexibilities to address land and funding needs.

Further flexibilities to deliver on Garden City principles in relation to establishing suitable local community ownership and governance structures (such as a community land trust) would also be welcomed. In the context of a wider trend towards the localisation of finance there are also opportunities to create a virtuous cycle of reinvestment not currently available.

Planning flexibilities

In order to achieve their ambition of delivering starts by 2020, the Councils are jointly seeking greater planning freedoms to accelerate the process of bringing sites forward through the planning system. This is in addition to protections around their 5-year land supply, speeding up the engagement with statutory agencies, and closer coordination across the authorities with the Planning Inspectorate.

Local Plan Examinations: A key issue that the Councils will need to face is ensuring Local Plans can make effective progress through examination. The fact that several Local Plans are coming forward in tandem with shared issues between them could pose additional risk, and support from DCLG and PINS would be useful to minimise risk and establish suitable examination programmes. The Councils would like to explore the potential for closer co-ordination and alignment of examination processes across the planning authorities to avoid duplication.

Housing Land Supply: In recognition of the challenges posed in bringing forward strategic sites through the planning system the Councils would like to explore with Government opportunities for greater flexibility in terms of maintaining this supply during the period the Councils are pro-actively focusing resources on accelerating strategic sites through the planning system. This will enable the delivery focus to remain driving forward long-term sustainable growth rather than dealing with speculative planning applications and related appeals. In addition and related to financial flexibilities, it may be helpful to explore whether planning processes could be streamlined in any way to enable delivery to come forward effectively and efficiently, potentially aligned to any amendments to New Towns legislation”

Question 10: Do you agree with the proposals to amend the National Planning Policy Framework to make clear that:

a) authorities should amend Green Belt boundaries only when they can demonstrate that they have examined fully all other reasonable options for meeting their identified development requirements?

Yes, although this is already the approach that EFDC has pursued.

b) where land is removed from the Green Belt, local policies should require compensatory improvements to the environmental quality or accessibility of remaining Green Belt land?

Whilst the objective behind this is understood, and very much supported, it is not clear how this would work in practice. If neither the applicant nor the local authority has control over any remaining Green Belt land then there would be no powers through which such a requirement could be brought into effect. Introducing such a requirement could result in placing unreasonable burdens on development and have the unintended consequence of delaying development. Furthermore, facilitating this could be contrary to the NPPF in respect of material changes of use within the Green Belt (see response to the next question).

c) appropriate facilities for existing cemeteries should not to be regarded as ‘inappropriate development’ in the Green Belt?

It is not clear why this is being proposed as the NPPF already makes provision for this at paragraph 89, bullet point 2. More importantly there is an opportunity to address the issues in relation to ‘material changes of use’ as identified in the findings of the Court of Appeal in the case of R (Timmins and Lymn Family Funeral Service) v. Gedling Borough Council and Westerleigh Group Limited [2015 EWCA Civ 110]. In that case views were expressed regarding changes between Planning Policy Guidance 2 and the NPPF in relation to material changes of use in the Green Belt. Differing views were expressed that any change of use of land to use as a cemetery would now be inappropriate. This could also apply to material changes of use for outdoor sport, outdoor

recreation and the like. However, paragraph 81 of the NPPF advises local planning authorities that they should plan positively for to enhance the beneficial use of the Green Belt and makes references to outdoor sport and outdoor recreation. It is this matter that needs to be addressed, and an amendment to the NPPF in this regard would resolve this issue and overcome potential tensions between paragraphs 81 and 89 of the NPPF.

d) development brought forward under a Neighbourhood Development Order should not be regarded as inappropriate in the Green Belt, provided it preserves openness and does not conflict with the purposes of the Green Belt?

Paragraph 90 bullet 5 of the NPPF already treats development brought forward under a Community Right to Build Order as not inappropriate in the Green Belt subject to the same tests as noted above. A Community Right to Build order is a special type of Neighbourhood Development Order that enables small scale development. Whilst extending the category of not inappropriate development in the green belt to all Neighbourhood Development Order may potential allow for larger scale development than that envisaged by the Community Right to Build Order this is not likely in and of itself to create significantly different development forms in the Green Belt than are already considered 'not inappropriate' . It is therefore difficult to envisage what material difference would be made by the inclusion of development brought forward under any Neighbourhood Development Order into this category of development – given that they are subject to independent examination.

e) where a local or strategic plan has demonstrated the need for Green Belt boundaries to be amended, the detailed boundary may be determined through a neighbourhood plan (or plans) for the area in question?

Yes. This would remove the current barriers for local communities in Green Belt areas to address local need which goes beyond the provision of predominantly affordable housing through rural exception sites.

f) when carrying out a Green Belt review, local planning authorities should look first at using any Green Belt land which has been previously developed and/or which surrounds transport hubs?

Taking a sequential approach such as this may not necessarily provide the right 'starting point' for a Green Belt Review. There may be other locations for development within the Green Belt, which, when having been assessed against the five purposes of the Green Belt together with other criterion, would be preferable in achieving broader planning objectives. Therefore Green Belt reviews should be undertaken based on local evidence rather than a nationally prescribed sequence of assessment. For example, once it is clear that there is a need to release Green Belt land it can provide the opportunity, through its location, to create sustainable and accessible communities, including through opportunities to create good transport access to services and employment where none currently exists (as opposed to focusing purely on existing transport hubs). This provides the opportunity to take a strategic approach to Green Belt land release for the wider benefit of the area and in the public interest rather than being 'directed' to areas of land which would not in reality support the proper planning of a place i.e. supports the principles of sustainable development.

In developing plans it is vital that there is a proper assessment of the sustainability benefits (as well as the dis-benefits) of Green Belt release alongside the consideration of the five purposes of the

Green Belt and that this is undertaken in as strategic a manner as possible. For example, it is understood that the Mayor of London has indicated that there will be no review of London's Green Belt as part of the development of the next London Plan. However, this failure to undertake an assessment of the sustainability impact of not reviewing the Green Belt is likely to have serious implications for local authority areas such as Epping Forest District and on Greater London . Consequently, there should perhaps be greater encouragement given to considering the sustainability benefits of a review, including enhancing accessibility, rather than focusing on what is currently 'on the ground'.

Question 11: Are there particular options for accommodating development that national policy should expect authorities to have explored fully before Green Belt boundaries are amended, in addition to the ones set out above?

No.

Question 12: Do you agree with the proposals to amend the National Planning Policy Framework to:

a) indicate that local planning authorities should provide neighbourhood planning groups with a housing requirement figure, where this is sought?;

It is recognised that this would be welcomed by some neighbourhood plan groups. However, the practicalities of doing this are such that it is not necessarily a straightforward exercise. This is because population and household projections are not produced below district/borough/unitary level and therefore an extrapolation of these projections would not necessarily accurately reflect local need or be achievable from a technical perspective. This is why part of the evidence base that neighbourhood planning groups develop in relation to local need is developed by conducting local housing surveys so that they can develop of a clear understanding of their own locally based housing requirement figure.

b) make clear that local and neighbourhood plans (at the most appropriate level) and more detailed development plan documents (such as action area plans) are expected to set out clear design expectations; and that visual tools such as design codes can help provide a clear basis for making decisions on development proposals?;

Yes, although the development of design codes would need to be proportionate to the scale of development proposed as the costs of doing so could be significant and there may be challenges in terms of the availability of skills.

c) emphasise the importance of early pre-application discussions between applicants, authorities and the local community about design and the types of homes to be provided?;

In principle, yes. However, care needs to be taken that this does not impact on the ability to ensure that the mix and type of homes to be provided achieves the creation of mixed and balanced communities, including for the provision of affordable housing. In addition this appears to suggest that these are the only matters of concern for local communities. For example the provision of local infrastructure that supports the successful integration of a development within the local community and properly mitigates its impacts is often a real concern for local communities. Local communities

can be an invaluable resource in helping to understand 'how a place ticks' and how best this can be achieved and therefore the approach proposed should also reflect this aspect of development.

d) makes clear that design should not be used as a valid reason to object to development where it accords with clear design expectations set out in statutory plans?; and

This would depend on how fine-grained the design expectations are - the consideration of local character is very different even within a relatively small geographic area – such a detailed approach may not be proportionate and undertaking the analysis work to develop those expectations could result in delays in plan-making.

e) recognise the value of using a widely accepted design standard, such as Building for Life, in shaping and assessing basic design principles – and make clear that this should be reflected in plans and given weight in the planning process?

Yes. There would be merit in amending the requirements for Design and Access Statements to refer to the Building for Life criterion particularly as organisations such as the Home Builders Federation were involved in the development of Building for Life 12.

Question 13: Do you agree with the proposals to amend national policy to make clear that plans and individual development proposals should:

a) make efficient use of land and avoid building homes at low densities where there is a shortage of land for meeting identified housing needs?;

Yes in relation to making efficient use of land (within the context of other policies in the NPPF). However, even in places where there is a shortage of housing land consideration still needs to be given to matters such as the relationship with designated heritage assets (and other matters that are contained in the proposed change to include Footnote 9 into the body of the NPPF) i.e. it should not be about 'development at all costs'. Placing emphasis on making efficient use of land should be the primary focus. How this is assessed and achieved should be for local planning authorities to determine within the context of individual schemes. Again, this could be included as a 'test' in Design and Access Statements.

b) address the particular scope for higher density housing in urban locations that are well served by public transport, that provide opportunities to replace low-density uses in areas of high housing demand, or which offer scope to extend buildings upwards in urban areas?;

This should be a matter based on local circumstance as the proposition assumes that urban locations that are well served by public transport can automatically accommodate higher density housing as is set out in the next question. Furthermore, many communities have concerns regarding the impact on local character that current Permitted Development Rights (PDR) creates through incremental, ad hoc change. Building upwards should not be the subject of extended PDR to ensure that matters such as character and impacts on living conditions can properly be assessed. Furthermore, one of the unintended consequences of current PDR has been a loss in housing stock of smaller properties, particularly in high value areas, and a significant reduction in the stock of more affordable market housing.

c) ensure that in doing so the density and form of development reflect the character, accessibility and infrastructure capacity of an area, and the nature of local housing needs?;

This is essential and would address the concerns set out above.

d) take a flexible approach in adopting and applying policy and guidance that could inhibit these objectives in particular circumstances, such as open space provision in areas with good access to facilities nearby?

In principle, yes. However, this should be assessed in terms of the capacity of existing facilities and the ability to increase that capacity to accommodate new users and to provide for improved access from a development where that doesn't necessarily currently exist, not just to those that have good access. There is also a wider benefit that should be recognised in that it provides for the opportunity for the greater integration of existing and new communities/residents which supports the social dimension of sustainable development.

Question 14: In what types of location would indicative minimum density standards be helpful, and what should those standards be?

Taking such an approach would be extremely prescriptive and does not reflect Government's stated desire for local communities to have more say in the design and type of housing to be provided. Both of these aspects can have an impact on density. The proposition would provide a 'one size fits all' approach which would not necessarily reflect local circumstances and local character. For example, setting minimum densities for development in areas in close proximity to a railway station could pose difficulties if this is located in a historic centre which has a low density character. Whilst this could be dealt with by exception, it would be preferable to strengthen the need for an applicant to demonstrate that the design and density of the proposal makes best use of land and makes a positive contribution to the local area in design terms. This would provide for local circumstances to be taken into account but make it clear what the 'tests' should be. This type of approach was always seen to be part of the function and purpose of Design and Access Statements. There would therefore be an opportunity to make more explicit what a Design and Access Statement should include in relation to density and making best use of land.

Question 15: What are your views on the potential for delivering additional homes through more intensive use of existing public sector sites, or in urban locations more generally, and how this can best be supported through planning (using tools such as policy, local development orders, and permitted development rights)?

Existing public sector sites should be the subject of the same considerations as any other site. Taking such an approach as that suggested could create a perception that if it is public land then it will be allowed to squeeze as many homes on as possible in order to maximise the money that can be made even if it is an unsustainable location.

Question 16: Do you agree that:

a) where local planning authorities wish to agree their housing land supply for a one year period, national policy should require those authorities to maintain a 10% buffer on their 5 year housing land supply?;

No. There appears to be a ‘misconception’ regarding land identified in the 6-10 year period of a Local Plan and its availability to be developed earlier in the plan period in order to maintain a buffer. EFDC, in developing its plan, assesses the likely timescale for development coming forward based on information from landowners and/or developers (as there may be good reasons, such as the expiry of existing leases, which prevent a site being available earlier in the local plan period), and on the timescales of any necessary infrastructure coming forward.

b) the Planning Inspectorate should consider and agree an authority’s assessment of its housing supply for the purpose of this policy?

Yes. However, EFDC has concerns as to the capacity of the Planning Inspectorate to do so and would not wish to see assessments being undertaken by others such as is done in assessing, for example, Neighbourhood Plans. This is because it is important that there is as much control as possible in achieving a consistency of approach which is best achieved through the Planning Inspectorate.

c) if so, should the Inspectorate’s consideration focus on whether the approach pursued by the authority in establishing the land supply position is robust, or should the Inspectorate make an assessment of the supply figure?

The focus should be on ensuring the authority’s position is robust.

Question 17: In taking forward the protection for neighbourhood plans as set out in the Written Ministerial Statement of 12 December 2016 into the revised NPPF, do you agree that it should include the following amendments:

a) a requirement for the neighbourhood plan to meet its share of local housing need?;

Yes. If the Neighbourhood Plan in question addresses this matter – the range of neighbourhood plan content means that this is not always a matter included in a plan which may deal rather with matters such as design or community facilities.

b) that it is subject to the local planning authority being able to demonstrate through the housing delivery test that, from 2020, delivery has been over 65% (25% in 2018; 45% in 2019) for the wider authority area?

EFDC has no view on this.

c) should it remain a requirement to have site allocations in the plan or should the protection apply as long as housing supply policies will meet their share of local housing need?

The protection test for out of date policies for a Neighbourhood Plan (from the Ministerial Statement 12 December 2016) includes site allocations within the Neighbourhood Plan. However, there is no general requirement for Neighbourhood Plans to include allocations. The Council does not have a view on this question although for consistency an allocations test should not apply.

Question 18: What are your views on the merits of introducing a fee for making a planning appeal? We would welcome views on:

a) how the fee could be designed in such a way that it did not discourage developers, particularly smaller and medium sized firms, from bringing forward legitimate appeals;

b) the level of the fee and whether it could be refunded in certain circumstances, such as when an appeal is successful; and

c) whether there could be lower fees for less complex cases.

This proposal is not supported by EFDC as it is contrary to the principles of natural justice and could potentially discourage those who are reasonably appealing a decision and who have no other course of action. The practicality of implementation, for example, the suggestion of providing refunds, and the actual cost of administering this are also questioned.

Question 19: Do you agree with the proposal to amend national policy so that local planning authorities are expected to have planning policies setting out how high quality digital infrastructure will be delivered in their area, and accessible from a range of providers?

Yes in principle to the delivery of digital infrastructure if this is linked to new development although it should be noted that this can be a challenge for more rural areas. The issue of delivery of high quality digital infrastructure not related to new developments and accessibility to a range of providers are not planning matters but should be dealt with through Ofcom Regulation. As can be demonstrated, EFDC recognises the importance of the provision of high quality digital infrastructure which is why its Draft Local Plan has a policy on Communications Infrastructure which sets out that:

'The Council will promote enhanced connectivity of the District through supporting infrastructure for high speed broadband and telecommunications. In particular applicants submitting major development proposals should demonstrate how high speed broadband infrastructure will be accommodated within the development.'

Question 20: Do you agree with the proposals to amend national policy so that:

• the status of endorsed recommendations of the National Infrastructure Commission is made clear?; and

Yes. This would be a helpful clarification.

• authorities are expected to identify the additional development opportunities which strategic infrastructure improvements offer for making additional land available for housing?

EFDC would suggest that there is a need to look at this in a different way. The opportunity for making land available for housing if strategic infrastructure improvements are made is a key element in developing local plans. But they are often dependent on infrastructure providers being proactive in supporting such allocations through the provision of strategic infrastructure. The provision of a new Junction on the M11 motorway is a case in point. The land to deliver a significant amount of housing around Harlow has been identified but will only be unlocked if this infrastructure is provided. Therefore there is a need to ensure that infrastructure providers recognise the importance of their role in helping to deliver the housing needed and that, where this involves government agencies, that their own funding mechanisms and planning are responsive to achieving this.

Question 21: Do you agree that:

a) the planning application form should be amended to include a request for the estimated start date and build out rate for proposals for housing?

Yes.

b) that developers should be required to provide local authorities with basic information (in terms of actual and projected build out) on progress in delivering the permitted number of homes, after planning permission has been granted?

Yes.

c) the basic information (above) should be published as part of Authority Monitoring Reports?

Yes.

d) that large housebuilders should be required to provide aggregate information on build out rates?

Yes.

EFDC would also wish to recommend that there is a requirement for landowners/developers who are promoting development sites through local plans to also be required to submit information regarding the estimated start date and build out rate for the site. This information is critical in developing a local plan housing delivery statement and trajectory and to inform Infrastructure Delivery Plans. This information should be in the public domain and when considering both five year housing land supply and the proposed housing delivery test this would provide a much clearer base for holding developers to account when not bringing sites forward in accordance with the evidence provided to support the plan-making process. It would also provide a much clearer link between the plan-making and decision-taking parts of the planning process.

Question 22: Do you agree that the realistic prospect that housing will be built on a site should be taken into account in the determination of planning applications for housing on sites where there is evidence of non-implementation of earlier permissions for housing development?

Whilst EFDC understands and supports what Government is seeking to achieve this could have unintended consequences. There may be good reasons why an earlier permission was not implemented and this could impact on delivery.

Question 23: We would welcome views on whether an applicant's track record of delivering previous, similar housing schemes should be taken into account by local authorities when determining planning applications for housing development.

As with Question 22 above, EFDC understands and supports what Government is seeking to achieve. However, the Council is concerned as to how this would work in practice. Would this relate only to sites within its own area or across England? If the latter then where would the responsibility lie in terms of providing the information? If it is to lie with the local planning authority this creates an additional burden and it is not clear how such information could be accessed. There could also be

potentially significant opportunities for challenge. Consideration would also need to be given as to whether this would apply to a local authority which was making an application on its own land with a view to selling a site on with planning permission, as is being proposed elsewhere. Some may challenge that there is one rule for one and one rule for another.

Question 24: If this proposal were taken forward, do you agree that the track record of an applicant should only be taken into account when considering proposals for large scale sites, so as not to deter new entrants to the market?

Yes.

Question 25: What are your views on whether local authorities should be encouraged to shorten the timescales for developers to implement a permission for housing development from three years to two years, except where a shorter timescale could hinder the viability or deliverability of a scheme? We would particularly welcome views on what such a change would mean for SME developers.

As SMEs tend to bring forward smaller sites for development these are often less complicated and unlikely to be subject to the same infrastructure requirements and timescales for implementation as major sites. In addition they often have more challenges in relation to cash flow than major developers and therefore are keen to develop a site out more quickly. Consequently, such a change would be unlikely to be unduly onerous for SMEs.

Question 26: Do you agree with the proposals to amend legislation to simplify and speed up the process of serving a completion notice by removing the requirement for the Secretary of State to confirm a completion notice before it can take effect?

Yes.

Question 27: What are your views on whether we should allow local authorities to serve a completion notice on a site before the commencement deadline has elapsed, but only where works have begun? What impact do you think this will have on lenders' willingness to lend to developers?

This should be introduced. EFDC does not feel it is sufficiently informed to make comment on the impact this may have on a lenders willingness to lend to developers.

Question 28: Do you agree that for the purposes of introducing a housing delivery test, national guidance should make clear that:

a) The baseline for assessing housing delivery should be a local planning authority's annual housing requirement where this is set out in an up-to-date plan?

No. This should not be based on the annual requirement but on the level of housing shown in the housing trajectory developed to support the local plan, not on the basis of an annualised average which is an artificial method of assessment and does not reflect the realities of how housing development is brought forward over a period of time. This is already recognised in Paragraph A.112 (page 96) of the White Paper in relation to the peaks and troughs in build out rates from one year to the next.

b) The baseline where no local plan is in place should be the published household projections until 2018/19, with the new standard methodology for assessing housing requirements providing the baseline thereafter?

This would be dependent upon the methodology – please refer to the councils response to Question 3b.

c) Net annual housing additions should be used to measure housing delivery?

In principle, yes. However, this would preclude the ability to take into account the effect of estate regeneration which could, as a result of timing, significantly reduce the net number of additions in one year as a result of demolition works prior to completions coming on stream. This would give an inaccurate reflection of delivery.

d) Delivery will be assessed over a rolling three year period, starting with 2014/15 – 2016/17?

See response to Question 29 below.

Question 29: Do you agree that the consequences for under delivery should be:

a) From November 2017, an expectation that local planning authorities prepare an action plan where delivery falls below 95% of the authority’s annual housing requirement?;

b) From November 2017, a 20% buffer on top of the requirement to maintain a five year housing land supply where delivery falls below 85%?;

c) From November 2018, application of the presumption in favour of sustainable development where delivery falls below 25%?;

d) From November 2019, application of the presumption in favour of sustainable development where delivery falls below 45%?; and

e) From November 2020, application of the presumption in favour of sustainable development where delivery falls below 65%?

If this is linked to an adopted local plan trajectory and the local planning authority can demonstrate that the information provided by developers has not been accurate/robust then there should be some form of requirement for the landowner/promoter/developer to be brought to account. Local Plans are the mechanism for identifying the number of homes needed and the land that has been identified to achieve this, and is properly tested through examination. Local planning authorities cannot force a landowner/developer to submit a planning application or commence its implementation, nor can they force infrastructure providers to deliver critical infrastructure to unlock sites. Consequently, if there is an up-to-date local plan in place then the approach advocated above could undermine the local plan process and the confidence for local communities in the plan led system and their role in it.

Question 30: What support would be most helpful to local planning authorities in increasing housing delivery in their areas?

Developers making applications and bringing forward development when they have advised they would through the plan-making process, a more proactive approach by infrastructure providers, such as Highways England and Utility Companies, to align investment and delivery plans with the timescales identified in local plans and associated Infrastructure Delivery Plans (which have been developed based on discussions with infrastructure providers at that stage) as to when it is needed.

It would also help if national guidance on the detailed methodology to be adopted for viability appraisals could be provided, to give certainty to both developers and local planning authorities and to avoid protracted discussions and negotiations which, undoubtedly lead to delays in bringing sites forward.

Question 31: Do you agree with our proposals to:

a) amend national policy to revise the definition of affordable housing as set out in Box 4?;

- It is suggested that, since the proposal that “affordable housing should include provisions to remain at an affordable price for future eligible households or for the subsidy to be recycled for alternative affordable housing provision” appears to apply to all affordable housing (not just “social rented and affordable rented housing”), this sentence should be moved to the paragraph above on “Affordable housing”
- It seems strange that Government appears to be saying that local planning authorities “should also include income restrictions which limit a person’s eligibility to purchase a starter home to those who have maximum household incomes of £80,000 a year or less (or £90,000 a year or less in Greater London)”. It is suggested that this should simply be a requirement included within the NPPF, with which all local planning authorities must comply, which would also make it easier to update for both Government and local planning authorities.
- EFDC is of the view that it would be inappropriate to introduce a new definition of affordable housing relating to “discounted market sales housing”, which is very similar to the definition and requirements of Starter Homes, but without the clarity and rules relating to Starter Homes – such as the 15 year discount repayment period for Starter Homes proposed within the White Paper. Therefore, since it is proposed in the White Paper that both Starter Homes and “discounted market sales housing” should be sold at a discount of at least 20%, it is suggested that there is no need for the latter product.

b) introduce an income cap for starter homes?;

This is supported.

c) incorporate a definition of affordable private rent housing?;

Although this is supported in principle, we feel that there is a need to better explain the reason and rationale for introducing a further form of affordable housing that is very similar to affordable rented housing (i.e. at least 20% below local market rents).

d) allow for a transitional period that aligns with other proposals in the White Paper (April 2018)?

This is sensible.

Question 32: Do you agree that:

a) national planning policy should expect local planning authorities to seek a minimum of 10% of all homes on individual sites for affordable home ownership products?

Yes – provided that local planning authorities can specify, through their local plans or other local planning documents, what form of affordable housing products are required – either within the District generally or on specific proposed development sites.

b) that this policy should only apply to developments of over 10 units or 0.5ha?

Since the NPPF's general requirement for the provision of affordable housing on sites is that it now only applies to developments in excess of 10 units, it is felt that, for practical reasons, the threshold for affordable home ownership products should only apply to larger sites.

For example, if a local planning authority's affordable housing target is, say, 30% - and 10% of affordable homes are required to be provided as an affordable home ownership product – a development of 11 units would require "0.33" units to be provided as an affordable home ownership product. In practical terms, for the delivery of affordable home ownership properties to be viable, it is suggested that the absolute minimum number that could be provided on a site would be around 3 homes.

It is therefore suggested that the proposed threshold for affordable home ownership properties should be amended to apply to developments of over 50 units.

Question 33: Should any particular types of residential development be excluded from this policy?

No

Question 34: Do you agree with the proposals to amend national policy to make clear that the reference to the three dimensions of sustainable development, together with the core planning principles and policies at paragraphs 18-219 of the National Planning Policy Framework, together constitute the Government's view of what sustainable development means for the planning system in England?

It is not clear what this is trying to achieve as this is already set out in the NPPF.

Question 35: Do you agree with the proposals to amend national policy to:

a) Amend the list of climate change factors to be considered during plan-making, to include reference to rising temperatures?

Yes.

b) Make clear that local planning policies should support measures for the future resilience of communities and infrastructure to climate change?

Yes.

Question 36: Do you agree with these proposals to clarify flood risk policy in the National Planning Policy Framework?

Yes.

Question 37: Do you agree with the proposal to amend national policy to emphasise that planning policies and decisions should take account of existing businesses when locating new development nearby and, where necessary, to mitigate the impact of noise and other potential nuisances arising from existing development?

Yes. Whilst this is a matter which EFDC has already taken into account in its Regulation 18 Draft Local Plan, amending national policy to strengthen the need to take such matters into consideration would be welcomed. This is particularly pertinent taking into account the Government's desire to make best use of previously developed land and land in urban areas.

Question 38: Do you agree that in incorporating the Written Ministerial Statement on wind energy development into paragraph 98 of the National Planning Policy Framework, no transition period should be included?

EFDC has no views on this matter.

Planning Fees

The Council welcomes the increase in planning application fees and is committed to spending the additional income on planning functions. However, EFDC wish to advise that the increase in planning application fees would be insufficient to cover the current cost of the Development Control Service. Therefore, whilst the additional fee income would support an enhancement of the Service at no extra cost to Council Tax payers, those payers are part funding and will continue to, part fund the service even though the majority of them do not use the service. In the context of the move towards local authorities becoming financially 'self-sufficient' from 2020 onwards, charges for planning applications are, as far as the Council is aware, the only service where fees are still set nationally. EFDC would therefore strongly request that Government reviews its position on this matter. Furthermore, this does not take into account the costs of the plan-making process which is not just about the development of EFDC's Local Plan, but also other activities such as the Masterplanning of strategic sites which seek to ensure the speedy delivery of the high quality housing that the District needs.'