Department of Levelling-Up, Housing and Communities
2 Marsham Street
London
SW1P 4DF

1 March 2023

Dear Sir/Madam,

RE: Changes to the National Planning Policy Framework (NPPF)

Please see below Spelthorne Borough Council's ('the Council') formal response to the consultation. The Council appreciates the opportunity to make comments on the proposed revisions to the NPPF as laid out in the consultation document. The Council trusts that these comments will be taken into account.

The consultation document considers a range of issues spread across several chapters. The Council's response is focussed on certain issues and not all questions are responded to.

The Council hold significant concerns that the proposed revisions are rushed and ill-thought through and will have enormous consequences for plan-making in both the short and longer terms. Read together it would appear that the proposed revisions to the NPPF are intended as a means of restricting housing delivery at a time when housing needs, especially for affordable housing, are at their greatest. The proposed revisions, alongside the changes expected through the Levelling-up and Regeneration Bill (LURB), are likely to only slow and delay plan-making, which runs counter to the Government's stated desire for more up-to-date Local Plans to be in place. This is demonstrated by the number of Local Planning Authorities (LPA) who have delayed or withdrawn their plans following the publication of the revised changes (or are proposing to do so imminently).

The Council has progressed forward to submission of the Local Plan and anticipate an Examination in Public in Spring 2023. In this regard, Spelthorne are one of the few remaining authorities who are proceeding to implement a Local Plan within a relatively short timeframe.

The Council's response is set out below, arranged by chapter as per the consultation document:

Chapter 3 - Providing certainty through local and neighbourhood plans

An up-to-date Local Plan should carry with it the level of protection afforded by having an established 5YHLS. Once a 5YHLS has been confirmed through the adoption of a Local Plan, this should be protected. This would ensure the primacy of the Local Plan and encourage LPAs to have up-to-date Local Plans in place.

The application of buffers to 5YHLS calculations has not demonstrated clear improvements in delivery of housing. The buffers often result in unrealistic sources of housing delivery being included in the calculations. This does not necessarily result in a tangible increase in supply and in some cases can lead to problems over the effective delivery of housing. However, the inclusion of the 5% buffer is the most helpful as this allows the identification of sources of supply such as 'windfall' sites. This can work in favour of the identification of additional housing sites that could be added to supplement the main sites within the 5YHLS.

Where a Local Authority is over supplying homes this should be seen positively in the context of 5YHLS. It is difficult to have a constant stream of supply over the course of 5 years, or a 15-year plan period, without having times when more housing is delivered. It is expected that a lot of housing would come forward in the early stages of an adopted plan, especially where sites have been released from the Green Belt.

In Para 11 (biii), it is unclear how past over delivery will be considered against the Objectively Assessed Need (OAN). Whilst the affordability ratio helps to address under delivery against need, it is unclear if a standard mechanism will be used to take account of this and whether the affordability ratio applied to the standard method will feature in calculations. The Council seeks clarification on this matter.

Chapter 4 – Planning for Housing

The Council has concerns over the approach to Green Belt. There is potential conflict between developing urban areas within local character whilst maintaining the Green Belt. The delivery of a mix of housing, especially for affordable units, will be heavily impacted by reducing the opportunities for supply. Where the intensification of development in urban areas has been determined as being unsuitable, there may not be an immediate solution to meeting housing needs which may result in a delay to Plan-making. Given housing need across the country, these needs cannot be met on brownfield land alone. The approach to considering local character is helpful as this can mitigate the worst examples of scale and design which are out of keeping with the prevailing character. However, this should not be used as a means of restricting housing delivery but should support the Government's stated desire for new homes, in the most sustainable locations.

Through not encouraging or implementing an objective review of the Green Belt, this means that opportunities to deliver community benefits such as new school facilities or community centres are missed as the focus is on the use of Green Belt land for housing. Greenfield sites are generally more viable than those on brownfield which means the opportunity to provide affordable housing, family homes with gardens and other benefits such as large areas of open space is higher. For plan-making to be an effective tool, consideration of reviewing the Green Belt should be an integral part of this process. This would allow those areas that can deliver wider benefits to the community to be promoted and to improve the delivery of family homes with gardens to provide for a suitable mix of housing, including affordable.

There has been no consideration of the use of Green Belt for the purposes of providing climate change mitigation. Given the significance of this, and the ability for green spaces and other areas that are largely undeveloped to contribute to minimising these impacts, there should be a move towards including climate change mitigation as one of the main purposes of Green Belt. This could also include Local Green Space designation, which have the potential to contribute to this, as the level of protection is commensurate with that of Green Belt, The Council would support

this approach and this would remain in step with the Government's forthcoming Environmental Improvement Plans and as part of the push towards net-zero.

The Council has concerns over the application of the new para 35 and the resulting impacts of this. Firstly, the removal of justified is of concern given the time and effort Local Planning Authorities go to produce up-to-date evidence in support of Local Plans. This evidence plays a vital role in the determination of an appropriate strategy and consideration of any reasonable alternatives. Without being justified by evidence, the ability to set out a clear and coherent strategy for development and a more general approach to place-making within a Local Plan is heavily compromised.

Additionally, clarity is sought on how para 35 is applied in the context of para 225 in Annex 1. It is set out that para 35 only applies to plans that have not reached Regulation 19 stage. This would indicate that if a Plan is at post Regulation 19 stage, then it would have to be withdrawn and be subject to a further regulation 19 consultation for the provision of the new para 35 to apply. However, authorities who are post-Regulation 19 may seek changes to the Plan to apply the new para 35. It is unclear as to why those LPAs who are post-Reg 19 are unable to consider amendments to their Plans without having to withdraw the Plan and start again. Being able to make these amendments, especially if there are positive impacts that could benefit the delivery of the Plan, without withdrawing could make the plan-making process quicker.

By allowing these amendments to be made at post-Regulation 19 stage, this would help Local Plans to be adopted as soon as possible in line with the Government's requirement, rather than result in a lengthy delay to plan-making. The proposed amendments could be considered through main modifications after the Plan has been examined and this would enable the plan-making process to continue without additional delays being necessary. The Council cannot support this approach without further clarification on how the transition arrangements from para 225 are applied.

Further, para 226 indicates the stages at which it is proposed that a four-year housing supply, rather than five years, is applied. It is likely that most authorities without an adopted plan will fall into this at one of the stages. These proposals in para 226 are not entirely clear. The Council interpret that the two-year period is a long stop period running from the date of publication of the new NPPF. It would be helpful if further clarity could be provided on how para 226 is to be applied, in respect of the two-year period. Additionally, the transitionary arrangements should clarify whether Local Plans at an advanced stage (post-submission) will be able to remove the buffers from housing land supply calculations.

Chapter 5 – A planning system for communities

The Council welcome the emphasis on social rent and a focus on providing a mixture of homes including those for older people. The addition to para 60 sets out a clear focus for housing provision and this is welcomed. Providing a mix of homes, especially affordable housing and family houses with gardens, are essential to avoid a reliance wholly on blocks of flatted development which offer more limited amenity and cannot cater for all people in society.

There is a potential conflict between providing older persons housing and footnote 67. This footnote deals with the issue of prioritising food production on agricultural land. It is often the case that older person housing operators use former agricultural land in the Green Belt as these sites are often less attractive to developers of market

housing. The approach in footnote 67 could therefore impact on deliverability of older persons housing in this context.

Para 61 sets out that the housing numbers are an 'advisory starting point' however this is the same as is currently in place for establishing housing needs. This will effectively just confirm national guidance and makes no material change to the approach to determining housing need. This could have been an opportunity to re-appraise the standard method and look at an alternative means of determining housing needs, taking account of constraints such as Green Belt. Where an authority has a percentage of Green Belt, for example 65%, that makes housing delivery challenging, then a formula which sees the authority's housing number reduced by an equitable figure would make sense. This would ensure that such constraints are considered from the outset and Plans can be positively prepared based upon the quantum of housing that could realistically be delivered.

Para 62 includes the uplift for the 20 towns and cities which have been included. There remains an issue over boundaries and where the extent of the uplift should be applied. Footnote 30 is attached to this which focuses on optimising densities on brownfield and urban sites, using masterplans and design codes. It is unclear as to whether this same approach is meant to apply across all urban areas, outside the 20 towns and cities, or if this is not the case due to taking account of local character and the principle of gentle densification as set out further in the draft revised NPPF. The Council want to understand what the implications are of this and how such an approach could impact on urban areas outside those subject to the uplift.

Regarding changes to definition of affordable housing for rent, there is scope for an amendment to encourage uptake through other means of development and for those who are not Registered Providers. However, it is imperative that changes do not reduce the contribution to affordable housing from development of market housing to provide a suitable mix.

The issue of taking into account past behaviours in determining planning applications could help to reduce the number of applications which are submitted as a means of delaying enforcement action. However, this approach could also impact upon the democratisation of planning and there are no details provided which sets out what would be considered as bad behaviour and if there is a threshold that would be reached for this to be enacted. Further information is required on this to determine if such an approach would be useful. Option 1 would seem to be the most broadly applicable approach to take however this is dependent on further detail coming forward to set this out.

The Council welcome the provision in para 77, for the Housing Delivery Test (HDT) consequences to be removed if planning permissions are above 115% of the authority's housing requirement. The Council cannot support the HDT and considers it to be backwards facing as its sets out housing delivery over the past three years and does not necessarily take into account planned development which looks forward. Whilst footnote 9 is helpful, there could potentially be a delay between the adoption of a Local Plan and the granting of planning permissions of allocation sites, meaning the HDT score is lower and the Presumption applies. Similarly, as the test is averaged over three years, it will take a several years for a newly adopted Local Plan to take effect on the HDT score. Negative consequences could therefore still apply even though a Plan has been adopted by the Local Authority. Protection from the HDT consequences therefore needs to be afforded to authorities with recently adopted Local Plans.

Chapter 6 – Asking for beauty

The concept of beauty is subjective and difficult to determine what would fit this criterion. It is not clear as to what the process for how you would measure beauty would be. There are no tests or definitions for what constitutes beautiful.

Local character remains a key factor in assessing applications given the sensitivities that can come with this. The use of design codes could help to set out what the expectations for an area would be and assist in developing an approach. Place-making is more than just looking 'beautiful' it is about developing a sense of belonging and ownership for residents and others. Whilst an attractive area helps as part of this, creating a sense of place through well-designed features, improving accessibility, and providing opportunities for people to use these spaces are important also.

It is unclear as to why mansard roof extensions are receiving such a significant amount of focus through this consultation. These extensions are unlikely to provide much scope in increasing the supply of housing. Any increase is unlikely to out-weigh the potential impact of the design of the extensions on the street scene. It is not clear how this focus on mansard roof extensions fits with the incorporation of beauty into this consultation version of the NPPF. Whilst mansards remain a means of extending a property upwards, they are not the only means of doing so and often appear out of keeping with the existing character.

Chapter 7 – Protecting the environment and planning for climate change

On reviewing the changes to the NPPF, areas of uncertainty have been identified. This is particularly the case in relation to the new para 156 and the transition arrangements in para 225. Para 225 sets out that the provisions of this will impact on para 156. There have been no changes made to para 156 in the draft consultation version, so it is unclear as to whether this is correct. Changes have been made to para 157, which relates to the use of renewable and low carbon energy. The Council want to establish whether the application of para 225 relates to para 156 or 157 and further detail is needed on how this is to be applied in practice, so the Council can decide on if this can be supported.

The current approach to applying climate change mitigations within the planning context is muddled. There is a lack of a coherent vision about how planning can play a central role in reducing the impacts of climate change and contribute to achieving Government targets on emissions reduction.

Conclusions

Overall, the Council believe that the NPPF revisions represent a missed opportunity to fundamentally look at housing delivery and the standard methodology. The Council strongly believe that where constraints exist such as Green Belt, flood risk and restrictive land uses such as reservoirs should be included within the standard method and a lower housing number set out from this as a result. By failing to consider this, the revisions will make plan-making more challenging and are likely to lead to fewer LPAs having up-to-date Local Plans in place, where these constraints are most prevalent.

The revisions also present conflicting approaches when the draft NPPF is read as a whole. It would seem that a number of paragraphs are required to be reviewed to ensure that the meaning is clear and more detail is provided where uncertainty is

identified. Some of these conflicts and those requiring clarification have been set out in the Council's response above.

A comprehensive review of the Green Belt, including adding climate change as one of the main purposes, could help to appraise which areas contribute to strategic planning more widely. Currently, there is a focus on limiting the use of Green Belt for development but not enough on how Green Belt can be used more effectively as part of Green Infrastructure and other key planning principles, including delivery of community benefits and a greater mix of housing, including affordable units and homes with gardens.

The Council note the continued turnover of Ministers of State for Housing, the latest having occurred on 7 February 2023. This promotes a lack of concern over the importance of housing and wider Local Plan delivery which has significant negative consequences for LPAs and implications for effective plan-making. The Council hopes that the latest Minister will be given the opportunity to set out a clear and coherent strategy to assist in the delivery of plan-making and decision-taking and to address the worsening issues of a lack of resource within LPAs.

The Council trust the above is clear and the comments will be taken into consideration.

Yours sincerely

Cllr Ian Beardsmore, Chairman of Environment & Sustainability Committee
Spelthorne Borough Council