

# East Herts Council: Consultation Response

**Levelling-up and Regeneration Bill: Reforms to  
National Planning Policy**

<https://www.eastherts.gov.uk/planning-policy>



## **Introduction:**

East Herts Council welcomes the opportunity to comment on the proposed reforms to national planning policy. The Council is generally supportive of a number of the proposed changes, including the prioritisation of a plan-led system.

The Council would, however, like to see further clarity and additional, more detailed guidance on a range of matters. It should also be noted that whilst wide-ranging in its scope, the consultation fails to cover the following important areas:

- Lack of guidance and clarity on the proposed 'alignment policy' and how this replaces the Duty to Co-operate.
- No information on strategic, cross-boundary planning and Joint Strategic Plans.
- No information on resources, skills, and positive promotion of planning to improve resilience in the sector.
- No information on planning fees and helping Councils to modernise planning functions.
- No detail about strengthening enforcement powers.
- No information on how PINS will support the successful implementation of the new plan making system, including how they will be held to account over poor management of examinations and appeal decisions which undermine recently adopted local plans.

The transitional arrangements for local plans under the future system are considered particularly important and the proposed approach should also be applied to local plans that become more than five years old between the publication of this consultation and the start of the new system in late 2024.

The Council's response to the 58 specific consultation questions is set out below.

**1. Do you agree that local planning authorities should not have to continually demonstrate a deliverable five-year housing land supply (5YHLS) as long as the housing requirement set out in its strategic policies is less than five years old?**

East Herts Council supports not having to continually demonstrate a five-year land supply within the first five years of adopting a local plan. In order for the planning system to be genuinely plan-led, the system needs to support the strategies for delivering housing within local plans once they are adopted, and also provide genuine incentives for authorities to begin the process of producing, and the benefits of adopting a Local Plan.

The East Herts District Plan (the Local Plan) was adopted in October 2018 and the Council has had to continually demonstrate a five-year housing land supply, and defend the position at hearings and inquiries, despite its clear commitment to delivering the strategy set out in the Plan and evidence to suggest that it is delivering on its development strategy – for example through the Housing Delivery Test.

**2. Do you agree that buffers should not be required as part of 5YHLS calculations (this includes the 20% buffer as applied by the Housing Delivery Test)?**

East Herts Council supports the removal of buffers as part of 5YHLS calculations. If local authorities identify a robust and deliverable housing supply in their local plans, combined with the necessary scrutiny of the housing trajectory at examination; the buffer shouldn't be necessary.

Buffers add a further level of complexity and can have a substantial impact on a 5-year requirement if/when the buffer changes.

Furthermore, whilst buffers are taken from later in the plan period when calculating your overall Plan-period need - during decision-making, the constant application of at least a 5% buffer through your 5YHLS means that LPAs are continually demonstrating a supply well in excess of 5% when the 5-year period covers the latter years of the plan-period (where the buffer was moved forward from). In other words, LPA's never benefit from the latter-years reduction of where the buffer was moved forward from in the Plan-period.

**3. Should an oversupply of homes early in a plan period be taken into consideration when calculating a 5YHLS later on or is there an alternative approach that is preferable?**

East Herts Council agrees with the approach to considering over-supply in the context of the plan period, in a similar way to undersupply.

**4. What should any planning guidance dealing with oversupply and undersupply say?**

Any guidance dealing with oversupply and undersupply will need to be clear about the exact timescales and periods that it applies to and provide clear definitions to avoid misinterpretation.

Where plans have been adopted using an alternative method of calculating housing need, guidance will need to address how supply interacts with any potential shortfall and the method for addressing this (Sedgefield/Liverpool).

**5. Do you have any views about the potential changes to paragraph 14 of the existing Framework and increasing the protection given to neighbourhood plans?**

East Herts Council supports the proposed changes to paragraph 14 of the NPPF. The current situation of having only two years' protection undermines communities' confidence in neighbourhood plans. The proposed changes give more weight to having an adopted neighbourhood plan and remove the tests that local planning authorities have to demonstrate a minimum housing land supply and housing delivery test result, thereby placing more emphasis on the plan-making process.

**6. Do you agree that the opening chapters of the Framework should be revised to be clearer about the importance of planning for the homes and other development our communities need?**

East Herts Council welcomes the additional reference to supporting infrastructure and the strengthening of plan-making as a priority. The Council also welcomes the recognition that whilst housing is critical, it needs to be supported by the necessary infrastructure.

**7. What are your views on the implications these changes may have on plan-making and housing supply?**

East Herts Council considers that the changes proposed will generally support and encourage plan-making as the main vehicle for housing delivery, and critically *sustainable* housing delivery. Whilst clear support for plan-making is considered to have positive impacts on housing supply, other proposed changes to the NPPF may have implications that could restrict these benefits.

For example, the proposed amendments to paragraph 35 introduce a set of caveats which require local planning authorities to deliver sufficient homes only 'so far as possible'. This could potentially reduce the number of homes being delivered.

Likewise, full accountability for decisions to release green belt to meet housing needs, sits entirely with individual councils under the proposed changes. This, in particular, could see emerging housing requirements in Green Belt areas that are significantly below the identified housing need.

Outside of the proposed changes, the lack of reference to strategic planning and Joint Strategic Plans within the consultation document/NPPF is disappointing and could potentially undermine any ambition to tackle the housing crisis.

**8. Do you agree that policy and guidance should be clearer on what may constitute an exceptional circumstance for the use of an alternative approach for assessing local housing needs? Are there other issues we should consider alongside those set out above?**

East Herts Council would welcome clearer guidance and policy on what may constitute an 'exceptional circumstance' for the use of an alternative approach for assessing local housing needs. East Herts has an ageing population and particular issues with housing affordability, so clarity for example on whether either of these matters could constitute an 'exceptional circumstance' would be welcomed.

**9. Do you agree that national policy should make clear that Green Belt does not need to be reviewed or altered when making plans, that building at densities significantly out of character with an existing area may be**

**considered in assessing whether housing need can be met, and that past over-supply may be taken into account?**

Green Belt:

East Herts Council fully supports the importance of the Green Belt, and welcomes the clarity provided by the proposed revision to the NPPF. The Council is however concerned the proposed revision could have a potentially significant/negative impact on that part of its district that is outside of the Green Belt.

East Herts is large rural district, with the southern third located within the Green Belt. The northern two-thirds of the district is a valued countryside resource, rural in character, containing the market town of Buntingford and many villages of varying sizes. With limited infrastructure, services and facilities available to support to new sustainable communities in this area, the Council will need to consider very carefully the implications of the proposed change, taking into account potential impacts on the character of the area, the economy and affordability.

Furthermore, without further clarity on the proposed 'alignment policy', it is not possible to fully understand the implications of the proposed change. There is concern that it could potentially have a negative impact on districts such as East Herts, if they are required to meet needs generated by neighbouring authorities which are predominantly green belt.

Density:

The proposed revision to paragraph 11(b)ii of the NPPF, which makes it clear that building at densities significantly out of character with an existing area may be considered in assessing whether housing need can be met, is supported. This new flexibility to reflect local circumstances is welcomed and will help to ensure that the high-quality environment of East Herts and its distinctive character is maintained.

Over-supply:

East Herts Council welcomes the proposal that past over-delivery may be deducted from the number of homes required in new plans.

**10. Do you have views on what evidence local planning authorities should be expected to provide when making the case that need could only be met by building at densities significantly out of character with the existing area?**

The updated NPPF sets out the expectation that design guides or codes should be taken into account when making the case that need can only be met by building at densities significantly out of character with the existing area. East Herts Council agrees that this is reasonable approach and will ensure that local character is taken into account.

The expectation that every local planning authority will produce local design guides or codes that reflect local character is welcomed, however it must be recognised that not all planning departments have the skills and resources in place to prepare and implement the requirements effectively.

**11. Do you agree with removing the explicit requirement for plans to be 'justified', on the basis of delivering a more proportionate approach to examination?**

East Herts Council agrees that plans should be subject to a proportionate assessment when they are examined but feels that further clarity is required on what this actually means in practice.

The consultation document sets out that the government wants to avoid local planning authorities having to produce very large amounts of evidence to show that their approach to meeting housing need is a reasonable one; however, the government's chief planner has recently said that authorities will still have to demonstrate 'exceptional circumstances' if, for example, they are not proposing to meet their full objectively housing need.

Further clarity is therefore required on how the examination process will assess whether an authority's proposed target is effective and deliverable, and what level of evidence will be required. PINS should be provided with clear guidance to ensure a consistent approach to examining plans.

**12. Do you agree with our proposal to not apply revised tests of soundness to plans at more advanced stages of preparation? If no, which if any, plans should the revised tests apply to?**

East Herts Council notes that the proposed changes to the tests of soundness will not apply to plans that have reached Regulation 19 (pre-submission stage) and agrees that this is a reasonable approach, subject to sufficient clarity being provided about the level of evidence required.

**13. Do you agree that we should make a change to the Framework on the application of the urban uplift?**

East Herts Council agrees in principle that homes should be built in the right places, to make the most of existing infrastructure, and to allow people to live near the services they rely on, making travel patterns more sustainable.

The Council understands that the government's aim is to apply the uplift to the most populous areas of the country to encourage more sustainable and brownfield development. However, this principle does not appear to take account of how the urban areas of these cities align with their LPA boundaries. It also does not take account of the practical constraints on development potential each of those LPAs might have, such as the availability of land. Another potential issue arises where large parts of a functional city are not within an LPAs boundary.

With the Duty to Co-operate being removed, it is not clear how appropriate engagement between authorities will be carried out. There are no details on the proposed 'alignment policy' and as such it will be difficult for those authorities affected to take a view on how co-operation will work in practice and whether or not the proposed uplift in these locations has any realistic prospect of being delivered.

**14. What, if any, additional policy or guidance could the department provide which could help support authorities plan for more homes in urban areas where the uplift applies?**

As above (Question 13), East Herts Council would welcome further clarity on the proposed 'alignment policy'.

**15. How, if at all, should neighbouring authorities consider the urban uplift applying, where part of those neighbouring authorities also functions as**



**part of the wider economic, transport or housing market for the core town/city?**

As above (Question 13), East Herts Council considers that with the Duty to Co-operate being removed, it is not clear how appropriate engagement between authorities will be carried out. There are no details on the proposed 'alignment policy' and as such it will be difficult for those authorities affected to take a view on how co-operation will work in practice and whether or not the proposed uplift in these locations has any realistic prospect of being delivered.

**16. Do you agree with the proposed four-year rolling land supply requirement for emerging plans, where work is needed to revise the plan to take account of revised national policy on addressing constraints and reflecting any past over-supply? If no, what approach should be taken, if any?**

Where work is needed to revise emerging local plans in light of these policy changes, it seems a sensible approach to allow those local authorities which have published existing local plans for Regulation 18 or 19 consultation or submitted plans for examination, to benefit from a reduced housing land supply requirement.

**17. Do you consider that the additional guidance on constraints should apply to plans continuing to be prepared under the transitional arrangements set out in the existing Framework paragraph 220?**

East Herts Council does not have any detailed comments on this issue as it is not working under the transitional arrangements set out in the existing NPPF paragraph 220.

**18. Do you support adding an additional permissions-based test that will 'switch off' the application of the presumption in favour of sustainable development where an authority can demonstrate sufficient permissions to meet its housing requirement?**

East Herts Council supports the principle of 'switching off' the presumption in favour of sustainable development where an authority is demonstrating that it has met its housing requirement with sufficient permissions. Often extant

permissions are granted and not implemented or might be implemented initially but are then not delivered in accordance with the expected timescales.

The difficulty lies in determining how an LPA can demonstrate 'sufficient permissions' and what constitutes a 'permission'. East Herts Council would be able to provide information regarding the number of houses and the types of permission granted but would need clear guidance on what would establish a 'deliverable permission'.

Caution will need to be taken around applications that apply to the same area of land of an extant permission but might have superseded part of, or the whole of that permission.

Likewise, masterplanning and pre-application advice form an important part of delivering sustainable developments and involving key stakeholders. The permissions-based test will need to be careful that it still supports LPAs who seek to front-load issues through essential masterplanning and pre-app discussions in order to assist decision-making later in the process.

**19. Do you consider that the 115% 'switch-off' figure (required to turn off the presumption in favour of sustainable development Housing Delivery Test consequence) is appropriate?**

East Herts Council supports 115% as an appropriate 'switch-off' figure.

**20. Do you have views on a robust method for counting deliverable homes permissioned for these purposes?**

East Herts Council has set out concerns above (Question 18) relating to the counting of 'deliverable homes'. Further to this, in principle East Herts Council would expect that all permissions currently falling into the definition of Deliverable Part a) (Annexe 2 of current NPPF) could be considered a deliverable permission.

Where an outline or hybrid permission is granted it is more difficult to determine the number of dwellings which could be considered deliverable as part of that permission. Any method therefore will need to be clear about the relationship between outline applications and reserved matters applications.

For large applications the timing of the permission is likely to be just as important as the number and the type of permission. For example, granting one large permission could mean that for a 3-year period the 'total permissions granted' could be skewed into being displayed a much higher percentage. But it is then possible that following the end of that period (e.g., permission was granted 4 years ago outside of the monitored time-period) the large permission would no longer be captured despite its long-term build out.

Therefore, it would be prudent to explore how the long-term benefits of large permissions can be best reflected within this method.

**21. What are your views on the right approach to applying Housing Delivery Test consequences pending the 2022 results?**

East Herts Council considers that the most pragmatic approach is to 'freeze' the results until the publication of the 2023 Housing Delivery Test results.

**22. Do you agree that the government should revise national planning policy to attach more weight to Social Rent in planning policies and decisions? If yes, do you have any specific suggestions on the best mechanisms for doing this?**

East Herts Council supports national planning policy attaching more weight to Social Rent in planning policies and decisions. In areas of high housing cost, such as East Herts, affordable rents are unaffordable to many households in housing need and Registered Providers are increasingly rejecting potential tenants because they fail affordability tests.

However, consideration must be given to how social rent can be delivered through developer contributions; we already lose a significant amount of affordable housing as a result of viability, an increase in social rent dwellings could have a further negative impact on the quantity of affordable housing secured. In addition, the Council would like to avoid the substantial difference between the rents charged to neighbours in similar properties, which could result if a development delivers both social and affordable rents.

More social rented housing might be achieved by; ensuring that public land is made available for social housing and prevented from being sold off for

market housing; limits on the amount above current use value of land can be increased through the granting of planning permission.

**23. Do you agree that we should amend existing paragraph 62 of the Framework to support the supply of specialist older people's housing?**

East Herts Council is committed to improving the diversity of housing options available to older people and boosting the supply of specialist elderly accommodation to meet identified needs. The Council already has a specific policy in its District Plan to encourage the provision of specialist housing for older and vulnerable people (Policy HOU6).

The proposed changes the NPPF are limited to adding reference to 'including for retirement housing, housing-with-care and care homes'. There is no further explanation or definition as to what these types of housing entail, no reference for example to retirement communities, and no specific policy actively requiring local plans to include a policy relating to housing for older people. East Herts Council considers that this is potentially a missed opportunity to boost the supply of specialist elderly accommodation.

**24. Do you have views on the effectiveness of the existing small sites policy in the National Planning Policy Framework (set out in paragraph 69 of the existing Framework)?**

East Herts Council is pleased that the government has committed to reviewing national policy to encourage greater use of small sites for development as this offers the opportunity to support small and medium sized housebuilders. Small sites can play an important role in housing delivery and the Council is supportive of homes coming forward on small brownfield sites in sustainable urban locations. Unlocking small urban sites could for example enable housing associations to develop affordable homes in established urban locations, making better use of under-developed urban land.

The Council is however concerned that there is a finite supply of suitable small brownfield sites in East Herts. Consequently, in order to accommodate at least 10% of its housing requirement on sites no larger than one hectare, small greenfield sites may also need to be identified.

**25. How, if at all, do you think the policy could be strengthened to encourage greater use of small sites, especially those that will deliver high levels of affordable housing?**

East Herts Council considers that an appropriate policy framework is already in place. It is important to note, however, that the availability of small sites can be influenced by factors outside of the planning system.

**26. Should the definition of “affordable housing for rent” in the Framework glossary be amended to make it easier for organisations that are not Registered Providers – in particular, community-led developers and almshouses – to develop new affordable homes?**

No, East Herts Council does not agree that the definition for ‘affordable housing for rent’ should be amended. The regulations that Registered Providers (RP) are subject to provide many protections for tenants and require the RP to meet standards that do not apply to other organisations.

New affordable housing is a significant contributor towards meeting the needs of those with the greatest housing need. Organisations that are not Registered Providers can elect to provide homes for households who have certain characteristics, rather than those most in need.

**27. Are there any changes that could be made to exception site policy that would make it easier for community groups to bring forward affordable housing?**

East Herts Council suggests that it would be helpful to have further guidance available for community groups to bring forward affordable housing on exception sites, with information signposted under the definition of ‘community-led developments’ in the glossary of the NPPF.

**28. Is there anything else that you think would help community groups in delivering affordable housing on exception sites?**

The East Herts District Plan 2018 encourages Parish Councils to identify sites in Neighbourhood Plans suitable for community-led affordable housing, including rural exception affordable housing sites. East Herts Council

recommends that a similar reference could be added to the NPPF at the end of new paragraph 80:

'80. In rural areas, planning policies and decisions should be responsive to local circumstances and support housing developments that reflect local needs, including development proposals from community-led housing groups. Local planning authorities should support opportunities to bring forward rural exception sites that will provide affordable housing to meet identified local needs and consider whether allowing some market housing on these sites would help to facilitate this. Parish Councils and neighbourhood forums should be encouraged to identify sites in Neighbourhood Plans suitable for community-led affordable housing, including rural exception affordable housing sites.'

**29. Is there anything else national planning policy could do to support community-led developments?**

East Herts Council suggests that the benefits of supporting community-led housing could be better emphasised in national policy, including:

- Improving housing supply and providing affordable housing that meets particular community needs
- Supporting regeneration and returning empty homes to use
- Empowering communities so they become self-sufficient, cohesive, resilient and sustainable
- Involving residents in addressing housing need

**30. Do you agree in principle that an applicant's past behaviour should be taken into account into decision making? If yes, what past behaviour should be in scope?**

Taking into account applicants' past behaviour could be of benefit, however East Herts Council is concerned that in practice the application of this proposal is likely to be very complicated. It could also have the unintended impact that the focus is just on the applicant's behaviour, rather than on the merits of the application.

However, two areas that could be considered within the scope of past behaviour and potentially offer a measurable assessment are; firstly,

enforcement action, particularly where an applicant has repeatedly had enforcement action taken against them and this has been upheld.

Secondly, where developers that have implemented extant permissions previously but then not built them out to a suitable trajectory.

A further area that East Herts Council would like to see considered within the scope of past behaviour, although it is recognised that it might be more challenging to measure; is where developers do not engage with Chapter 4, paragraphs 39-46 of the NPPF. Particularly for large development sites that can have a considerable impact on communities and infrastructure, it is essential that developers carry out the necessary pre-application process and seek to front-load issues, alongside a commensurate amount of public engagement.

**31. Of the two options above, what would be the most effective mechanism? Are there any alternative mechanisms?**

Making past irresponsible behaviour a material consideration (Option 1) could be of benefit, however East Herts Council is concerned that allowing planning authorities to decline to determine applications (Option 2) on this basis might bring with it other unintended legal consequences and this requires further consideration by government.

**32. Do you agree that the three build out policy measures that we propose to introduce through policy will help incentivise developers to build out more quickly? Do you have any comments on the design of these policy measures?**

East Herts Council supports the proposals set out in the Bill, and also the proposed changes to planning policy. The proposals should allow for a more transparent system that both incentivises and encourages developers to build out quickly; and also, for LPAs and the public to understand the progression of housing sites. Providing and publishing this data will ensure that accountability on the build out of sites is clear and should help to inform decisions on policy in the future.

Regarding change a) in the further measures; East Herts Council would welcome data being published on all sites of a certain size and not just those that fail to build out according to trajectories. This should allow comparisons

to be easily drawn between developers achieving build-out and those that do not, and it would also allow for the transparent exploration of whether build out is a national issue, a local one or relevant only to a particular developer.

**33. Do you agree with making changes to emphasise the role of beauty and placemaking in strategic policies and to further encourage well-designed and beautiful development?**

East Herts Council agrees that ‘beauty is not a cost to be negotiated away once planning permission has been obtained. It is a benchmark that all new developments should meet.’ The Council is committed to the importance of well-designed beautiful places and the proposed changes to the NPPF to emphasise the role of beauty and placemaking in strategic policies to further encourage beautiful development are supported.

Whilst there are different viewpoints on what is beautiful with regards to buildings and places, there are objective fundamentals of good urban design and architecture that can be uniformly agreed upon. The subjective aspects of the beauty of buildings and places is a matter best decided locally, through local guidance, design coding, and decision making. However, the objective aspects of the beauty of buildings and places are the basic fundamentals of good urban design and architecture, and these should be defined through the NPPF in order to avoid poorly designed places. Fundamental requirements for beautiful buildings and places include permeable layouts across legible neighbourhoods, buildings with active edges for passive surveillance over accessible public realm, designs that relate well to site context including local character and materials, sensory richness and variety, landscape-led design that ensures a positive pedestrian experience and avoiding over-engineered highway and drainage solutions.

The expectation that every local planning authority will produce local design guides or codes that reflect local character is welcomed, however it must be recognised that not all planning departments have the skills and resources in place to prepare and implement the requirements effectively.

**34. Do you agree to the proposed changes to the title of Chapter 12, existing paragraphs 84a and 124e to include the word ‘beautiful’ when referring**



**to 'well-designed places', to further encourage well-designed and beautiful development?**

As above (Question 33), East Herts Council is committed to the importance of well-designed beautiful places and supports the addition of references to the word 'beautiful' when used to describe such places and the buildings within them.

**35. Do you agree greater visual clarity on design requirements set out in planning conditions should be encouraged to support effective enforcement action?**

East Herts Council agrees that the design quality of approved development should not be materially diminished after a scheme is permitted. It is the Council's view that this is best achieved by ensuring clear and accurate drawings are submitted as part of an application for determination, so that when an application is assessed, including by local communities, there is clarity about what a scheme will look like and how it will be designed. Therefore, it is suggested that the focus of this particular reform should be on allowing for applications to be made invalid due to the provision of low quality information, as opposed to a focus on condition wording.

Currently, where design details are not known at application determination stage, which could be legitimate for a variety of reasons, LPAs already have powers to use effectively worded conditions to secure appropriate details.

**36. Do you agree that a specific reference to mansard roofs in relation to upward extensions in Chapter 11, paragraph 122e of the existing framework is helpful in encouraging LPAs to consider these as a means of increasing densification/creation of new homes? If no, how else might we achieve this objective?**

East Herts Council does not agree with this proposal. Sensitive development in urban areas, ensuring vitality as well as providing much needed sustainable homes, is strongly supported. There is, however, already sufficient guidance relating to development of urban areas for the government's approach to using airspace to be given weight in the planning process and to be encouraged where appropriate. Permitted development rights also exist for

upward extensions in a number of instances. East Herts Council supports this approach in principle, but there are instances where such forms of upward extensions are not appropriate. Introducing a specific reference to them would give too much weight to one form of gentle densification. An alternative would be to require reference to be made to them / there to be a specific requirement to assess the suitability of them in local design codes.

**37. How do you think national policy on small scale nature interventions could be strengthened? For example, in relation to the use of artificial grass by developers in new development?**

East Herts Council considers that national policy on small scale nature interventions could be strengthened by including more detail on how biodiversity should be protected and enhanced at a range of scales within new development. Strategic priorities, such as the protection of designated sites and creation of ecological corridors need to be delivered alongside the creation of habitats and wildlife networks at the smaller scale, e.g., hedgehog highways, wildflower planting, bat boxes and bee bricks. There should be emphasis on the need to consider nature holistically, early in the design process and to ensure appropriate management is considered.

Given the negative environmental impacts of artificial grass and the biodiversity and drainage benefits of natural grass, East Herts Council welcomes the principle of reducing its use in new development. However, when drafting this policy, the government must consider any enforcement implications and the impact this may have on local authority resources.

**38. Do you agree that this is the right approach making sure that the food production value of high value farmland is adequately weighted in the planning process, in addition to current references in the Framework on best most versatile agricultural land?**

East Herts Council supports the approach to ensure the food production value of high value farmland is adequately weighted in the planning process. However, further clarity is needed to explain how the new requirement in footnote 58 (now 67) to consider the availability of agricultural land for food production, should be applied in practice.

Local planning authorities currently use the best and most versatile agriculture land classifications to consider the quality of agricultural land and seek to avoid the loss of high-quality land where possible. It is unclear how the proposed changes will change the weight given to agricultural land in the plan-making process. More guidance would be helpful on how the availability of land for food production should be considered and assessed.

**39. What method or measure could provide a proportionate and effective means of undertaking a carbon impact assessment that would incorporate all measurable carbon demand created from plan-making and planning decisions?**

East Herts Council is disappointed that these proposed revisions to the NPPF do not strengthen the national policy approach to achieving the net-zero target and climate change adaptation. However, commitment to addressing these issues as part of the wider NPPF reform later this year is welcomed.

Local planning authorities need advice and support on how to reduce carbon emissions through planning, both strategically and at site level. East Herts Council supports the use of carbon assessments as part of plan and decision making, to help quantify and measure the carbon impact of new development. Assessments should address whole life carbon emissions, incorporating both operational and embodied carbon. However, the effectiveness of this approach is contingent on local authorities having access to the requisite information and metrics needed to undertake these assessments. It is vital that local authorities have the appropriate skills and resources required. At a site level, clarity is needed on the scale of development that will require an assessment as there will be significant resource implications that need to be considered.

**40. Do you have any views on how planning policy could support climate change adaptation further, specifically through the use of nature-based solutions that provide multi-functional benefits?**

East Herts Council supports the intention to strengthen planning policy in relation to climate adaptation. Changes in relation to addressing flood risk and sustainable urban drainage are welcomed. It is recommended that the other impacts of climate change such as overheating, and drought also need to be

addressed by national policy, both in relation to plan-making and decision-making. The siting, layout and design of developments and buildings during the planning process can have a significant impact on the built form's adaptability to climate change.

The importance of multi-functional nature based solutions at various scales should be encouraged by national policy. At a neighbourhood/ site-wide scale, trees, woodlands, vegetation, landscape and water can help to dissipate the impact of heavy rainfall, reduce urban temperatures, and provide shaded outdoor areas and streets to protect against the detrimental effects of sunlight. At the building scale, vegetation and green roofs/ walls can have cooling and drainage benefits.

**41. Do you agree with the changes proposed to Paragraph 155 of the existing National Planning Policy Framework?**

Yes, East Herts Council agrees with the proposed change to support the future re-powering and maintenance of renewable energy sources in order to fulfil commitments in the British Energy Security Strategy.

**42. Do you agree with the changes proposed to Paragraph 158 of the existing National Planning Policy Framework?**

In light of the British Energy Security Strategy, East Herts Council agrees with amendments to paragraph 158, that state the repowering and life-extension of existing renewables should be approved, where impacts are or can be made acceptable.

**43. Do you agree with the changes proposed to footnote 54 of the existing National Planning Policy Framework? Do you have any views on specific wording for new footnote 62?**

East Herts Council recommends that consistent terminology is used in both footnotes – footnote 62 refers to the planning impacts [of wind energy development] identified by the affected local community being '*appropriately* addressed' and footnote 63 (footnote 54 in the existing NPPF) refers to the impacts being '*satisfactorily* addressed'.

**44. Do you agree with our proposed Paragraph 161 in the National Planning Policy Framework to give significant weight to proposals which allow the adaptation of existing buildings to improve their energy performance?**

East Herts Council agrees with the proposed changes to give significant weight to proposals which allow the adaptation of existing buildings, particularly large non-domestic ones, to improve their energy performance. Existing buildings are responsible for significant carbon emissions, so it is important that when planning permission is required, measures are encouraged to mitigate their impact on the environment. The Council supports reference to the need to consider potential impacts on heritage.

**45. Do you agree with the proposed timeline for finalising local plans, minerals and waste plans and spatial development strategies being prepared under the current system? If no, what alternative timeline would you propose?**

East Herts adopted its Local Plan in October 2018 and has been waiting for clarity on reforms to the plan making system before progressing a review.

It is clear that the Council will not be a position to submit a new local plan under the existing legal framework and duties ahead of the June 2025 deadline. As such the Council does not have any specific comments on the proposed timetable of the current system.

**46. Do you agree with the proposed transitional arrangements for plans under the future system? If no, what alternative arrangements would you propose?**

Whilst the consultation document sets out a timetable for transition to the new plan-making system it is difficult to comment on this due to ongoing lack of clarity on the scope of the new system, the level of consultation that will be needed, and evidence-base requirements.

The Council supports proposals to reduce the risk of LPAs being exposed to speculative applications while preparing a new plan, by ensuring that if a plan is more than five years old during the first 30 months of the new system, it will continue to be considered 'up-to-date' for decision-making purposes for 30 months after the new system starts. However, this approach should also be

applied to local plans that become more than five years old between the publication of this consultation and the start of the new system in late 2024.

East Herts Council has not yet started its review process because it has been waiting for clarity from Government on the changes to the planning system. As outlined in response to Question 45, the Council will not now have time to submit a new local plan under the existing framework (and June 2025 deadline) so will look to undertake a review of its District Plan under the new system. Under these consultation proposals East Herts Council is effectively penalised for having adopted its current local plan expediently, and for the recent national policy uncertainty. Therefore, the Council recommends that local plans that become more than five years old in 2023 and 2024 are also considered 'up-to-date' in the early months of the new system. Otherwise, authorities such as East Herts will be at risk of speculative planning applications, which could threaten to undermine the integrity of the new plan-making process.

It is vital that the government provides further clarity on the details of the new system as soon as possible so that the Council can progress the evidence-base work needed to inform the review process.

**47. Do you agree with the proposed timeline for preparing neighbourhood plans under the future system? If no, what alternative timeline would you propose?**

Given that the deadline for submitting 'old' Neighbourhood Plans for Examination (30 June 2025) is consistent with the cut-off date for Local Plans, the Council is happy with the proposed timetable.

**48. Do you agree with the proposed transitional arrangements for supplementary planning documents? If no, what alternative arrangements would you propose?**

East Herts Council currently has 11 Supplementary Planning Documents which, under the proposed arrangements, will all expire at the same time at the end of April 2027.

This means that by April 2027 the Council will not only be required to have a new-style local plan in place, but also potentially 11 new-style Supplementary Plans.

The consultation document contains no details about the process for agreeing a Supplementary Plan but states that it will be afforded the same weight as a local plan. On this basis, it is assumed that at least one formal consultation process will be required, and that the Supplementary Plan will need to be examined, in the same way as a Local Plan. This will require a significant level of resource, not only from a local planning authority perspective but also from a PINS perspective.

The Council is concerned that no consideration has been given to the resource implications arising as result of not only changing the plan-making system, but also the process for preparing supplementary planning documents.

The Council recommends that SPDs should remain extant for a period of time after adoption of a new style Local Plan to allow LPA's to have a realistic prospect of preparing new-style Supplementary Plans (see also response to Question 49 below).

#### **49. Do you agree with the suggested scope and principles for guiding National Development Management Policies?**

The scope and principles for the NDMP needs to be considered in light of their proposed status as having equal weight to the development plan, and the other changes to the plan-led approach. The government needs to be very clear on the process for agreeing NDMP. Policies that form part of the development plan go through a rigorous process of testing at examination, and it anticipated that a similar process would be required for NDMP.

The intention to give all NDMP the same weight as the development plan could be potentially challenging. It is often the case (as shown by this consultation which is refining in many places existing guidance) that the NPPF and PPG have had consequences which were not foreseen, or which are not appropriate to changed circumstances, or which require refinement. As such, careful consideration should be given to whether any new NDMP (beyond the development management policies already in the NPPF) should have the weight of being a material consideration until they are fully established, as

opposed to the weight of the development plan. In addition, guidance should be provided setting out that stricter targets set out in the development plan would not be contrary to NDMP where a local requirement for them has been demonstrated as appropriate through the plan-making process.

The Council considers that the scope of NDMP should be drawn very tightly and the third element – selected additions – should be used very sparingly. It is recommended that guidance should make clear that the absence of a NDMP covering a certain topic should not make it harder for LPAs to adopt policies on that topic at plan-making stage.

East Herts Council is also strongly concerned about the proposed abolition of SPDs and their replacement with Supplementary Plans which form part of the development plan. There are many instances where guidance which is well considered, consulted upon and adopted (and so capable of forming a material consideration) can be a better approach to providing clarity on development requirements than this clarity being in the development plan. Taking for example provision of vehicle parking spaces, providing this in an SPD gives this weight in decision making, but allows for the guidance to not be followed where local circumstances (such as low parking stress) are relevant – if this formed part of the development plan these levels of parking would have to be followed on all developments unless material considerations strongly indicate otherwise.

**50. What other principles, if any, do you believe should inform the scope of National Development Management Policies?**

East Herts Council considers that NDMPs should only include those policies which truly apply across the nation, and therefore suggests that a further principle should be to only make them where it would be unreasonable to expect local variation in the necessary standards.

In addition, the Council considers that government should consult on a list of ‘key, nationally important issues commonly encountered’ – this is currently incredibly broad and these need to be set out with a view to careful consideration of any unintended consequences of the policies.



**51. Do you agree that selective additions should be considered for proposals to complement existing national policies for guiding decisions?**

Please see response to Question 49 above – it is strongly suggested that these should have weight as a material consideration as opposed to as part of the development plan until established.

East Herts Council supports the intention to include development management policies on carbon reduction in new development to address climate change as a strong national approach is needed. The Council supports reference in paragraph 12 to the net zero policies that would reduce the burden on local authorities to develop evidence. However, more clarity is needed to explain how this relates to the consideration in paragraph 15 that allows local authorities to exceed national policy by setting ‘further measures’, perhaps through an optional technical standard. The government should clearly set out if and how local authorities will need to evidence and explain additional requirements, otherwise there could be challenges at examination.

**52. Are there other issues which apply across all or most of England that you think should be considered as possible options for National Development Management Policies?**

East Herts Councils considers that the NPPF provides development management guidance on a number of key issues, which is appropriate. Further technical guidance on sustainable drainage could be appropriate at a national scale. Similarly, it could be appropriate for vehicular visibility splays (varied by category of speed of road being joined) to be standard at a national level.

**53. What, if any, planning policies do you think could be included in a new framework to help achieve the twelve levelling up missions in the Levelling Up White Paper?**

East Herts Council agrees that planning policy should do all it can to support the twelve levelling up missions but considers that it is the role of government to take a broad view on this and seek views as part of the full NPPF review.

**54. How do you think that the framework could better support development that will drive economic growth and productivity in every part of the country, in support of the Levelling Up agenda?**

East Herts Council supports local leaders being empowered to attract investment, drive economic growth and grow the private sector. In particular in East Herts, we want to ensure that planning policies support SMEs to grow and develop. The commercial areas in the district have, however, diminished in area over the past 30 years and many of those that remain are small, poorly sited and have lacked investment. Nevertheless, we have very low vacancy rates and so the importance of these sites for the local economy should not underestimated. The lack of commercial space does, however, restrict the ability for businesses to grow in the area. Policies therefore need to both protect our existing sites, as well as support opportunities for new modern strategically located sites to allow for growth.

**55. Do you think that the government could go further in national policy, to increase development on brownfield land within city and town centres, with a view to facilitating gentle densification of our urban cores?**

There are already appropriate measures in place to encourage the use of brownfield sites. Under making effective use of land, the NPPF says that strategic policies should make 'as much use as possible' of brownfield land, and that planning policies and decisions should 'give substantial weight to the value of using suitable brownfield land'. Whilst 'gentle densification' may help to deliver some new homes, this must be cognisant of the character of our town centres, tacking account of any relevant Conservation Area Appraisals. East Herts is characterised by market towns with attractive historic cores and any 'gentle densification', would need to ensure that the unique town character and heritage qualities of these settlements in respected.

**56. Do you think that the government should bring forward proposals to update the framework as part of next year's wider review to place more emphasis on making sure that women, girls and other vulnerable groups in society feel safe in our public spaces, including for example policies on lighting/street lighting?**

East Herts Council strongly supports this proposal. It is vital that a sense of personal and community safety is present within the built environment. Various measures can be designed into development schemes which can assist in discouraging crime and anti-social behaviour. Such measures could include:

- Places with well-defined and interconnected routes and spaces
- Public and private spaces that are clearly defined
- Natural surveillance – by fronting buildings, parking and pay areas onto public realm
- Strategically placed and effective lighting/street lighting
- Physical access control and security hardware such as CCTV

**57. Are there any specific approaches or examples of best practice which you think we should consider to improve the way that national planning policy is presented and accessed?**

East Herts Council agrees that national planning policy must be accessible and user friendly. The use of digital platforms will help to create opportunities to improve the way national planning policies are presented and used. If national policies are in a format that enables them to be accessed in an integrated way this will help local planning authorities produce digital local plans.

The Council has recently appointed a GIS & Digital officer to support the Council's 'digital by default' agenda by proactively providing digital support and solutions within the planning service.

**58. We continue to keep the impacts of these proposals under review and would be grateful for your comments on any potential impacts that might arise under the Public Sector Equality Duty as a result of the proposals in this document.**

East Herts Council has no specific comments to make on the Public Sector Equality Duty.