

East Herts Council: Consultation Response

Proposed reforms to the National Planning Policy Framework and other changes to the planning system

Consultation from 30th July to 24th September 2024.

www.eastherts.gov.uk/planning-building/planning-policy



Introduction:

East Herts Council welcomes the opportunity to comment on the proposed reforms to the National Planning Policy Framework and other changes to the planning system. Whilst there is broad support for many of the proposed reforms, the Council would like to see further justification for some of the suggested changes, together with further clarity on a number of areas.

The Council recognises that the Government is committed to increasing the number of homes delivered nationally and has made a commitment to delivering 370,000 homes each year. However, as it is important that any national target should be evidence-based, it is imperative that an assessment of housing need for England should be undertaken at the earliest opportunity to underpin the robustness of this figure and inform its outcomes.

The Council agrees that the current standard method for assessing local housing need should be updated. The proposed approach is agreed in principle i.e., a percentage of stock to set a baseline, which is then adjusted to derive the local housing need for each local area; however, the Council considers that the proposed adjustment for affordability is currently set too high, and that it would be more appropriate to start with a higher baseline set at 1.0% of stock (rather than 0.8%).

The Council is generally supportive of a brownfield first approach (in sustainable locations) and supports the principle of defining a Grey Belt to prioritise development of the lowest-performing sites in the Green Belt. However, the proposed definition of Grey Belt requires further clarification, alongside safeguards to ensure that development occurs in sustainable locations to avoid piecemeal sites being brought forward in remote or isolated areas away from key services.

The introduction of golden rules is considered a proactive way of securing public benefit from land released from the Green Belt, and the Council agrees that where development involves the provision of housing, at least 50% should be affordable housing.

The Council agrees that local areas are best placed to decide the right mix of affordable housing for their communities and would like to see all rents in the social sector linked to local incomes rather than the market (as is the case for Affordable Rent) to reflect local pressures more accurately. This links to the need for clarity around Grey Belt affordable housing provision and ensuring that viability concerns do not result only in flatted development if that does not accord with a local authority's need for houses.

The Council supports the proposed revisions to the NPPF to increase support for renewable energy schemes, tackle climate change and safeguard environmental resources. Water is emerging as one of the most important strategic issues of our time and the Council agrees that immediate action is required to improve water supply resilience.

The proposed changes to planning applications fees are welcomed, but do not go far enough. The Government needs to address the significant gap that currently exists in resourcing and skills which will continue to be a barrier on progress and quality in decision-taking and plan-making.

The transitional arrangements for emerging plans should ensure the progress of plans at more advanced stages of preparation. For other plans there is ongoing uncertainty so further details of the Government's intentions around plan-making reform should therefore be published as soon as possible. In particular, the creation of National Development Management Policies should be prioritised and the process for agreeing them clearly set out.

In addition to transitional arrangements being brought into place for local plans, it is important that clarity should also be provided around whether these would also apply for neighbourhood plans. If separate provisions would apply, these should be clearly set out.

Confirmation is also sought about whether phasing of the new local plan making arrangements will be introduced, similar to the waves that were previously mooted. East Herts Council is committed to reviewing its District Plan and would wish to be included at an early stage in the new process.

The Council welcomes the renewed emphasis on effective co-operation on cross boundary and strategic planning matters, however, there is limited information in the consultation document with details to be agreed regarding both the geographical areas for strategic plans and the legislative context for them.

Hertfordshire is already committed to strategic planning and over the past two years has been working to make this happen, including exploring options for new settlements with established teams and governance.

The Council's response to the 106 specific consultation questions is set out below.

1. Do you agree that we should reverse the December 2023 changes made to paragraph 61?

Whilst it is now very clear that local planning authorities should use the standard method to assess housing needs, there will be occasions when a lower housing requirement may be appropriate. The consultation document acknowledges this (Chapter 3, paragraph 6) stating that ‘authorities would be able to justify a lower housing requirement than the figure the method sets on the basis of local constraints on land and delivery...’, but this is not reflected in the proposed changes to the NPPF. Further clarity should be provided in the NPPF and in Planning Practice Guidance.

2. Do you agree that we should remove reference to the use of alternative approaches to assessing housing need in paragraph 61 and the glossary of the NPPF?

The Council agrees that having the standard method in place will provide a clear basis for assessing housing need across the country. However, as set out in response to Question 1, there will be occasions where, due to specific circumstances, a lower housing requirement may be appropriate.

3. Do you agree that we should reverse the December 2023 changes made on the urban uplift by deleting paragraph 62?

East Herts Council agrees that paragraph 62 should be deleted. There are a number of issues with the requirement which only applies to certain cities. In particular the requirement fails 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, such as the availability of land.

4. Do you agree that we should reverse the December 2023 changes made on character and density and delete paragraph 130?

The Council considers that, while paragraph 130 should be deleted as it does not currently allow for innovative design in development that does not accord with local environs, caveats should exist within the NPPF to ensure that any increased density in existing areas that would make the most efficient use of land would not lead to development that would unduly dominate or be wholly

discordant with its surroundings. In this respect, as the character and density of an existing area may not be fully utilising the opportunities that a sustainable location provides, a site-specific assessment should be required, with density and site capacity reflected in a site allocation policy or a site Design Code. Desirable characteristics of a site's context should inform its future character unless the site could be delivered at greater densities without harming the character of its context.

5. Do you agree that the focus of design codes should move towards supporting spatial visions in local plans and areas that provide the greatest opportunities for change such as greater density, in particular the development of large new communities?

Whilst the focus of LPA efforts in design coding should be on large strategic sites or areas, it is important that other parts of an LPA-area do not get left behind in this move towards better-designed places. A high-level authority-wide code that captures fundamental good placemaking and urban design issues relevant to the LPA-area will provide firm rules and guidance for smaller development sites that come forwards across the LPA-area, including windfall sites, brownfield sites, and infill-sites. The certainty provided by an authority-wide Design Code for residents, members, and developers will ensure there are clear, straight-forward expectations set out for schemes coming forward that capture local issues. This authority-wide coding could be a standalone document (Supplementary Plan) or could be included within a Local Plan.

6. Do you agree that the presumption in favour of sustainable development should be amended as proposed?

East Herts Council supports the amended wording which seeks to remove the ambiguity associated with when a development plan is out of date and focusses attention on what the Council considers to be the key issue – assuring the appropriate supply of land for development.

7. Do you agree that all local planning authorities should be required to continually demonstrate 5 years of specific, deliverable sites for decision making purposes, regardless of plan status?

No. East Herts Council supports not having to continually demonstrate a 5-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 5-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 that it is delivering on its development strategy – for example through the Housing Delivery Test. Furthermore, once a local plan is adopted there should be an onus on site promoters to expedite the delivery of strategic allocated sites so that sustainable development in the correct locations can be achieved and avoid unnecessary speculative development proposals in less suitable locations being allowed at appeal purely because of 5-year supply issues not of the local planning authority's making.

8. Do you agree with our proposal to remove wording on national planning guidance in paragraph 77 of the current NPPF?

No. East Herts Council considers that over-supply should be set against future supply, and so this reference should be retained.

9. Do you agree that all local planning authorities should be required to add a 5% buffer to their 5-year housing land supply calculations?

East Herts Council does not agree that a 5% buffer should be added to their 5-year land supply 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, then a buffer shouldn't be necessary. Buffers add a further level of complexity and can have a substantial impact on a 5-year requirement.

10. If yes, do you agree that 5% is an appropriate buffer, or should it be a different figure?

East Herts Council does not agree that a buffer should be added to their 5-year land supply calculations.

11. Do you agree with the removal of policy on Annual Position Statements?

East Herts Council agrees with the removal of policy on Annual Position Statements. The concept was introduced in the NPPF in July 2018 but has been rarely used. The tight timescales for preparing such documents so soon after local plan adoption and the risk of an inspector removing sites from a local authority's claimed pipeline made it an unappealing option for many.

12. Do you agree that the NPPF should be amended to further support effective co-operation on cross boundary and strategic planning matters?

Yes. East Herts Council welcomes the renewed emphasis on effective co-operation on cross boundary and strategic planning matters. However, further changes are required to enable strategic plans to be successfully prepared and appropriately examined. These changes should reflect the longer term timescales that strategic plans are expected to cover, and the fact that they need to provide a flexible framework for Local Plans and other documents that will add the local detail and enable site delivery.

The 'Plan Making' section of the NPPF would benefit from some additional text setting out how Spatial Development Strategies (SDSs) differ from Local Plans and what their broad scope/coverage should be. More detailed advice, either set out in legislation, through new policy in the NPPF or through updated Planning Practice Guidance is required on the following:

- a) The level of evidence expected to be required to support strategic plans versus that required for local plans;
- b) The timescales that strategic plans should cover – as it is assumed these should look longer term than local plans are currently required to do, in order to provide a clear, long term framework.
- c) The broad scope of expected policy coverage.
- d) The relationship of strategic plans to other strategic plans and programmes, such as Local Nature Recovery Strategies.

- e) The relationship between strategic and local plans in terms of their timing of preparation versus the weight that policies within each should be accorded.
- f) Whether SDSs can allocate sites (and amend Green Belt boundaries) or just indicate 'broad areas' for growth.

Hertfordshire is already committed to strategic planning and has begun work to make this happen, including exploring options for new settlements. The Hertfordshire Growth Board, which brings together public sector leaders from the ten borough/district councils, Hertfordshire County Council, Hertfordshire Futures and Herts & West Essex Integrated Care Board, would welcome exploring options to deliver the Government's growth and housebuilding agenda in Hertfordshire in ways that deliver affordable, high quality and sustainable homes in the right locations.

Hertfordshire has already committed to building an additional 100,000 homes and generating 100,000 new jobs over the next 10 years ensuring residents and businesses thrive. The Council is working with Homes England and other partners to deliver 24,000 new homes at Harlow-Gilston Garden Town. The Growth Board has also published a Development Quality Charter to encourage higher quality design and sustainability standards in new buildings.

Hertfordshire has the appropriate political governance arrangements in place, with the full engagement of all council Leaders. Early work could be used to test what legislation is needed to progress strategic plans to consultation, examination, and adoption. It could also be used as a testbed for strategic location studies, strategic Green Belt and Grey Belt reviews and associated infrastructure work. This process could also consider the optimum scale for strategic planning and explore options for a new town in this part of the country.

13. Should the tests of soundness be amended to better assess the soundness of strategic scale plans or proposals?

Yes. the Council agrees that the tests of soundness should be amended to facilitate opportunities for long term strategic planning. Currently providing evidence of deliverability and viability over a longer time frame can be

problematic and so changes to the tests of soundness to better assess the soundness of long term strategic plans would be welcomed.

Specific comments on the four tests are set out below:

*a) **Positively prepared** – providing a strategy which, as a minimum, seeks to meet the area's objectively assessed needs; and is informed by agreements with other authorities, so that unmet need from neighbouring areas is accommodated where it is practical to do so and is consistent with achieving sustainable development;*

No change required. Delivering sustainable development should be the central aim for all levels of plans and one of the key roles of strategic plans should be to set out how an area can best meet its development needs.

*b) **Justified** – an appropriate strategy, taking into account the reasonable alternatives, and based on proportionate evidence;*

New paragraph 28 of NPPF recognises that an Inspector will 'need to come to an informed decision on the basis of available information, rather than waiting for a full set of evidence for all authorities.' This is supported. Similarly, it is important that the evidence base to support strategic plans is proportionate and appropriate to their long-term nature and larger geographies.

*c) **Effective** – deliverable over the plan period, and based on effective joint working on cross-boundary strategic matters that have been dealt with rather than deferred, as evidenced by the statement of common ground; and*

Concerns are raised about the application of the 'deliverable' element of this test for strategic-scale plans if the term remains as defined in the glossary to the NPPF. Spatial Development Strategies (SDSs) will take a long-term approach to the planning of development and will identify broad areas for future growth, rather than specific sites that will all be delivered within a five-year timeframe. The definition therefore either needs to be amended to be enable it to be applied in a more flexible way to strategic plans, or the test amended to refer to 'developable' rather than 'deliverable.' The NPPF states that 'To be considered developable, sites should be in a suitable location for housing development with a reasonable prospect that they will be available and could be viably developed at the point envisaged.' Even this definition may need amending to refer to 'sites/broad locations' to be fully applicable to strategic plans.

It should also be noted that getting agreement on how best to effectively work to address strategic infrastructure matters can be challenging. Many providers find it

difficult to engage meaningfully with a plan that looks beyond their usual time horizons for service planning. This challenge needs to be recognised and reflected in how the plan is examined.

It is important that Examinations for strategic plans are carried out in a fair and consistent way across the country. This would be helped by an update to the current guidance on examining SDSs and associated Procedural Practice Guidance following finalisation of Government policy, guidance and governance arrangements relating to strategic plans.

14. Do you have any other suggestions relating to the proposals in this chapter?

East Herts Council would welcome further information and detail on the Government's proposals for strategic planning.

The letter sent to Leaders and Chief Execs from Angela Rayner says: *'The Govt will explore the most effective arrangements for developing SDSs outside of Mayoral areas, in order we can achieve universal coverage in England, recognising that we will need to consider both the appropriate geographies to use to cover functional economic areas, and the right democratic mechanisms for securing agreement.'* This indicates there are still details to be agreed regarding both the geographical areas for strategic plans and the legislative context for them.

The Council would also welcome clarity over whether there is a shorter-term role for strategic plans to help facilitate discussions on unmet need where it exists.

The Council would also like to explore with Government how the delivery of strategic plans can best be funded and staffed. As the Government is aware, since the demise of regional planning and county structure plans before that, there has been a significant loss of strategic planning capacity and technical capability across all tiers of government. This issue has been exacerbated by the recent lack of planners joining the profession – causing particular issues for local planning authorities. These skills and capacity will take time to rebuild. The Government's commitment to 300 new planners is welcomed and will assist in addressing the issues, but the need for other technical skills to

support strategic planning teams also needs to be recognised and addressed. This includes digital planning experts, transport planners, sustainability officers etc.

15. Do you agree that Planning Practice Guidance should be amended to specify that the appropriate baseline for the standard method is housing stock rather than the latest household projections?

Yes. The CLG 2014-based household projections that are currently used no longer provide an appropriate basis to set the baseline. The ONS is now responsible for producing the official household projections for local areas, and the 2014-based household projections have been superseded by both the 2016-based and 2018-based projections.

More recent demographic data has demonstrated the underlying assumptions that informed the 2014-based projections had projected too many births and too few deaths, so there is a material difference between the official population estimates (that have now been calibrated against the 2021 Census) and the population projections on which the 2014-based household projections were based. The 2014-based household projections therefore no longer provide an appropriate baseline for assessing local housing need.

The ONS 2018-based household projections provide the latest official figures, which include a number of variant scenarios based on a range of different assumptions. The principal projection is based on internal migration trends that are informed by estimates for the 2-year period 2016-2018 whereas it is widely accepted that it is normally more appropriate to rely on longer-term trends when assessing local housing need. The principal projection from the latest 2018-based household projections does not therefore provide an appropriate baseline for assessing local housing need.

The Office for Statistics Regulation (OSR) published a *“Review of population estimates and projections produced by the Office for National Statistics”* (May 2021).¹ The report stated (emphasis added):

¹ <https://osr.statisticsauthority.gov.uk/wp-content/uploads/2021/05/Review-of-population-estimates-and-projections-produced-by-the-Office-for-National-Statistics.pdf>

2.32 For the internal (within-England) migration component needed for the SNPPs, the variants are also based on the number of years used for the base period. Previously, ONS used the latest five years of records as the basis for its principal projection but changed in the most recent projections to the latest two years of data and also released a 5-year and a 10-year-based alternative. **To illustrate, a projection that has been produced using 5 years of past trend data will be less suitable for making planning decisions for the forthcoming 15 to 25 years than one that has 10 years or even 25 years of historical trend. The more years of past trend data that are included, the more stable the projection for future local planning needs.** However, there will be other situations where a projection based on 5 years of past data will be suitable.

For these reasons, if Planning Practice Guidance was to be amended to specify that the latest household projections should be used (either to establish the baseline or at any other stage of the standard method calculation) it would be important to specify that this should not rely on the “principal projection” but should instead use the “10-year migration variant scenario”. Whilst the 2018-based household projections 10-year migration variant scenario would provide a more appropriate baseline for assessing local housing need than the 2014-based projections, this data continues to rely on inputs that are uncertain and may not provide an appropriate baseline for every local area.

Furthermore, if the baseline continues to rely on the official household projections, it would be important for Planning Practice Guidance to be updated at the time that the ONS publishes the 2022-based household projections, which have a provisional release date of April to May 2025.² It is important that the overall housing need for England continues to be informed by the latest official household projections, whilst also taking account of constrained household formation and the impact of new households not being able to form. However, existing housing stock provides a reasonable and pragmatic basis for apportioning the overall housing need between local areas.

² <https://www.ons.gov.uk/releases/householdprojections2022based>

There are robust estimates of existing housing stock for every local area and relying on this data would minimise the prospect of uncertainty. The existing housing stock is also a figure that will remain relatively stable, which will provide stability to the figures. The existing stock provides an appropriate baseline for apportioning local housing need between local areas.

16. Do you agree that using the workplace-based median house price to median earnings ratio, averaged over the most recent 3 year period for which data is available to adjust the standard method's baseline, is appropriate?

No. The standard method's baseline should be adjusted using an indicator (or indicators) based on housing costs, and it may be appropriate for this to be based on a figure averaged over the most recent 3-year period for which data is available. However, the ratio of median house price to median workplace-based earnings that is currently used does not provide the most appropriate indicator. The affordability ratio is not a National Statistic and the local area estimates are not robust, as they are informed by survey estimates that are subject to large statistical uncertainties, especially for lower-tier authority areas such as East Herts district.

The median workplace-based earnings figures that are used to inform the affordability ratio for each local area are subject to a wide margin of error, as they are based on estimates from the ONS Annual Survey of Hours and Earnings (ASHE) which is a sample survey that is subject to statistical uncertainties.

Whilst full-time workers at workplaces in East Herts were estimated to have a median earning of £41,222 in 2023, this figure was subject to a standard error of 8.5% which yields a confidence interval of $\pm 16.7\%$ at the 95% level of confidence. Therefore, although the ASHE data provided a midpoint estimate of £41,222 the true median for the local area could have been anywhere between £34,354 and £48,090 as a consequence of the statistical uncertainties of the survey.

It is notable that the ASHE data tables did not provide any estimate for the median annual pay of full-time workers at workplaces in East Herts in 2022,

noting that *“these figures are suppressed as statistically unreliable”*. This led to the East Herts affordability ratio for 2022 being based on annualised weekly earnings of £35,074 which was itself subject to a wide measure of uncertainty.

The difference between the estimate of £41,222 for 2023 and the estimate of £35,074 for 2022 itself illustrates the potential for statistical uncertainty, as it seems very unlikely that the true median income for the district increased by more than £6,000 (18%) over a 12-month period.

Although the affordability ratio is currently used by the standard method, the earnings data is not reliable at a local area level, and it would be more appropriate to use an alternative indicator based on housing costs to adjust the standard method’s baseline.

Whilst it is important to take account of house prices when adjusting the baseline estimate of local housing need, the median house price that informs the affordability ratio is based on the House Price Statistics for Small Areas (HPSSA) which provides a measure of the price paid for properties sold in a given period. Importantly, the HPSSA data does not provide a measure of the changing value of properties in the housing market, and the data is not a National Statistic.³

The use of price data alone is insufficient for the calculation of an inflationary index for house prices due to the fact the composition and type of property sold can differ vastly between periods. Although the HPSSA provides comprehensive data on the price of transacted property across the UK, this price data is limited in terms of details regarding the physical characteristics of the property.

The UK House Price Index (UK HPI) was specifically designed to capture changes in the value of residential properties. The OSR has designated the UK HPI as a National Statistic with robust data available for local authorities and London boroughs.⁴ The UK HPI provides the most appropriate basis on which to adjust the standard method’s baseline to take account of local house prices.

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<https://www.ons.gov.uk/peoplepopulationandcommunity/housing/methodologies/housepricestatisticsforsmallareasqmi>

⁴ <https://www.gov.uk/government/publications/about-the-uk-house-price-index/about-the-uk-house-price-index>

It would also be appropriate to adjust the standard method's baseline to take account of local rents. The Price Index of Private Rents (PIPR) produces rent price and inflation statistics for the UK and for individual local authorities, tracking prices paid for new and existing tenancies in the private rental sector.⁵ This is constructed using administrative rent price data, with data available from January 2015 onwards on a monthly basis. The data is currently released as Official Statistics in development, which are currently being assessed by the OSR.⁶ The PIPR provides the most appropriate basis on which to adjust the standard method's baseline to take account of local rental prices.

To establish an appropriate adjustment to the standard method's baseline, the calculation should take account of both local house prices and local rental prices. Local areas with higher house prices and local areas with higher rents should have a larger uplift than those with lower house prices and lower rents.

However, it is also important to take account of the change in house prices and the change in local rents. Where two areas have the same house price, the area with the largest increase (or smallest decrease) should have a larger uplift and a higher local housing need figure than the area with the lowest increase (or largest decrease). Similarly, the same would follow in terms of local rents.

On this basis, the adjustment factor should comprise four separate components:

- Current average house price for the local area relative to the national average
- Current average rental price for the local area relative to the national average
- 5-year change in house price for the local area relative to the national 5-year change
- 5-year change in rental price for the local area relative to the national 5-year change

⁵ <https://www.ons.gov.uk/economy/inflationandpriceindices/bulletins/privaterentandhousepricesuk/april2024>

⁶ <https://osr.statisticsauthority.gov.uk/our-regulatory-work/assessment/current-future-assessments/assessment-of-the-price-index-of-private-rents-pipr/>

On balance, it is suggested that each of these four components is given equal weight, and therefore the combined adjustment would be based on their mean average.

The appropriate weighting to be applied to the combined adjustment would need to be considered in the context of the percentage of stock that is used to establish the baseline and the overall housing need for England, informed by the latest official household projections and taking account of the impact of new households not being able to form.

17. Do you agree that affordability is given an appropriate weighting within the proposed standard method?

No. Setting the standard method baseline at 0.8% of dwelling stock for each local area yields an annual baseline need of around 203,100 dwellings across England.

The proposed standard method yields an overall annual need of around 371,400 dwellings across England. Therefore, the proposed adjustment represents 168,300 dwellings each year and the uplift equates to 83% of the baseline need.

Half of the dwellings within this uplift are distributed across only 60 local areas (one fifth of the local areas in England) and the housing need figure for many of these areas based on the proposed standard method represents an exceptional rate of growth that is unlikely to be delivered in full by many of these areas.

Whilst the scale of the uplift is a matter of judgement, on balance it is suggested that this should be no more than 50% of the baseline to ensure that the identified local housing need figure is deliverable in most local areas. Given an overall need of 370,000 dwellings per year would suggest that the baseline should be at least 247,000 dwellings with the annual uplift being no more than 123,000 dwellings.

The overall stock is currently around 2.5 million dwellings nationally and setting the rate at 1.0% would yield an annual baseline of around 253,900

dwellings. This would then require an uplift of at least 116,100 dwellings (46%) to yield the proposed annual need of 370,000 dwellings across England.

Setting the baseline at 1.0% would ensure that sufficient homes are delivered to meet household growth in every local area, whilst an uplift of more than 116,000 extra dwellings would provide the additional housing that is needed in those areas that are least affordable to ensure that more new households are able to form.

Taking a baseline of 1.0% together with the adjustment factor proposed in the Council's response to Question 17 and a weighting factor of 1.5 would result in an overall housing need figure of around 375,700 dwellings based on the April 2023 dwelling stock, house prices and local rents, and the change in house prices and local rents over the 5-year period 2018-2023.

However, the appropriate weighting to be applied to the adjustment would need to be considered in the context of the overall housing need for England, informed by the latest official household projections and taking account of the impact of new households that have not been able to form.

18. Do you consider the standard method should factor in evidence on rental affordability? If so, do you have any suggestions for how this could be incorporated into the model?

Yes. As set out in the Council's response to Question 16, in order to establish an appropriate adjustment to the standard method's baseline, the calculation should take account of both local house prices and local rental prices. Local areas with higher house prices and local areas with higher rents should have a larger uplift than those with lower house prices and lower rents. Furthermore, the relative rate of change in house prices and local rents should also inform the calculation.

The Price Index of Private Rents (PIPR) produces rent price and inflation statistics for the UK and for individual local authorities, tracking prices paid for new and existing tenancies in the private rental sector.⁷ This is constructed

⁷ <https://www.ons.gov.uk/economy/inflationandpriceindices/bulletins/privaterentandhousepricesuk/april2024>

using administrative rent price data, with data available from January 2015 onwards on a monthly basis. The data is currently released as Official Statistics in development, which are currently being assessed by the OSR.⁸ The PIPR provides the most appropriate basis on which to adjust the standard method's baseline to take account of local rental prices.

The adjustment factor should comprise four separate components:

- Current average house price for the local area relative to the national average
- Current average rental price for the local area relative to the national average
- 5-year change in house price for the local area relative to the national 5-year change
- 5-year change in rental price for the local area relative to the national 5-year change

On balance, it is suggested that each of these four components is given equal weight, and therefore the combined adjustment would be based on their mean average.

19. Do you have any additional comments on the proposed method for assessing housing needs?

Yes. The Council recognises that the Government is committed to increasing the number of homes delivered nationally and has made a commitment to delivering 370,000 homes each year.

Nevertheless, there has been no assessment of housing need undertaken for England to inform this figure and it is important for any national target to be evidence-based. It is also important to identify the relevant timeline for any assessment, as it is unlikely that the same number of homes would be needed every year for the next 20 years or more.

The Government should produce a national housing need assessment for England that identifies the overall need and its constituent parts – for example,

⁸ <https://osr.statisticsauthority.gov.uk/our-regulatory-work/assessment/current-future-assessments/assessment-of-the-price-index-of-private-rents-pipr/>

how many homes are to meet household growth and how many homes are to address previous under-supply and constrained household formation.

The outcome of this assessment should be used to inform the appropriate percentage of stock to be used when setting the baseline and the relevant weights to be applied to the adjustment factor.

Furthermore, it would be helpful for Planning Practice Guidance to set out explicitly the timings for updating the local housing need figure for each area, and the specific data releases that should be used.

This clarity would be particularly important if the UK House Price Index (UK HPI) and the Price Index of Private Rents (PIPR) are used as the basis for the proposed adjustment to the baseline, as these are both published monthly and figures relating to previous months are updated to take account of any additional data that has become available. Therefore, for example, the data published for April 2023 would be different in the July 2023 release of the data to the August 2023 release.

It is proposed that the following clarity is provided:

- The local housing need figure for each local area should be updated on 1 April each year and that figure should continue to be used until 31 March the following calendar year.
- The dwelling stock estimate used to set the baseline should be the figure for the local area based on the number of homes on 1 April of the previous calendar year taken from Live Table 120 published in November of the previous calendar year.
- The average house prices used to adjust the baseline should be based on the ONS UK House Price Index (UK HPI) for 1 April of the previous calendar year taken from the [month] report that would be published in [month] of the [current/previous] calendar year.
- The local rental prices used to adjust the baseline should be based on the ONS Price Index of Private Rents (PIPR) for 1 April of the previous calendar

year taken from the [month] report that would be published in [month] of the [current/previous] calendar year.

- For development plan examinations, the local housing need figure should be calculated on the date that the Plan is submitted for Examination and that figure should then be relied upon for a two-year period.
- For planning appeals, the local housing need figure should be calculated on the date that the proofs of evidence are submitted, or such other date specified by the Inspector at the Case Management Conference, and that figure should then be relied upon until the Decision Letter or Inspector's Report is issued.

Providing this clarity would minimise the need for any unnecessary debate about the local housing need figure at Development Plan examinations and Planning Appeals.

20. Do you agree that we should make the proposed change set out in paragraph 124c, as a first step towards brownfield passports?

Whilst the consultation document provides no information on what a 'brownfield passport' is, the Council is generally supportive of a brownfield first approach (in sustainable locations). The proposed change to paragraph 124c makes it clear that the principle of development on brownfield land should not be in question, which reinforces the expectation that development proposals on brownfield land should be viewed positively.

21. Do you agree with the proposed change to paragraph 154g of the current NPPF to better support the development of PDL in the Green Belt?

Whilst East Herts Council agrees with the proposed change to paragraph 154g, to avoid any ambiguity, Planning Practice Guidance will need to give clear guidance as to what amounts to substantial harm.

22. Do you have any views on expanding the definition of PDL, while ensuring that the development and maintenance of glasshouses for horticultural production is maintained?

East Herts Council does not support expanding the definition of PDL in the NPPF to include hardstanding and glasshouses. Glasshouses offer numerous advantages in horticulture, including extended growing seasons, improved crop quality, and enhanced resource efficiency.

23. Do you agree with our proposed definition of Grey Belt land? If not, what changes would you recommend?

The Council fully supports the importance of the Green Belt, but agrees with the principle of defining a Grey Belt to prioritise development of the lowest-performing sites in the Green Belt.

The Grey Belt glossary definition is clear in relation to previously developed land, however, more clarity is needed to explain how to define: *'and/ or other parcels and/or areas that makes a limited contribution to the green belt purposes'*. The proposed additional guidance criteria identified in paragraph 10 of the consultation document go some way to help local authorities judge whether land makes a limited contribution to the Green Belt. However, from both a plan-making and decision-making perspective more clarity is needed to define 'substantial built development' in criterion b) i and 'land which is dominated by urban land uses, including physical developments' in criterion b) iii. Without further guidance, the ambiguity about whether an area makes a limited contribution to the Green Belt is likely to be an area of contention and debate at planning examinations and appeals.

24. Are any additional measures needed to ensure that high performing Green Belt land is not degraded to meet grey belt criteria?

Whilst further guidance is needed on how to define areas that make a limited contribution to the Green Belt purposes, the Council agrees that defining the Grey Belt in terms of its contribution to the purposes of the Green Belt should help prevent the degradation of high performing Green Belt land. To discourage intentional degradation of land to make it more suitable for potential future development that would otherwise not occur, it may be helpful to adopt a similar baseline approach to that taken for BNG, where the condition of land on the date that the NPPF is brought into force would be taken as absolute.

25. Do you agree that additional guidance to assist in identifying land which makes a limited contribution of Green Belt purposes would be helpful? If so, is this best contained in the NPPF itself or in Planning Practice Guidance?

Yes, East Herts Council considers that additional guidance to assist in identifying land which makes a limited contribution to Green Belt purposes is important to reduce ambiguity. The identification of this land will require an element of subjectiveness, which could vary between local planning authorities. The guidance included in paragraph 10 of the consultation document should be added into the NPPF glossary and, as outlined above in the Council's response to question 23, further detail to define the specific criteria is needed to ensure a consistent and transparent approach. As with other topics in the NPPF, the Council considers that it is most appropriate if detailed guidance is set out in Planning Practice Guidance. This would provide greater clarity and without more detailed criteria the Council is concerned that the subjective nature of any assessment could lead to increased costs for local authorities through decision making and the planning appeal processes.

In addition to more clarity on the specific criteria for defining which land makes a limited contribution to the Green Belt purposes, East Herts Council would welcome guidance on the methodology for undertaking Green Belt Review (including identification of Grey Belt land) and more detail on how the Grey Belt should be defined by decision-makers determining planning applications prior to the identification of Grey Belt land in a strategic Green Belt Review. More guidance for how neighbourhood planning authorities should proportionately address Grey Belt land would also be helpful.

26. Do you have any views on whether our proposed guidance sets out appropriate considerations for determining whether land makes a limited contribution to Green Belt purposes?

East Herts Council supports the focus in the NPPF on maintaining the overarching function of the Green Belt, by protecting land which makes a strong contribution to the Green Belt purposes. As outlined in the Council's response to question 23, for the approach to determining whether land makes a limited approach to Green Belt purposes to be effective, further guidance is

needed to explain the criteria in section b of paragraph 10, to ensure a consistent approach and to reduce costly and lengthy debate at examination or appeal.

27. Do you have any views on the role that Local Nature Recovery Strategies could play in identifying areas of Green Belt which can be enhanced?

The Environment Act (2021) has introduced a statutory duty to produce Local Nature Recovery Strategies (LNRS) to create, enhance and restore nature. England is widely considered one of the most nature depleted countries in the world and LNRS will identify locations to create or improve habitat most likely to provide the greatest benefit for nature and the wider environment.

To achieve this objective, East Herts Council considers that it is important that these areas are protected from development. As such the Council suggests that areas identified in an LNRS for habitat creation and improvement are excluded from the Grey Belt, alongside the other exclusions as set out in footnote 7 of the NPPF.

28. Do you agree that our proposals support the release of land in the right places, with previously developed and grey belt land identified first, while allowing local planning authorities to prioritise the most sustainable development locations?

East Herts Council supports the sequential approach and welcomes clarification that sustainable development remains the overarching objective when reviewing Green Belt boundaries. This will be essential for delivering sustainable patterns of growth in East Herts.

29. Do you agree with our proposal to make clear that the release of land should not fundamentally undermine the function of the Green Belt across the area of the plan as a whole?

Yes, it is important that the release of land from the Green Belt in East Herts does not undermine the integrity of the function of the Green Belt as a whole.

30. Do you agree with our approach to allowing development on Green Belt land through decision making? If not, what changes would you recommend?

Subject to providing more clarity on the definition of Grey Belt land to support decision-makers and plan-makers, East Herts Council considers that the approach to allowing development on sustainable Grey Belt locations through the decision making process (when a local planning authority cannot demonstrate a 5YHLS or scores less than 75% in the Housing Delivery Test) is reasonable. The Council welcomes the focus on sustainable locations and ensuring that the function of the Green Belt is not undermined. The introduction of golden rules is considered a proactive way of securing public benefit from development in the Grey Belt. It would be helpful if the NPPF could go further to define exactly what constitutes sustainable grey belt criteria.

Paragraph 19 of the consultation document outlines that it is a combination of the above factors that means development in the Green Belt is not regarded as inappropriate. However, the wording of the new NPPF paragraph 152 does not reflect this intention because the word 'and' is missing from criteria b. It could therefore be interpreted that proposed development is 'appropriate' in the Green Belt if it complies with the 'golden rules' (criterion c), even if it does not comply with criteria a and b. To avoid this presumed unintended consequence, the Council seeks that the word 'and' be added to the end of the criterion b text.

31. Do you have any comments on our proposals to allow the release of grey belt land to meet commercial and other development needs through plan-making and decision-making, including the triggers for release?

East Herts Council agrees that commercial and other types of development (such as for health, education and community uses) play an important role in supporting wider social and economic objectives. So, it is sensible to take the same approach for non-residential development as for residential development, by allowing the release of sustainable Grey Belt land to meet commercial/other development needs and ensuring they deliver public benefits by applying the 'golden rules'.

However, additional detail should be set out in Planning Practice Guidance to help support decisions in relation to what constitutes a 'demonstrable need of local, regional or national importance'.

32. Do you have views on whether the approach to the release of Green Belt through plan and decision-making should apply to traveller sites, including the sequential test for land release and the definition of PDL?

Subject to meeting the specific criteria related to the suitability of sites for travellers outlined in the current PPTS (2023), there should be no distinction between the acceptability of sites for traveller use and those of the settled community for both plan-making and decision-taking. Therefore, the sequential test for land release and the definition of PDL should apply equally.

33. Do you have views on how the assessment of need for traveller sites should be approached, in order to determine whether a local planning authority should undertake a Green Belt review?

The assessment of need for traveller pitches and plots (whether on new or existing sites) should, as currently, provide a comprehensive understanding of the present and future accommodation needs of travelling communities. It is important to note that accommodation needs assessments provide information on what the outstanding need is, not where that need should be met, which is an entirely different process.

Therefore, the methodology behind the way that such an assessment of need is carried out would not, in and of itself, have an impact on whether a local planning authority should undertake a Green Belt Review. Rather, it is the outcome of such assessments and the implications arising from them in relation to identifying suitable land to provide sufficient site allocations that may indicate whether a Green Belt Review may potentially be appropriate.

The specific allocation of land to meet identified needs will differ depending on constraints faced by individual authorities, but it is considered appropriate that, where a local planning authority is unable to meet its identified need in areas lying beyond the Green Belt, that consideration could be given to carrying out a Green Belt Review to scope availability, especially in a Grey Belt context.

34. Do you agree with our proposed approach to the affordable housing tenure mix?

East Herts Council agrees with this approach in general and is very supportive that under the 'golden rules' relating to the release of Green Belt, 50% of housing should be affordable. The Council supports the Government's expectation that this should include homes let at a Social Rent. We also welcome local discretion on the ultimate affordable tenure mix.

The Council would, however, welcome Government guidance and support to ensure 50% of homes can be affordable, including some at Social Rent as these homes typically make the heaviest financial demands on any scheme and so could be the first homes to be 'jettisoned' by developers during planning negotiations.

The Council agrees that the Government should establish mechanisms that ensure land values do not erode the viability of schemes delivered on released Green Belt to avoid the proportion of affordable housing having to be reduced to bring the site forward. In this way, the Government can make clear to all parties involved in the development of new Green Belt sites how the overall numbers of affordable homes and the proportion of dwellings for Social Rent can be achieved without having a negative impact on the overall percentage of affordable units delivered. The development of 10,000 homes in the Gilston area is now only bringing forward 23% affordable housing. Whilst this is in line with the current system and approach to viability, the land was previously in the Green Belt and allocated to provide 40% affordable housing. The Council would be happy to provide more information on this and share its experience in bringing forward a large scale development of 10,000 homes.

35. Should the 50 per cent target apply to all Green Belt areas (including previously developed land in the Green Belt), or should the Government or local planning authorities be able to set lower targets in low land value areas?

The Council considers that if the only way to achieve a viable 50% requirement is through the provision of flatted development, then this would not be supported. This is because flatted development would not meet the accommodation needs of those in the district who require houses. For context,

there has been an oversupply of flats in recent years and demand is low so that model is not required in East Herts. A lower % requirement, which could be a range, would therefore be appropriate to ensure that the correct housing type is achieved for those families in need.

36. Do you agree with the proposed approach to securing benefits for nature and public access to green space where Green Belt release occurs?

Yes, East Herts Council agrees with this approach. The Council recognises the value of good quality green space for local communities and nature.

37. Do you agree that Government should set indicative benchmark land values for land released from or developed in the Green Belt, to inform local planning authority policy development?

The Council welcomes a consistent national approach to indicative benchmark land values for land released from or developed in the Green Belt, but recognises the need to allow for a premium that is informed by local considerations.

38. How and at what level should Government set benchmark land values?

It is considered that, while it would provide certainty, due to the disparity in land values across the country and how these fluctuate in any given market, it would be extremely difficult for the Government to set benchmark land values.

39. To support the delivery of the golden rules, the Government is exploring a reduction in the scope of viability negotiation by setting out that such negotiation should not occur when land will transact above the benchmark land value. Do you have any views on this approach?

In the event that benchmark land values are established, the Council would support this approach. However, the Council seeks for the guidance to be strengthened to ensure that the golden rules cannot be subjugated through viability loopholes.

40. It is proposed that where development is policy compliant, additional contributions for affordable housing should not be sought. Do you have any views on this approach?

The Council considers that this would be an equitable approach provided that developers would also be bound by these arrangements i.e. they could not then seek lower contributions either.

41. Do you agree that where viability negotiations do occur, and contributions below the level set in policy are agreed, development should be subject to late-stage viability reviews, to assess whether further contributions are required? What support would local planning authorities require to use these effectively?

Yes, late stage reviews should be secured when sub policy level affordable housing and contributions are agreed at the time of the original decision. Additional guidance on the viability protocol should be provided by the Government, either in the NPPF or in Planning Practice Guidance, to determine what type of review mechanisms are secured, when they are secured in the programme and what the outcome of the review translates to (in terms of additional financial contributions and any on or off-site affordable housing provisions).

42. Do you have a view on how golden rules might apply to non-residential development, including commercial development, travellers' sites and types of development already considered 'not inappropriate' in the Green Belt?

In respect of traveller sites specifically, while contributions to local facilities and upgrades to infrastructure in line with the scale of development could be sought on a case-by-case basis, as outlined in 'golden rule' b., it is not considered appropriate for 'golden rules' a. or c. to be applied for the following reasons:

In respect of 'golden rule' a., the lifestyles of travelling communities are such that a requirement for mixed tenure arrangements on private sites may not be successful, especially where they solely involve family groupings. Sites are

commonly either rented or privately owned family concerns. Where local authority or registered providers of social housing are involved, sites tend to be wholly rented and the gateways to occupancy can vary across the country. While the renting out of some pitches/plots can occur on some private traveller sites, this is unlikely to involve a registered provider of social housing and it is difficult to see how this type of scheme would be operated in practice. The monitoring and potential enforcement issues that this would be likely to present a resource issue for local authorities, not to mention the difficulties that may ensue operationally in ensuring that nominations and placements would result in matches that would result in successful living arrangements for all occupants. Therefore, this requirement is not supported.

With regard to 'golden rule' c., while it is important that sufficient good quality green space is available to occupiers of traveller sites just as much as in new developments for those from settled communities, it is not considered appropriate that there should be a requirement for land in the private ownership of travellers to be accessible to the public. It may be possible for contributions towards new or improved publicly accessible land to be sought, where appropriate, but this should be assessed on a case-by-case basis, rather than being a blanket requirement. Therefore, the requirement should not be mandatory in all cases.

While keen to maximise public benefit, it is difficult to see how the 'golden rules' would relate to some non-residential uses – e.g. how would a requirement for affordable housing fairly relate to the provision of commercial uses. If such requirements were to be enacted there is a concern that this could stifle non-residential development, rather than increase affordable housing supply.

43. Do you have a view on whether the golden rules should apply only to 'new' Green Belt release, which occurs following these changes to the NPPF? Are there other transitional arrangements we should consider, including, for example, draft plans at the regulation 19 stage?

To avoid the complexity of retrofitting the golden rules to current planning applications, East Herts Council considers that they should apply only to planning applications submitted after the publication of the NPPF. In terms of

plan-making, the application of the golden rules should be consistent with the general transitional arrangements for emerging plans in Chapter 12 of the consultation document.

44. Do you have any comments on the proposed wording for the NPPF (Annex 4)?

The Council welcomes a consistent national approach to values for land released from or developed in the Green Belt, but values must be informed by local material considerations.

45. Do you have any comments on the proposed approach set out in paragraphs 31 and 32?

The consideration of the Council is that this approach should only be utilised as a last resort where other mechanisms have failed and should be reserved for use for development schemes in sustainable locations. The approach should not be adopted to bring forward development in Grey Belt locations where sustainability objectives would not be achieved.

There is also concern that the utilisation of CPO powers could actually slow down the process, rather than speed up delivery, so defined and strong mechanisms would need to be established prior to their introduction to expedite delivery.

In terms of hope value, the Council has strong reservations that this could result in development in isolated and unsustainable locations, which is even more concerning given that the occupiers of the affordable housing element may struggle more than others to access services sustainably from such remote locations.

46. Do you have any other suggestions relating to the proposals in this chapter?

East Herts Council has no further comments to make on the proposals in this chapter.

47. Do you agree with setting the expectation that local planning authorities should consider the particular needs of those who require Social Rent when undertaking needs assessments and setting policies on affordable housing requirements?

Independent research conducted for East Herts Council by the Housing Quality Network in 2020, which analysed access to the local housing market, found that a sizable number of residents in housing need would struggle financially to access Affordable Rent housing in the district, with the conclusion being that Social Rent is the only reasonably viable tenure open to them. Thus, while the Council supports the proposal that planning authorities should consider the particular needs of those who require Social Rent, the Council would ideally prefer that the rent for all affordability housing is set at the same level, that is, that there is no differentiation between a lower cost Social Rent product and a higher cost Affordable Rent product. Failing that, the Council would like to see Social Rent as the default rental product in preference to Affordable Rent.

Furthermore, the Council would like to see all rents in the social sector linked to local incomes rather than the market (as is the case for Affordable Rent) so as to more accurately reflect local pressures.

The Council is particularly interested to learn more about how the Government would like to see those in need of Social Rent identified for purposes of policy-making. Many low income households receive benefits to cover their rent, which, on a day-to-day level, makes it affordable. It could thus be argued that such households do not need Social Rent, as a reduction in the amount of rent they pay will have no impact on their disposable income. At the same time, the circumstances of households can obviously change over time. Those who can afford Affordable Rent when allocated to a property may not be able to do so in the longer term. In reality, in high cost areas such as East Herts, very few households will ever be able to pay an Affordable Rent on a three or four bed house without benefits.

That said, the Council is, of course, keenly aware of the impact of rent levels on returning to work or seeking higher paid work and thus Social Rent is to be welcomed. Therefore, the Council would wish to point out that a lack of a rigorous and consistently applied approach to demonstrating the need for Social Rent could leave planning authorities open to challenge from developers when seeking to secure Social Rent through planning agreements.

The Council is also keen that neighbouring households in similar dwellings do not pay substantially different rents as can happen when the Social Rent and Affordable Rent regimes are both applied on the same development.

48. Do you agree with removing the requirement to deliver 10% of housing on major sites as affordable home ownership?

Yes. The Council believes that this acts to fetter local authorities' ability to seek the mix of affordable homes suited to local need, albeit within the financial realities of new development.

49. Do you agree with removing the minimum 25% First Homes requirement?

Yes. In high cost areas such as East Herts, First Homes are a) not affordable at the point of sale because of the deposit required and b) cannot deliver family sized houses at the £250,000 cap. This means that valuable 'subsidy' within a new development is diverted to a product which is ill-suited to meeting local need.

50. Do you have any other comments on retaining the option to deliver First Homes, including through exception sites?

The Council believes that the local authority should have the ability to seek the right mix of affordable homes on a site informed by local need and local planning policies that have been subject to consultation and viability testing, rather than through the imposition of national affordable tenure requirements.

51. Do you agree with introducing a policy to promote developments that have a mix of tenures and types?

Yes. East Herts Council already has policies aimed at delivering a mix of tenures and types within our District Plan.

52. What would be the most appropriate way to promote high percentage Social Rent/affordable housing developments?

There should be mechanisms whereby Registered Providers can develop exclusively/predominantly affordable housing schemes within a competitive housing land market. It is recognised that large mono-tenure estates would be unlikely to be welcomed by another partner within the housing development system, however, subsidies or incentives distributed by Homes England to Registered Providers developing a site of, say, a maximum size would be welcomed.

It is essential that any development should not forego good design to enable it to be viable. At the same time, a scheme of exclusively or predominantly affordable housing should be connected to the wider community to promote integration. Ideally, viability considerations should enable, rather than fetter, the development of a variety of household types and sizes. Importantly in areas such as East Herts, such schemes should not be forced to rely on flatted development to achieve viability. There is no reason why a development providing a high level of affordable housing needs to be less attractive than any other development and indeed good design and density levels should ensure the desirability of the scheme is maintained.

The provision of amenities within the development that are needed by and/or can be used by the wider community can promote integration and bring benefits to the wider community, for example GP surgeries.

In rural areas, rural exception sites are generally acceptable to local people because they are focused on meeting the needs of that community. If wider needs are to be met in rural locations, there should be a limit on the size of the development, good consultation with the parish council and wider community and an evidence base for the need.

It is recognised that local authorities have a strong interest in enabling new affordable housing in their areas. Non-stock holding authorities, such as East Herts Council, rarely have sizable plots of developable land but may have small, infill sites which could achieve a 'marriage value' with another partner, such as a housing association. The work to bring forward such sites would be worthwhile if it was clear that affordable housing provided in perpetuity for the benefit of local people could be delivered. A subsidy mechanism administered by Homes England that recognised the legitimacy of a local authority receiving a market or near-market value for its land in such a

transaction would be welcomed as a means of accelerating affordable housing development.

53. What safeguards would be required to ensure that there are not unintended consequences? For example, is there a maximum site size where development of this nature is appropriate?

Several ideas have been mooted by various commentators over the years about how to avoid the issues that have come to be associated with mono-tenure developments.

The Council would be interested in participating in further national debate on:

- a maximum number of units to be delivered on an affordable housing only site.
- how best to maximise connective links between areas of different tenure housing.
- forms of flexible tenure which allow residents to switch between affordable housing for rent and low cost home ownership products, in both directions. This could avoid only those in most need with the lowest access to financial resources residing on a development
- allied to the above point, progress towards the de-residualisation of social housing with the introduction of lower cost housing tenures provided alongside more 'traditional' Social Rent housing. This could reduce stigma and ensure communities of a broader economic spectrum.

As mentioned above, financial constraints should not act against development of good design, that is, developments should truly be places where people want to live.

Outside of urban locations and transport hubs, blocks of flats should be small and housing families with children in flats should be avoided in localities where there is a history of houses rather than flats. This can help prevent the congregation of children who do not have a garden and of young people trying to find places to meet from simply 'hanging about' outside of blocks of flats.

The size of the development should be based on the needs of the local area and the homes should be genuinely affordable to those on low to median incomes.

54. What measures should we consider to better support and increase rural affordable housing?

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 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.'

Development in rural areas should be linked to an evidence-based needs assessment and carried out in consultation with the local community. Specific measures to better support and increase rural affordable housing could include:

- consistent resources from, say, Homes England to employ rural enablers.
- grant levels for affordable housing that fully recognise the higher 'per unit' costs associated with development on small exception sites with potentially high remediation, abnormal (grid connection, for example) and access costs to balance across a limited number of homes.
- a national programme of accelerated modular construction with 'template' homes that could be readily developed on particular sites. This could, potentially, reduce the costs that otherwise have to be met from

individually designed schemes on small plots which can compromise viability.

55. Do you agree with the changes proposed to paragraph 63 of the existing NPPF?

Yes. East Herts Council supports the specific reference to looked after children in paragraph 63 of the NPPF.

56. Do you agree with these changes?

Yes. East Herts Council welcomes strengthening the support for community-led development, and agrees that the proposed changes are helpful. The 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.

57. Do you have views on whether the definition of 'affordable housing for rent' in the Framework glossary should be amended? If so, what changes would you recommend?

Yes. At present, the definition of 'affordable housing for rent' in the glossary conflates the rent levels charged with the ownership of the homes in a way that can be confusing and, as noted in paragraph 14 of the consultation document, can exclude some providers who a local authority (or other party) may wish to support.

The Council would therefore welcome consideration being given to the splitting of the definition into two components: (a) the characteristics of the affordable rented housing tenure without reference to the ownership and

management of the homes; and (b) the types of organisations that could own and/or manage a property meeting the definition under (a).

Homes meeting the (a) component could encompass (i) homes subject to the national Social Rent formula and (ii) homes where the rent, including applicable service charges, does not exceed the local housing allowance in the area or 80% of market rent in the area, whichever is the lower.

Homes meeting the (b) component would be those meeting component (a) that are provided by a Registered Provider or other body approved for the purposes of affordable housing for rent provision by the local authority so long as that body is of sound financial means, commits to oversight by the Regulator of Social Housing and can provide the homes in perpetuity and/or has a legally binding means of transferring them to another body that can provide this.

This approach affords flexibility to the local authority to enable affordable housing for rent to be brought forward by a plethora of providers including community groups, 'for profit' organisations and other new entrants to the market. The definition would allow for non-Registered Providers to provide affordable homes in build to rent developments just as the current definition does. Furthermore, the definition should remove any impediment to a council's wholly owned company or joint venture company owning affordable housing for rent.

At the same time, a 'level playing field' should be established between all organisations providing affordable housing for rent with regard to tenants' rights to attain ownership of that home.

The Council would welcome the definitions of both Social Rent and Affordable Rent incorporating an explicit link to the incomes of local households at or below median income levels.

58. Do you have views on why insufficient small sites are being allocated, and on ways in which the small site policy in the NPPF should be strengthened?

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

59. Do you agree with the proposals to retain references to well-designed buildings and places, but remove references to 'beauty' and 'beautiful' and to amend paragraph 138 of the existing Framework?

East Herts Council agrees with the removal of the references to 'beauty' and 'beautiful' in the NPPF as, whilst the intention when adding them was to enhance the design-quality of schemes coming forwards, the terms are too subjective to have the impact that was anticipated. However, there is not enough in the NPPF regarding the fundamentals of good urban design and placemaking and the planning weight to be given to them, and so with the removal of the terms 'beauty' and 'beautiful', the opportunity should be taken to enhance the overall requirements for contextually responsive good urban design and placemaking for all developments.

60. Do you agree with proposed changes to policy for upwards extensions?

The Council supports with the proposed changes to policy for upward extension. The current wording places a disproportionate emphasis on mansard roofs.

61. Do you have any other suggestions relating to the proposals in this chapter?

East Herts Council has no further comments to make on the proposals in this chapter.

62. Do you agree with the changes proposed to paragraphs 86 b) and 87 of the existing NPPF?

East Herts Council agrees with proposals to ensure planning policies identify appropriate sites in sustainable locations to meet the needs of the modern economy. Commercial developments in strategically, well placed locations are important for supporting sustainable economic growth and creating local

employment. Whilst the Council welcomes growth of the modern economy sectors, the type, scale and location of proposed employment development identified in planning policies must be informed by local evidence, including economic needs assessment and reviews of existing employment land.

Hertfordshire's Local Enterprise Partnership (LEP) (now Hertfordshire Futures) has published a report⁹ highlighting the significant loss of employment space in Hertfordshire in recent years, which is primarily due to a lack of available employment land. However, this has been exacerbated by the loss of existing office space to housing through permitted development. The Government will need to consider the implications of permitted development rights in the context of the wider national economic objectives.

The Council also suggests that NPPF paragraph 87 b) is amended to include the word sustainable; 'that allow for the **sustainable**, efficient and reliable handling of goods, especially where this is needed to support the supply chain, transport innovation and decarbonisation;'

63. Are there other sectors you think need particular support via these changes? What are they and why?

It is important that the sectors in need of particular support in East Herts are informed by local evidence relating to the demand, local economic trends and available employment land.

The Council would welcome focus on the importance of small and medium-sized enterprises (SMEs), to ensure smaller units are provided to facilitate the growth of this sector, which has an important role in East Herts local economy.

64. Would you support the prescription of data centres, gigafactories, and/or laboratories as types of business and commercial development which could be capable (on request) of being directed into the NSIP consenting regime?

The Council does not object to the principle of gigafactories, and/or laboratories as types of business and commercial development which could, due to scale or economic impact, be directed into the consenting regime.

⁹ Loss of Employment Space in Hertfordshire (2019) Hertfordshire LEP

However, local authority input into the process as a statutory consultee must be retained, so that the local impacts of proposals can be fully addressed.

65. If the direction power is extended to these developments, should it be limited by scale, and what would be an appropriate scale if so?

The Council considers that the scale of proposal is a sensible approach to applying the direction power. However, given the importance of meeting local economic needs NSIP should only be applied to very large-scale development proposals, of national importance.

66. Do you have any other suggestions relating to the proposals in this chapter?

East Herts Council has no further comments to make on the proposals in this chapter.

67. Do you agree with the changes proposed to paragraph 100 of the existing NPPF?

East Herts Council supports the proposed changes to paragraph 100 of the existing NPPF. Significant weight should be placed on the importance of public service infrastructure when considering proposals for development.

68. Do you agree with the changes proposed to paragraph 99 of the existing NPPF?

East Herts Council agrees with the changes proposed to paragraph 99 of the existing NPPF. Ensuring the availability of post-16 education places is key to establishing a workforce equipped with the skills necessary for the future. Likewise, ensuring access to (affordable) early years childcare is important for parents seeking to join the workforce.

69. Do you agree with the changes proposed to paragraphs 114 and 115 of the existing NPPF?

Regarding the proposed changes to existing paragraph 114, the Council supports a vision-led approach to underpin the delivery of sustainable transport through development. However, there should be further revisions to existing paragraph 114 to make it clear where the responsibility will fall.

It should be made clear whether the vision would be over-arching for a local authority area or if it would be at the site-specific level. If the latter, then it would be very resource intensive for a local authority to have the responsibility to devise a vision for each site coming forward for consideration. If it is to fall to the applicant to demonstrate a vision-led approach for each individual site, rather than for the local planning authority to provide the vision and for the applicant to comply, then sufficient resources will need to be put in place to ensure appropriate consideration of such visions.

In respect of the proposed changes to existing paragraph 115, it is considered that it is currently unclear what is meant by 'in all tested scenarios'. This area should be properly defined to avoid ambiguity in decision-taking and situations at appeal where a lack of clarity could lead to unnecessary protracted arguments.

70. How could national planning policy better support local authorities in (a) promoting healthy communities and (b) tackling childhood obesity?

East Herts Council welcomes the Government's commitment to taking action on public health and reducing health inequalities. The planning system already plays a key role in supporting healthy communities, however, to help reduce levels of childhood obesity, tackling hot food takeaways near schools should be a key priority. Active travel is a fundamental factor for local authorities in plan-making and the consideration of planning applications. This could be made more explicit in the NPPF.

71. Do you have any other suggestions relating to the proposals in this chapter?

The ability of the planning system to address the health impact of fast food is limited in that it can only control new hot food takeaways and cannot deal with the problems of existing takeaways and other fast-food outlets. Therefore,

planning controls should be seen as part of a strategic response, including initiatives to work with takeaway businesses and with schools, and the combined use of other regulatory controls and public health interventions.

72. Do you agree that large onshore wind projects should be reintegrated into the NSIP regime?

Given the need to move towards cleaner sources of energy, East Herts Council agrees with the principle of large onshore wind projects being reintegrated into the NSIP regime, in order to progress strategic projects at the national level. However, local authority input into the process as a statutory consultee must be retained, so that the local impacts of proposals can be fully addressed.

The sustainability of the location should be a primary consideration when deciding where to locate onshore wind turbines. Key factors to consider include the proximity to airports and residential developments; protection of important environmental and heritage areas; landscape impacts; transport connections and proximity to electricity infrastructure.

73. Do you agree with the proposed changes to the NPPF to give greater support to renewable and low carbon energy?

Yes, East Herts Council agrees with the proposed changes to give greater support to renewable and low carbon energy. It is important that proposals are directed to the most suitable and sustainable locations.

74. Some habitats, such as those containing peat soils, might be considered unsuitable for renewable energy development due to their role in carbon sequestration. Should there be additional protections for such habitats and/or compensatory mechanisms put in place?

East Herts Council agree that some habitats, such as those containing peat soils, should be identified as unsuitable for renewable energy development. There are no compensatory mechanisms that can be put in place to address the damage/destruction of such habitats. To avoid renewable energy development negatively impacting vulnerable habitats that are not protected by existing environmental designations, it would be helpful if further public

consultation could be carried out to inform the NPPF and ensure that suitable measures can be put in place to protect appropriate habitats.

75. Do you agree that the threshold at which onshore wind projects are deemed to be Nationally Significant and therefore consented under the NSIP regime should be changed from 50 megawatts (MW) to 100MW?

As advances in technology are allowing for greater generation of power, East Herts Council agrees the threshold should be changed.

76. Do you agree that the threshold at which solar projects are deemed to be Nationally Significant and therefore consented under the NSIP regime should be changed from 50MW to 150MW?

As advances in technology are allowing for greater generation of power, East Herts Council agrees the threshold should be changed.

77. If you think that alternative thresholds should apply to onshore wind and/or solar, what would these be?

East Herts Council has no further comments on this issue.

78. In what specific, deliverable ways could national planning policy do more to address climate change mitigation and adaptation?

East Herts Council would like national planning policy to enable local planning authorities to be able to set higher climate change standards in their local plans than those in Part L of the Building Regulations, if justified by a robust evidence base.

79. What is your view of the current state of technological readiness and availability of tools for accurate carbon accounting in plan-making and planning decisions, and what are the challenges to increasing its use?

East Herts Council would welcome a standardised approach to carbon accounting as there are currently many challenges with implementing these tools to inform plan-making and decision-making. Most local planning teams lack in-house expertise so would need to commission consultants and

software to take forward this work and then train planning officers. This process has time and cost implications, and LPAs have significant resource challenges. The Council would welcome Government support and guidance on this topic.

80. Are any changes needed to policy for managing flood risk to improve its effectiveness?

The Council would welcome changes to Permitted Development Rights to prevent gardens being paved to provide off-site parking. The loss of gardens does not allow for effective surface water drainage into soil. The proportion of space now paved/ resined over is considerable and forces water elsewhere, contributing to flooding, notwithstanding the loss of green space for nature. Although some paving/ resin does allow for water to permeate through, it is not at the rate that a normal grassed/ planted garden does.

81. Do you have any other comments on actions that can be taken through planning to address climate change?

Firstly, the Council considers that greater clarity is needed in relation to noise from Air Source Heat Pumps and Permitted Development Rights. There is a conflict with the Environmental Protection Act 1990 relating to noise, potentially leading to noise abatement notices being served on people with Air Source Heat Pumps installed under Permitted Development.

Secondly, investment by the Government is needed into Modern Methods of Construction plants to a) help speed up housing completions, and b) reduce construction waste considerably. MMC/ OSM needs to be showcased as an excellent method of construction.

82. Do you agree with removal of this text* from the footnote?

(* The availability of agricultural land used for food production should be considered, alongside other policies in this Framework, when deciding what sites are most appropriate for development.)

Yes. East Herts Council supports the approach to ensure the food production value of high value farmland is adequately weighted in the planning process.

However, it was unclear how the availability of agricultural land for food production would change the weight given to agricultural land in the planning process. Local planning authorities already 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.

83. Are there other ways in which we can ensure that development supports and does not compromise food production?

Domestic food production is a key contributor to national resilience and food security, and so it is vital that development does not compromise this. Innovative policy approaches should be encouraged, such as urban agriculture, including rooftop gardening, hydroponics and vertical farming.

84. Do you agree that we should improve the current water infrastructure provisions in the Planning Act 2008, and do you have specific suggestions for how best to do this?

Yes. Water is emerging as one of the most important strategic issues of our time and immediate action is required to improve water supply resilience.

The challenge for water authorities is that their operational areas often extend across multiple local authority boundaries, and so a robust strategic oversight of the anticipated growth pressure is required. This challenge is further compounded by the way in which funding for infrastructure projects is controlled by OFWAT and is reviewed only on a five-year basis. In other words, it can be difficult for the water authorities to quickly change their infrastructure planning to address significant changes in local circumstances.

Providing water authorities with greater certainty on the planning route for new strategic water infrastructure will help address issues of water scarcity and quality.

85. Are there other areas of the water infrastructure provisions that could be improved? If so, can you explain what those are, including your proposed changes?

The Council would support a twin track approach to improving water supply resilience, including action to reduce water company leaks and improve water efficiency, and delivering new water infrastructure. The Council would also support penalties for those companies that do not comply with this approach.

86. Do you have any other suggestions relating to the proposals in this chapter?

The Council considers that the draft NPPF currently lacks sufficient guidance on water resources or any acknowledgement that water is a finite resource. Clarity should therefore be provided so that proposals for future developments must demonstrate that they are able to deliver a sufficient water supply without unduly impacting existing development or damaging local blue infrastructure and habitats.

The Council recommends that the Government also sets out an ambitious vision for a future sewerage system. With ageing wastewater infrastructure, growing urbanisation, and the increased intensity and frequency of rainfall expected due to climate change, the strain on this system is mounting. This will require a collaborative effort by Government, the engineering industry, regulators, water companies, and the public.

To reduce/eliminate sewage overflows, combined sewer systems should be replaced with separated sewer systems. There are areas of East Herts where, during periods of heavy rainfall, high volumes of rainwater often exceed the capacity of a combined sewer system causing mixtures of rainwater runoff and untreated sewage to be released into receiving waterbodies.

87. Do you agree that we should we replace the existing intervention policy criteria with the revised criteria set out in this consultation?

The Council agrees that (a) local development needs and (c) plan progress could be used to inform decisions on intervention. Further clarity is, however, required on how (b) sub-regional, regional, and national development needs would be taken into account so that councils would not be penalised for under delivery in other areas through no fault of their own.

88. Alternatively, would you support us withdrawing the criteria and relying on the existing legal tests to underpin future use of intervention powers?

The Council does not have a strong view on this, provided that authorities are given an opportunity to put forward exceptional circumstances for consideration before action is taken.

89. Do you agree with the proposal to increase householder application fees to meet cost recovery?

Yes. East Herts Council agrees with the proposal to increase householder application fees to meet cost recovery. The current fee is not sufficient to cover the full costs in most cases.

90. If no, do you support increasing the fee by a smaller amount (at a level less than full cost recovery) and if so, what should the fee increase be? For example, a 50% increase to the householder fee would increase the application fee from £258 to £387.

If yes, please explain in the text box what you consider an appropriate fee increase would be.

The Council undertook some benchmarking work in consultation with the Planning Advisory Service in 2012. At the time the true cost was £441 for a householder application. If we allow for inflation and using a RPI index the true cost to the Council would now be £680 for a householder application.

91. If we proceed to increase householder fees to meet cost recovery, we have estimated that to meet cost-recovery, the householder application fee should be increased to £528. Do you agree with this estimate?

- Yes
- No – it should be higher than £528
- No – it should be lower than £528
- No – there should be no fee increase
- Don't know

If no, please explain in the text box below and provide evidence to demonstrate what you consider the correct fee should be.

No, it should be higher than £528. It is not clear from the consultation document where the figure of £528 has come from. The Council undertook some benchmarking work in consultation with the Planning Advisory Service in 2012. At the time the true cost for a householder application was £441. If we allow for inflation and using a RPI index the true cost to the Council would now be £680 for a householder application. It is important that fees should adequately cover the costs of the process and should not negatively impact scarce local authority resources.

92. Are there any applications for which the current fee is inadequate? Please explain your reasons and provide evidence on what you consider the correct fee should be.

The Council considers that there are a number of applications where the current fee set is inadequate.

The fees for S73a, S73b and S96a applications for major developments are too low. The fee is considerably less than the cost to the Council for assessing these types of applications. For these types of applications, a sliding scale for the fee depending on the scale of development and nature of the proposed changes to the development is needed. The variation fee for householder developments is acceptable.

The fee for lawful development certificates for existing works or uses are currently the same as the planning fee. It is considered that the fee should be doubled due to the time taken to consider these.

For discharge of condition applications, for one fee, the applicant can include a large number of conditions which can take a significant amount of work. It is considered that a fee for every condition applied for (per condition) should apply and this should be double the current fee.

The fee for all types of prior approval applications are considered inadequate, particularly agricultural where £120 which is significantly under the cost the Council incurs as a result of assessing these applications. It is considered that the fee should be 75% of what the cost of a planning application would be.

The Council considers that fees should be based on officer time. The Council's experience is that these types of applications need a lot of time, and require a high level of administration time, a high level of research by planning officers and the current fees don't reflect the officer time needed to deal with them.

93. Are there any application types for which fees are not currently charged but which should require a fee? Please explain your reasons and provide evidence on what you consider the correct fee should be.

The Council considers that Listed Building Consent applications should be charged for. The district has over 3,000 Listed Buildings and receives between 250-300 Listed Building Consent applications each year. The fee set should be proportionate to reflect the amount of time conservation officers take to consider and negotiate these applications. In our experience this is akin to the householder fee (£528-680).

The Council also considers that S106a applications should be charged for. The fee should be proportionate to the amount of officer time taken to consider these types of application (i.e. full cost recovery).

94. Do you consider that each local planning authority should be able to set its own (non-profit making) planning application fee? Please give your reasons in the text box below.

See answer to Question 95. The Council's preferred model would be 'Local Variation'. This would allow the Council the option to vary the fees within prescribed limits in circumstances where it is considered that the nationally set fee does meet actual costs.

95. What would be your preferred model for localisation of planning fees?

- **Full Localisation – placing a mandatory duty on all local planning authorities to set their own fee.**
- **Local Variation – maintain a nationally-set default fee and giving local planning authorities the option to set all or some fees locally.**
- **Neither**

- **Don't Know**

Please give your reasons in the text box below.

The Council's preferred model would be 'Local Variation'. This would allow the Council the option to vary the fees within prescribed limits in circumstances where it is considered that the nationally set fee does meet actual costs.

- 96. Do you consider that planning fees should be increased, beyond cost recovery, for planning applications services, to fund wider planning services? If yes, please explain what you consider an appropriate increase would be and whether this should apply to all applications or, for example, just applications for major development?**

East Herts Council agrees that planning fees should be increased, beyond cost recovery for planning application services, to help fund planning policy, enforcement, conservation, design, sustainability, biodiversity, and arboricultural services. The increase should apply to all minors and majors. It is recommended that a 10% increase would be reasonable.

- 97. What wider planning services, if any, other than planning applications (development management) services, do you consider could be paid for by planning fees?**

East Herts Council considers that planning fees could help to fund planning policy, enforcement, conservation, design, sustainability, biodiversity, and arboricultural services. In addition to these services, an increase in planning fees could also fund other departments which are consulted on applications (e.g. housing, environmental health).

- 98. Do you consider that cost recovery for relevant services provided by local authorities in relation to applications for development consent orders under the Planning Act 2008, payable by applicants, should be introduced?**

East Herts Council has no specific comments to make on cost recovery for local authorities related to NSIP.

99. If yes, please explain any particular issues that the Government may want to consider, in particular which local planning authorities should be able to recover costs and the relevant services which they should be able to recover costs for, and whether host authorities should be able to waive fees where planning performance agreements are made.

East Herts Council has no specific comments to make on cost recovery for local authorities related to NSIP.

100. What limitations, if any, should be set in regulations or through guidance in relation to local authorities' ability to recover costs?

East Herts Council has no specific comments to make on cost recovery for local authorities related to NSIP.

101. Please provide any further information on the impacts of full or partial cost recovery are likely to be for local planning authorities and applicants. We would particularly welcome evidence of the costs associated with work undertaken by local authorities in relation to applications for development consent.

East Herts Council has no specific comments to make on cost recovery for local authorities related to NSIP.

102. Do you have any other suggestions relating to the proposals in this chapter?

East Herts Council considers that whatever fee increase is agreed, there needs to be provision for an annual review and increases yearly in line with inflation. All planning fees should be ringfenced for planning and related services.

103. Do you agree with the proposed transitional arrangements? Are there any alternatives you think we should consider? (Chapter 12)

East Herts Council agrees that plans which have reached Regulation 19, one month after the revised NPPF is published, should be prepared against the revised version of the NPPF and progressed as quickly as possible.

The Council has recently agreed a new Local Development Scheme which sets out that formal work on the East Herts District Plan Review will commence in September 2025, as soon as the new plan-making system as set out in the Levelling-up and Regeneration Act is implemented. In the meantime the Council will continue to focus on updating the evidence base and other preparatory work needed to support the District Plan Review, including a Call for Sites. This will enable work on updating the District Plan to progress quickly when the new plan-making system formally commences.

The Council has previously indicated that it would welcome the opportunity to be in the first wave of new local plans and would re-emphasise this commitment, but notes that there is no information within the consultation document in this regard.

104. Do you agree with the proposed transitional arrangements?

The Council agrees with the proposed transitional arrangements for emerging local plans, but would, welcome further clarity on arrangements in relation to Neighbourhood Planning, making it clear which version of the NPPF should be used for their preparation and examination.

105. Do you have any other suggestions relating to the proposals in this chapter?

East Herts Council looks forward to seeing further details of the Government's intentions around plan-making reform as soon as possible. In particular, the creation of National Development Management Policies should be prioritised and the process for agreeing them clearly set out.

106. Do you have any views on the impacts of the above proposals for you, or the group or business you represent and on anyone with a relevant protected characteristic? If so, please explain who, which groups, including those with protected characteristics, or which businesses may be impacted and how. Is there anything that could be done to mitigate any impact identified?

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