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## ELMBRIDGE BOROUGH COUNCIL

### INDIVIDUAL CABINET MEMBER DECISION MAKING - PLANNING SERVICES

Report of decisions taken on 1 November 2017

Present:

Mrs. K. Randolph (Portfolio Holder for Planning Services)

Also present:

Mrs. S.R. Kapadia and Mrs. R.J.M. Lyon

#### 3/17 DECLARATIONS OF INTEREST

There were no declarations of interest.

#### MATTER OF REPORT

#### 4/17 THE COUNCIL'S DRAFT RESPONSE TO THE GOVERNMENT'S 'PLANNING FOR THE RIGHT HOMES IN THE RIGHT PLACES' CONSULTATION

(Link to Council Priorities: P3)

The Portfolio Holder for Planning Services considered a report which set out the Council's proposed response to the Government's consultation paper 'Planning for the right homes in the right places'.

In February 2017, the Government had published a new White Paper on housing entitled 'Fixing our broken housing market' that set out a number of proposals that the Government believed would support local planning authorities and developers to deliver more land for housing and to ensure that development on this land would come forward more efficiently and quickly.

Whilst much of the detail contained within the White Paper was subject to further consultation, on 14 September 2017, the Government had published a consultation paper entitled 'Planning the right homes in the right places' which outlined a number of the Government's proposed planning reforms in more detail. The headlines of the consultation included:

- a new standardised methodology for calculating Objectively Assessed Housing Need (OAHN);
- proposed measures to improve joint-working with neighbouring authorities and other appropriate bodies under the Government's Duty-to-Cooperate;
- the continued requirement to plan for a mix of housing needs and to consider viability as part of the plan-making and decision-taking processes; and
- proposed measures to increase planning fees.

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As the Government's proposal would have implications on the continued preparation of the new Elmbridge Local Plan and the operation of the Council's wider planning services, the Portfolio Holder noted that presentations on the key details of the consultation had been given to both the Local Plan Working Group and the Affordable & Social Housing Working Group at the meetings held on 3 October and 19 October 2017 respectively.

The Portfolio Holder acknowledged that the Local Plan Working Group had considered the draft response at its meeting on 24 October 2017 where a number of comments and amendments had been made. In this regard, an updated response was tabled at the meeting for further consideration.

Whilst supporting the amendments suggested at the Local Plan Working Group, the Portfolio Holder requested that the following revisions be made to the Council's response prior to its submission to the Government:

- A glossary of terms be attached to the consultation response to provide an explanation and where appropriate, definition, of the acronyms used within the response.

In addition, where the response refers to Regulation 18 and 19, the definition of these Regulations be included as footnotes within the response;

- Q1(a)(3) – in the sixth paragraph, the word “dupe” be amended to read “dpa”;
- Q3 – the third sentence be amended to read “... standardised methodology being imposed if the proposed standardised methodology is not amended to address the concerns ...”;

It was also agreed that the Head of Planning Services would split this sentence if appropriate;

- Q4 – the response be expanded to include reference that the Council agrees with the approach that in circumstances plan makers can deviate from the proposed methodology;
- Q5(a) – the last sentence be amended to read “It also ignores Councils which have consistently delivered above their adopted housing target. Elmbridge has consistently exceeded its target by approximately 20% each year for the last 6 years.”;
- Q5(c) – the Head of Planning Services expand the response to include wording that reflects that the Council was one of the authorities not included in the list of exceptions;
- Q10(b) – the word “my” in the second sentence of the first paragraph be amended to read “may”;



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**Department for Communities and Local Government: Planning for the right homes in the right places**

**Elmbridge Borough Council Response**

**Question 1:**

**a) Do you agree with the proposed standard approach to assessing local housing need? If not, what alternative approach or other factors should be considered?**

No – The Council acknowledges that the current process of calculating Objectively Assessed Housing Needs (OAHN) leaves a considerable amount of room for interpretation and is frequently an area of debate during both the preparation of the Local Plan and in the determination of planning applications (e.g. calculating housing land supply). The general principle of a standardised methodology which would remove these disputes and speed-up the planning system is therefore broadly supported.

However, as proposed it is considered that the standardised methodology is fundamentally flawed, over simplistic and relies upon a limited range of datasets that, by themselves, do not provide a complete assessment of housing need within an individual local authority area or across Housing Market Areas (HMAs). On the issue of data we urge the Government to consider for example factors such as employment growth and other market signals such as land prices, rents, concealed households, and homelessness, as a more nuanced standard methodology would more accurately reflect actual housing need.

In regard to the proposed steps of the standardised methodology, Step 1 and the use of data relating to household projections is considered appropriate. This is consistent with the current approach as set out in Planning Practice Guidance (PPG). Nevertheless and notwithstanding the need to regularly review the Local Plan (every 5 years); the Council is concerned as to how it is expected to plan for a 15-year period on the basis of a 10-year model (2016 – 2026). This is particularly relevant to Elmbridge and other Green Belt authorities where boundaries may need to be amended to accommodate a level of housing need and yet as set out in paragraph 83 of the National Planning Policy Framework (NPPF), *'authorities should consider the Green Belt boundaries having regard to their intended permanence in the long term, so that they should be capable of enduring beyond the plan period'*. Should a local authority wish to plan beyond a 10-year period, Government must provide guidance on how this is undertaken e.g. extrapolate the 10 year annual requirement over a further five years (in the case of a 15-year plan) or alternatively, use the long-term household projection figures provided by the ONS.

A key concern is however Step 2 and the arbitrary use of the affordability ratio which when used within the overall calculation, excessively increases the number of new homes to be provided in areas of high house prices. Focusing on the affordability ratio and how this is calculated, the Council wishes to raise the following concerns:

1. The use of work-place earnings

Whilst the Government's rationale for this is understandable i.e. seeking to ensure those who work in an area can afford to live there, this approach places an over reliance on the assumption that people wish to live and work in the same area. There appears to be no robust evidence that supports this assumption. The use of work-place earnings also completely ignores the reality that, in areas such as Elmbridge, resident earnings are higher due the accessibility of the London employment market. Median resident earnings (£715.70 gross per week) are 13% higher than median workplace earnings (£631.70 gross per week) (2015 annual survey of hours and earning). Reflecting Elmbridge's location within the Surrey commuter belt, approximately 37% of the Borough's employed residents work in London, with the highest numbers travelling to Kingston, the City and Westminster (Annual Population Survey).

Finally, it is considered that the basis for any calculation should be **household** earnings as opposed to taking into account the earnings of an individual. The Council is concerned that by basing the calculation on the earnings of an individual, the household composition of an area is overlooked. Data on the household composition for Elmbridge Borough shows for example, a lower proportion of single or lone parent households i.e. households with potentially only one income. The impact for Elmbridge would be an increase in earnings of 48% from £34,105 (individual median income) to £50,514 (median household income) (Kingston & North East Surrey SHMA, 2016). To ensure consistency across all local authorities, it is understood that the ONS could provide this data having published in July 2017 provisional estimates of household incomes at a national level.

2. The use of median house prices

We object to the use of median house prices as the basis of the calculation of the affordability ratio unless certain parameters are introduced to take account of the distinctive nature of HMAs. The Council is concerned that within areas such as

Elmbridge, with some of the most expensive housing in the country, the median house price is grossly inflated by distinct areas where house prices are not representative of the wider area. For example, between the period 1<sup>st</sup> January and 1<sup>st</sup> September 2017, the Land Registry Price Paid Data reveals 1,248 residential transactions in Elmbridge Borough. Of these, 373 transactions (30%) were for properties over the average house price (£851,884) with the highest being for £9.5 million. The data also shows that approximately 60% of the total value of transactions during this period is attributed to the 30% of properties as noted above.

In the case of Elmbridge, the actual 'average' property that would be accessible to the vast majority of the market would be well below this distorted average or even the median average (£525,000) that the Government proposes to use. It is therefore considered that the use of lower quartile property prices would be more appropriate, or a threshold is set where local authorities can remove the upper quartile value properties e.g. the highest 10 - 25%, and then recalculate the adjusted median house price. A further alternative would be to discount from the median house price all properties that are 4 times (based on the Government's rationale set out in paragraph 24 (a) of the consultation document) this value. For Elmbridge this would be an adjusted median house price on the basis of discounting all properties over £2.1m (£525,000 x 4).

### 3. The application of affordability ratios at a local authority level

By calculating the affordability ratio at a local area and then applying this to the local authority area, disregard is given to the existence of wider HMAs and the acknowledgement of variation within them.

Focusing on the Government's aim to boost significantly the supply of housing, it is considered that through the proposed uplift, it has been incorrectly assumed via an unproven / outdated causality that simply boosting housing supply will improve affordability in the market. Research for DCLG by the University of Reading for example, concluded that *'it may be difficult, or impossible, to achieve affordability targets at sub-regional levels. This is because local authorities, for example, may be close substitutes in terms of location for many households, so that increasing construction in a small number of areas generates strong population inflows,*

*offsetting any improvement in affordability*' (Meen, 2011, page 17)<sup>1</sup>. The report further noted that even at regional level, increases in construction produce only modest improvements in affordability and would need to be long-lasting. For an increase in housing supply to reduce prices, there would thus need to be a large uplift in supply rates across London and the South East. However, the required level of supply is unlikely to be realistic given land constraints.

Furthermore, Government guidance (planning practice guidance) states that in taking market signals into account, the housing need number suggested by household projections (the starting point) should be adjusted to reflect appropriate market signals, as well as other market indicators of the balance between the demand for and supply of dwellings. It suggests that prices or rents rising faster than the national / local average may well indicate particular market undersupply relative to demand but goes on to say that *longer term* changes may indicate an imbalance between demand for and the supply of housing. As proposed, the standardised methodology and the use of affordability ratios take no account of these important issues. Rather, they are a 'snapshot' of a time in the past which fail to recognise the wider economic context to assessing housing needs. The proposed standardised methodology also takes no account of whether trends show a worsening difference between demand and supply across a longer-term economic cycle. It does not consider how much affordability in an area is worsening in comparison to national / local averages.

If the Government is serious about increasing affordability, the focus should be shifted towards realistic methods of delivery as opposed to theoretical numerical modelling. For example, the Government could rescind recent restrictive actions in relation to the provision of affordable housing such as the Written Ministerial Statement ('small site exemptions', 28 November 2014) and subsequent amendments to PPG. The Government supporting local authorities on applications where viability is being challenged is also vital. This is particularly important in Elmbridge where there is a need for more affordable homes and the Council has an adopted policy supported by Borough-wide viability work.

Commenting on the proposals included within Step 3, the Council would seek justification for the selection of the 0.4 cap. There appears to be no justification other

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<sup>1</sup> See A long-run model of housing affordability, by Geoffrey Meen, University of Reading, School of Economics, published by the Department for Communities and Local Government, 2011. ISBN: 978 1 4098 3174 7



than the resulting national calculation (after the cap has been applied to the relevant authorities) resulting in a projected housing need of 266,000 dwellings per annum, which conveniently falls between the identified need of 225,000 and 275,000 dwellings per annum.

The Council also considers that the overall approach conflates preparing an assessment of housing need with the identification of a deliverable housing target i.e. in the case of Elmbridge Borough the introduction of a cap to Steps 1 & 2 of the calculation (747 dwellings per annum (dpa)) will not automatically translate into the figure of 612 dpa being deliverable. The Council strongly believes that the proposed methodology introduces '*a numbers game*' and is a step away from the very essence of a spatial planning system and the very nature of '*planning for the right homes in the right places*'.

The Council considers it vital that the constraints on new development are taken into account as part of the Government's proposed methodology. Elmbridge, like most of Surrey, is heavily constrained by the Green Belt and other nationally important designations. These designations impose severe limitations on the Council's ability to meet local housing need. In the interests of transparency and consistency, it is essential that constraints on development are taken in account when determining housing need for each authority.

We note that the data table accompanying the consultation includes a figure for each local authority area of land that is constrained, but this figure plays no part in the standardised methodology. We believe that that the local housing need figure needs to be modified by the constraints in each authority e.g. applying a Local Constraint Factor (LCF). This would provide a mechanism that recognises the Government's dual goals of meeting housing demand wherever possible, while at the same time protecting the Green Belt and other protected areas. Recognition of nationally important constraints in setting a housing need figure could replace the arbitrary 0.4 cap proposed in the consultation, and further speed up the local plan process by removing another area that is often subject to dispute at examination.

The Council recommends that the Government considers further the approach taken by the 2016 Kingston and North East Surrey Strategic Housing Market Assessment (SHMA). The Council contends that the methodology applied by that SHMA was robust (utilising the most up-to-date at the time of preparation) and provided a sound

baseline assessment from which a deliverable housing target could be calculated by each of the four partner authorities. It is worth noting that the outputs from the original SHMA and recent recalculation based on the latest population projections are consistent.

**b) How can information on local housing need be made more transparent?**

The Council agrees with the need to ensure that information on local housing need is transparent. The Council, in conjunction with its HMA partners, is already making great strides in making this process transparent to local residents and communities. We have taken positive steps to demonstrate how our OAHN figure has been calculated by publishing our SHMA. We are also in the process of preparing supporting evidence that demonstrates how any resulting housing target takes into account local issues including both environmental and infrastructure (in particular, strategic) constraints.

Notwithstanding the Council's general concerns over the proposed standard methodology, if implemented, improved transparency could be achieved by including the ONS figures used for projecting household growth and affordability ratio within the adjoining data table. In addition, with reference to paragraph 36 of the consultation paper, it is considered that Government should be responsible for updating and publishing the calculation of local housing need figures upon the release of up date household projections and affordability ratio. As set out in paragraph 36, the responsibility is currently proposed to be with that of LPAs: *'local planning authorities, when calculating their local housing needs, should always use the most up-to-date data available'*. However, to ensure consistency and timely up-dates across all Boroughs and Districts, the Council strongly recommends that this responsibility is left with DCLG. This will provide a 'national snap-shot' of housing need as well as a single location from where the information can be accessed.

**Question 2: Do you agree with the proposal that an assessment of local housing need should be able to be relied upon for a period of two years from the date a plan is submitted?**

No – If the Government were minded to continue with the implementation of a standard methodology, the Council would welcome the opportunity to 'fix' their assessment of local housing need. However, it is not considered appropriate for this to apply from the date the plan is submitted. Rather, the period should apply from when a LPA consults on its proposals at Regulation 18. Otherwise there is the danger that, if updated needs information is published shortly prior to the submission date, many LPAs will fear a challenge to the

housing needs numbers if they press on regardless with the “old” numbers. At the very least, councils should be able to “fix” the basic assessment of housing need number once they have published the Regulation 19 pre-submission document for public representations, but ideally it should be earlier than this in the process, to allow a smoother preparation of the Regulation 19 document.

LPA's should also be able to rely upon an assessment of housing need for a period of three years. This will ensure that there is greater certainty for all involved in the plan-making process as to the number of homes that are required, in case of unexpected delays in the plan-making process later. The need for a longer ‘fixed’ period will also be particularly relevant for those LPA's dealing with complex and often controversial issues such as the need to review and amend Green Belt boundaries and the need to ensure that the constraints to meeting development needs are fully explored.

**Question 3: Do you agree that we should amend national planning policy so that a sound plan should identify local housing need using a clear and justified method?**

The Council welcomes the Government’s proposed amendment to national planning policy. This should make the scrutiny of the Local Plan process more straightforward for stakeholders. However, the Council strongly believes that the methodology to be used should be left to the LPA / HMA partners rather than the standardised methodology being imposed if, the proposed standard methodology is not amended to address the concerns raised by the Council in this response. The Government, as part of its proposals, must acknowledge the distinctiveness of HMAs and constraints to delivery within some LPA areas for example, some LPA's having Green Belt and / or other protective designations

**Question 4: Do you agree with our approach in circumstances when plan makers deviate from the proposed method, including the level of scrutiny we expect from Planning Inspectors?**

Yes - The Council agrees there may be circumstances when LPA's need to deviate from the proposed methodology. However, it is considered appropriate that where an alternative method is proposed, scope is allowed for the Planning Inspectorate to provide a level of challenge **before** the Local Plan is subject to the pre-submission representations period and submission itself. This is to minimise the potential for an inappropriately-justified methodology reaching the examination stage, with all the costs and delays that could be caused if significant further work is needed to deliver a “sound” Local Plan.

**Question 5:**

**a) Do you agree that the Secretary of State should have discretion to defer the period for using the baseline for some local planning authorities? If so, how best could this be achieved, what minimum requirements should be in place before the Secretary of State may exercise this discretion, and for how long should such deferral be permitted?**

Yes – the Secretary of State (SoS) should exercise discretion. The Council strongly disagrees with the proposal that, in the case of Elmbridge, no transitional arrangements are proposed and that after 31 March 2018, the new method for calculating the local housing need will apply as the baseline for the Local Plan and in the calculation for assessing the five year housing land supply.

This *'one-size fits all'* approach ignores the fact that the Elmbridge has taken strides to assess and plan for its development needs. It ignores the fact that the Council's efforts have been significantly undermined by the amount of recent consultations (on the Housing White Paper, this current consultation, future CIL announcement in November 2017, the proposed draft revised NPPF to be published in spring 2018 etc.) that have created uncertainty for both officers and Members and have subsequently led to delays in the plan-making process. It also ignores Councils that have continuously delivered above their adopted housing target.

Furthermore, this blanket approach ignores the reality of plan-making in that, in some LPA areas, it may take longer to get a plan in place. This is particularly relevant for those Councils that have to balance high levels of housing needs with the complex and often controversial issue of needing to review and potentially amend Green Belt boundaries.

As such, it is considered that a later date is appropriate from the introduction of the Housing Delivery Test – at least one year following the publication of the revised NPPF as a baseline. After this time, SoS should also be able to take into account whether a local authority has demonstrable evidence that it has consistently delivered above previously adopted housing targets. For example, Elmbridge Borough Council has consistently delivered above its adopted housing target by just under 20% over the last 6 years. Government should also take account of LPAs making timely progress with a Local Plan review (e.g. evidence of recent consultations and the completion of key evidence base studies) prior to the automatic use of any assessment of housing need figure calculated using the standardised methodology.

**b) Do you consider that authorities that have an adopted joint local plan, or which are covered by an adopted spatial development strategy, should be able to assess their five year land supply and/or be measured for the purposes of the Housing Delivery Test, across the area as a whole?**

The Council is not preparing a joint local plan and therefore holds no opinion on the proposal.

**c) Do you consider that authorities that are not able to use the new method for calculating local housing need should be able to use an existing or an emerging local plan figure for housing need for the purposes of calculating five year land supply and to be measured for the purposes of the Housing Delivery Test?**

Elmbridge Borough Council is not covered by the listed exceptions proposed by DCLG to allow for the use of an alternative methodology. As such this is not applicable to the Council.

**Question 6: Do you agree with the proposed transitional arrangements for introducing the standard approach for calculating local housing need?**

No – The Council agrees with the principle of the proposed transitional arrangements however, strongly disagrees with arrangements as proposed. Whilst a transitional approach is sensible, it also needs to enable a balance to be struck between using figures in existing adopted Local Plans / SHMAs and applying, up-to-date evidence of need (from the new standard methodology). This could have the effect of “penalising” those authorities where up-to-date evidence shows that “current” assessment of housing need (not necessarily Local Plan housing numbers) is below “old” OAHN.

Furthermore, the consultation paper states that a number of plan makers have already made significant steps in their plan-preparation, and that the Government wants to encourage them to complete their plan whilst avoiding further delays that could undermine the delivery of new homes. Since it is not known when the revised NPPF will be published, the transitional period is currently of an undetermined length. This means many authorities will not be clear on whether to proceed with their current OAHN or to change to the new figure proposed in this consultation. Until the revised NPPF is published, the Government should refrain from imposing a time limit on plan submission before the new figure must be used.

**Question 7:**

**a) Do you agree with the proposed administrative arrangements for preparing the statement of common ground?**

Yes - The Council agrees that the proposed statement of common ground should be based on the area defined by their HMA with the recognition that there will be other strategic planning matters which go beyond these areas where meaningful engagement will also be required.

The Council is already pursuing this form of sub-regional planning arrangement with its HMA partners. Interest has been expressed to DCLG by the Council as to the potential for the Kingston, Elmbridge, Epsom & Ewell and Mole Valley HMA partners becoming a pilot study for the statement of common ground. We are awaiting a response.

**b) How do you consider a statement of common ground should be implemented in areas where there is a Mayor with strategic plan-making powers?**

Elmbridge is not an area where there is a Mayor with strategic plan-making powers however, given that parts of the Borough are contiguous with the London Borough of Richmond upon Thames and the Royal Borough of Kingston upon Thames (which also forms part of Elmbridge's HMA), the Duty to Co-operate and how it operates in areas where there is a Mayor is of concern. Currently there appears to be significant disparities in how the current Duty functions. Experiences of examinations demonstrate that the Greater London Authority (GLA) and London Borough's are treated differently from other LPAs when it comes to discharging the Duty to Co-operate in particular, when it comes to address needs and discussions beyond the boundary of the GLA.

If the Government is intent on making changes to national policy and associated legislation it is suggested that they use the opportunity to address the differences in the Duty between London and neighbouring areas, such as Elmbridge. Failure to do so is likely to undermine the ability for meaningful strategic planning to take place.

**c) Do you consider there to be a role for directly elected Mayors without strategic plan-making powers, in the production of a statement of common ground?**

This is not applicable to the Borough Council.

**Question 8: Do you agree that the proposed content and timescales for publication of the statement of common ground are appropriate and will support more effective co-operation on strategic cross-boundary planning matters?**

Yes – The Council agrees in principle to the proposed timescale for statements of common ground. However, Elmbridge Borough Council requests that the Secretary of State notes that such agreement is given on the basis that work towards meeting this proposal is already underway in its HMA. The Secretary of State should understand and acknowledge that in other parts of the country such work will be less advanced and other authorities may need more time to meet this proposal.

**Question 9: a) Do you agree with the proposal to amend the tests of soundness to include that:**

**i) Plans should be prepared based on a strategy informed by agreements over the wider area; and**

**ii) Plans should be based on effective joint working on cross-boundary strategic priorities, which are evidenced in the statement of common ground?**

Yes - The Council generally agrees with this but there is a concern that delays agreeing the statement of common ground (particularly in circumstances where plan-making timescales are misaligned) could delay the overall plan-making process in other LPA areas. The Council also believes that irrespective of the statement of common ground and discussion on cross-boundary working, it may not always be possible for neighbouring authorities to agree on all cross boundary issues and in particular, meeting development needs in full across the wider HMA area. Subject to proper scrutiny of the degree of co-operation undertaken, the lack of agreement should not necessarily lead to a Local Plan being found unsound.

**b) Do you agree to the proposed transitional arrangements for amending the tests of soundness to ensure effective co-operation?**

Yes - The Council supports the proposed transitional arrangements; the new tests of soundness cannot be applied until 12 months after the revision to the NPPF to allow for the 12 month period in which a statement of common ground is produced.

**Question 10:**

**a) Do you have suggestions on how to streamline the process for identifying the housing need for individual groups and what evidence could be used to help plan to meet the needs of particular groups?**

The Council generally supports the need to streamline the process for identifying the housing needs for individual groups however, it is surprising that the Government has published a replacement method for calculating housing need, effectively making a SHMA redundant, without setting out in detail how the other useful evidence from this document (types, size, tenure breakdowns and the specific needs of individual groups) will proceed. In consulting on suggestions to 'streamline the process for identifying the housing need for individual groups' without proposing how this might be done, the Government has shown it is premature in its actions and this will only add to the Council's delay in preparing a new Local Plan. The Council therefore requests that the Government sets out in detail how this process will be streamlined, before asking interested parties to comment on their plans. As with the Council's previous comments regarding the proposed standardised methodology it is strongly urged that such assessment cannot, and should not be reduced to three part calculations. As an interim measure, it is suggested that at a minimum the Council should be able to use the information in the SHMA in regard to housing need by type, size and tenure and pro-rata the data to any new calculation of assessment of housing need.

**b) Do you agree that the current definition of older people within the National Planning Policy Framework is still fit-for-purpose?**

No - The current definition of 'older people' is very broad in that it includes anyone above the age of retirement. This is inherently vague as depending on career and circumstances, one can retire early or may need to work until they are much older. Furthermore, for local plans currently being prepared, the minimum age to receive a state pension is set to increase twice (in 2020 and between 2026 and 2028).

The needs of retirees, therefore, can be vastly different for each individual. It would therefore be wise to update the definition to move away from 'retirement' and become more focused on the typical needs of older people, possibly above a threshold age, which include the need



to downsize, the need for retirement or sheltered housing and those with support or care needs.

The Council would also like to use this opportunity to urge the Government to review its definition of a 'dwelling' in regard to communal establishments and the provision of homes for older persons. The definition currently excludes communal establishments providing managed residential accommodation (Use Class C2) from being counted in overall housing supply statistics. The Council strongly considers that these should be included where they are a self-contained unit of accommodation. The current definition ignores the latest models for delivering accommodation for older persons whereby they are designed to allow independence with increasing levels of support available as residents' needs evolve. In Elmbridge Borough over 50 such units have been granted permission in the last 2-3 years.

**Question 11:**

**a) Should a local plan set out the housing need for designated neighbourhood planning areas and parished areas within the area?**

In Elmbridge Borough there has been limited interest in bringing forward a neighbourhood development plan. One area has been designated however; the neighbourhood forum does not intend to draft policies relating to housing allocations.

**b) Do you agree with the proposal for a formula-based approach to apportion housing need to neighbourhood plan bodies in circumstances where the local plan cannot be relied on as a basis for calculating housing need?**

The Council has had limited involvement in neighbourhood planning to date however, generally considers this approach as too simplistic. It is considered that the rudimentary apportionment calculation based on the size of an existing population is flawed when applied to the more urbanised and compact neighbourhood plan areas. The principle could lead to a higher housing need figure in those areas which may have the least opportunities (i.e. developable and deliverable sites) due to the existence of constraints. The apportionment formula would of itself be a strong deterrent to establishing a neighbourhood plan area.

**Question 12: Do you agree that local plans should identify the infrastructure and affordable housing needed, how these will be funded and the contributions developers will be expected to make?**

Yes - This approach is essentially the same as existing. However, in order to make it work as effectively as possible, detailed longer-term engagement from utilities providers will need to take place. Too often, near-complete certainty of costs can often only be provided 5+ years ahead, due to the nature of the legislative and regulatory regime. This can make it difficult for LPAs to understand what the infrastructure costs might be, especially on larger sites or those planned to come forward later in the Plan period. This raises viability concerns when some of these sites come forward as planning applications.

In addition, Government must lay out new guidelines and definition to ensure that developers cannot always claim a 'special case' to avoid their obligations. For example, developers should not be able to claim issues of viability where they are already benefitting from vacant building credit thus reducing affordable housing provision. Government should also seek measures to ensure that clawback and overage is more commonly used by local authorities and that the use of such provisions is supported in both the plan-making and decision-taking processes.

**Question 13: In reviewing guidance on testing plans and policies for viability, what amendments could be made to improve current practice?**

The Government should consider recommending a standardised methodology for calculating viability for plan making purposes, as this area of work is subject to the same level of dispute as that applying to housing demand forecasts. Set variables should also be considered taking into account regional / sub-regional variations.

**Question 14: Do you agree that where policy requirements have been tested for their viability, the issue should not usually need to be tested again at the planning application stage?**

Yes. We can see the attraction of knowing that policy requirements, such as the delivery of affordable housing, are being met in full from the outset and agree that it is important that developers recognise their responsibilities and do not challenge the viability of a development at the planning application stage where the policy requirements have already

been tested. However, recognising that in the real world, market conditions can change quicker than the local plan review process allows for, there may need to be flexibility on this.

As Michael Beaman said in 2013, *'if developers tend to make optimistic assumptions when buying land, then the logical approach to dealing with many viability issues affecting individual sites is to ensure that sensibly gauged contributions policies are not flexible but explicitly and widely known to be non-negotiable, because the benefits of any flexibility will in many cases simply flow back to the seller of the land'*. (Source:

<http://www.regenerate.co.uk/Development%20Freakonomics%202.pdf>)

More recently, research published in January 2017<sup>2</sup> for various London Boroughs found widespread support for a fixed, single or scaled, non-negotiable affordable housing contribution. The Council would also support this approach.

**Question 15: How can Government ensure that infrastructure providers, including housing associations, are engaged throughout the process, including in circumstances where a viability assessment may be required?**

The Duty to Co-operate continues to fail in this regard. The Government should place a legal / mandatory requirement upon infrastructure providers to engage and cooperate. In the Council's experience, often the utility providers are the most difficult to engage; asset management planning periods often fail to align with local plan periods and are significantly shorter. Providers can appear reluctant to identify potential capacity deficits due to commercial sensitivities.

**Question 16: What factors should we take into account in updating guidance to encourage viability assessments to be simpler, quicker and more transparent, for example through a standardised report or summary format?**

The Council would strongly encourage the requirement for developers to use a commercially sound standardised toolkit model such as the HCA development appraisal tool. Uniformity across viability assessments would be welcomed for improved transparency and simplicity. A preferred approach to calculating costs as well as the use of standard terms, pre-defined in a glossary, would make assessments easier to understand and therefore more

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[https://www.rau.ac.uk/sites/files/rau/field/field\\_document/Viability%20and%20the%20Planning%20System%20Research%20January%202017.pdf](https://www.rau.ac.uk/sites/files/rau/field/field_document/Viability%20and%20the%20Planning%20System%20Research%20January%202017.pdf)

transparent. The Council would also welcome guidance / a more standardised approach to land values and how any increases in the value of land can be captured. This is particularly important when viability is an issue and the starting point is that the developer has paid too much for the land, not taking into account local planning policies e.g. affordable housing requirements.

**Question 17:**

**a) Do you agree that local planning authorities should set out in plans how they will monitor and report on planning agreements to help ensure that communities can easily understand what infrastructure and affordable housing has been secured and delivered through developer contributions?**

No – The Council already does this on an annual basis through the publication of the Authority’s Monitoring Report.

**b) What factors should we take into account in preparing guidance on a standard approach to monitoring and reporting planning obligations?**

The Council has no comment to make as it provides this information on an annual basis through the publication of the Authority’s Monitoring Report.

**c) How can local planning authorities and applicants work together to better publicise infrastructure and affordable housing secured through new development once development has commenced, or at other stages of the process?**

The Council has no comment to make as it provides this information on an annual basis through the publication of the Authority’s Monitoring Report.

**Question 18:**

**a) Do you agree that a further 20 per cent fee increase should be applied to those local planning authorities who are delivering the homes their communities need? What should be the criteria to measure this?**

No – The Council considers that all LPAs should benefit from an additional 20% fee. The increase should not be considered as a reward but as a necessity to ensure

planning departments are able to increase both capacity and capability. The increase in fee should be a driver for increased deliverability, allowing LPAs to invest in their planning offices. Alternatively, LPAs should be able to set their own fees which reflect actual costs.

**b) Do you think there are more appropriate circumstances when a local planning authority should be able to charge the further 20 per cent? If so, do you have views on how these circumstances could work in practice?**

Yes - All LPA's should be able to charge the further 20% provided the fee increase income was ring fenced for Planning Services.

If the Government were minded to only agree a 20% increase to those authorities who are delivering the homes their communities need, then they must look beyond the delivery of housing numbers alone. As set out in previous responses to this consultation, for reasons such as environmental and other policy / physical constraints some LPAs are unlikely to meet the identified OAHN. The Government must therefore consider other aspects of delivery such as ensuring the provision of homes for older persons; the provision of affordable homes; and an appropriate mix (size) of homes in accordance with the latest assessment of need.

**c) Should any additional fee increase be applied nationally once all local planning authorities meet the required criteria, or only to individual authorities who meet them?**

The Council considers that the further 20% should be applied nationally without being linked to the delivery of homes their communities need. LPAs countrywide need additional funding to improve efficiency and to enable them to manage workloads; the additional fee increase should be applied nationally rather than rewarding those authorities that are able to deliver a higher number of houses.

If the Government were minded to continue with its proposal to link the increase to the delivery of homes then, this should be applied to individual local authorities who meet the set criteria. LPAs meeting the criteria should not have the additional 20% fee increase withheld because other LPAs are not meeting the criteria. It is unlikely that

every LPA will meet the criteria at the same time. Withholding the increase in fees will place financial burden on the LPAs who come first.

**d) Are there any other issues we should consider in developing a framework for this additional fee increase?**

As per the pilot study a few years ago, the fees payable should reflect the time taken to process an application of that type (along the lines that a private consultant would set out a fee proposal to a client for a particular job).

**Question 19: Having regard to the measures we have already identified in the housing White Paper, are there any other actions that could increase build out rates?**

The Government should consider introducing time limit (completion) conditions along similar lines to those imposed on the proposed larger home extensions under Schedule 2, Part 1 (Class A) of the Town & Country Planning (General Permitted Development) (England) Order 2015. Also build out rates could be increased by introducing legislation to prevent housebuilders / developers to landbank as this would cause developers to concentrate their efforts on current deliverable sites rather than future uncertainties.

The Government must also ensure the timely delivery of strategic infrastructure so that it is in place prior to major developments taking place. This is essential to ensure that additional development and growth can be satisfactorily accommodated and their impact mitigated within a local authority area.

## **Glossary of terms**

**Affordable housing** – this available to eligible household whose need are not met by the market. Eligibility is determined with regard to local incomes and local house prices. Affordable housing covers social rented (lower than market rent), affordable rented (no more than 80% of average local market rents), intermediate (shared ownership) housing and starter homes (must be sold for at least a 20% discount, capped at £250,000 outside London and £450,000 inside London).

**Affordability ratio** – the number of times the average property prices is more than the average person's / household's income is e.g. if the ratio was four, then the property price would be four times a person / household's income.

**AMR - Authority's Monitoring Report** – A report produced annually by the Council that monitors and reports on various topics, based around the policies in the Local Plan.

**Annual survey of hours and earnings** – Data on the levels, distribution and make-up of earnings and hours worked for UK employees by gender and full-time or part-time status in all industries and occupations.

**CIL- Community Infrastructure Levy** – CIL is a charge on some forms of new development, raising funds towards infrastructure that is needed to support and mitigate against the impacts of new development.

**DCLG – the Department for Communities and Local Government** - whose responsibilities include driving up housing supply, increasing home ownership, devolving powers and budgets to boost local growth in England and supporting strong communities with excellent public services

**Duty to cooperate** – a legal duty on local planning authorities, county councils in England and public bodies to engage constructively, actively and on an ongoing basis to maximise the effectiveness of Local Plan preparation in the context of strategic cross boundary matters.

**GLA – Greater London Authority** – the top-tier administrative body for Greater London. It consists of a directly elected executive Mayor of London, currently Sadiq Khan, and an elected 25-member London Assembly with scrutiny powers.

**HCA – Homes and Communities Agency** – its aim is making more homes and business premises available to the residents and businesses who need them. They also regulate social housing providers in England. The HCA is an executive non-departmental public body, sponsored by the Department for Communities and Local Government.

**HMA - Housing Market Area** - a geographical area defined by household demand and preferences for all types of housing, reflecting the key functional linkages between places where people live and work.

**Housing associations** – private, non-profit making organisations that provide low-cost ‘social housing’ for people in need of a home. Any trading surplus is used to maintain existing housing and to help finance new homes.

**Housing Delivery Test** – A new test proposed to be introduced by the Government (in the Housing White Paper – see below) that will determine whether Councils are delivering enough houses against local assessments of housing need.

**Housing White Paper** – published on 7 February 2017, this document sets out the government's plans to reform the housing market and boost the supply of new homes in England.

**LPA – Local Planning Authority** – the local authority or council that is empowered by law to exercise statutory town planning functions for a particular area of the UK.

**Median** (in relation to incomes, houses prices etc.) – amount that divides the income / house price etc. distribution into two equal groups, half having income / prices etc. above that amount, and half having income / prices etc. below that amount.

**Neighbourhood Development Plan** – A plan drawn up by a parish council or neighbourhood forum (see below). The Neighbourhood Plan (when adopted) becomes part of the Local Plan for the area and the policies contained within them are then used in the determination of planning applications.

**Neighbourhood forum** – a body that organises the production of a neighbourhood plan in an area where there is not a parish council.

**NPPF – National Planning Policy Framework** - sets out government's planning policies for England and how these are expected to be applied.

**OAHN – Objectively Assessed Housing Need** – The calculation of how many houses may be needed in an area.

**ONS – Office of National Statistics** - The UK's largest independent producer of official statistics and the recognised national statistical institute of the UK.

**Planning Inspectorate** – deals with planning appeals, national infrastructure planning applications, examinations of local plans and other planning-related and specialist casework in England and Wales.

**PPG – Planning Practice Guidance** – this provides additional guidance to support the implementation of Government policies set out in the NPPF.

**Regulation 18** – Regulation 18 of the Town and Country Planning (Local Planning) (England) Regulations 2012. Under this regulation LPAs present the initial issues and options that need to be taken into consideration as part of preparing a Local Plan.

**Regulation 19** – Regulation 19 of the Town and Country Planning (Local Planning) (England) Regulations 2012. Regulation 19 is the second stage of the consultation



process when forming a Local Plan and it represents the proposed policies for an area.

**SHMA – Strategic Market Housing Assessment** – an assessment undertaken to identify the future quantity of housing needed, including a breakdown by type, tenure and size.

**SoS - Secretary of State** – in this case for Communities and Local Government, currently Mr Sajid Javid.

**‘Sound Local Plan’** – defined in the NPPF as a Local Plan that has been positively prepared, justified, effective and consistent with national policy.

**Town and County Planning Act 1990** – this Act regulates the development of land in England and Wales. It is a central part of English land law in that it concerns town and country planning in the UK. Repealed in parts by the Planning and Compensation Act 1991, it is now also complemented by the Planning and Compulsory Purchase Act 2004. Together these Acts (alongside various regulations) set out how the planning system works.

**Use Class** – uses of land and buildings are put into various categories known as 'Use Classes'.

**Viability** – in planning this requires a realistic understanding of the costs and the value of development in the local area and an understanding of the operation of the market. Viability can be used in setting the amount of contributions made by developments towards various types of infrastructure e.g. affordable housing as is taken into account at the plan preparation stage, as well as being important when deciding individual planning applications.

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