



East Cambridgeshire  
District Council

# Examination of the East Cambridgeshire Local Plan Single Issue Review

## Matter 2 – Provision for housing

East Cambridgeshire District Council  
Hearing Statement

October 2022

## Matter 2: Provision for housing.

### The plan period

***Q.11 The amended Policy GROWTH1 would cover the period to 2031, and consequently will not look ahead over a minimum of 15 years from adoption as per NPPF paragraph 22. What is the justification for this, and is the Plan positively prepared in this regard?***

The Council answered a similar question in its earlier letter to the Inspector (EX.LA03(A)), but for ease of reference will repeat the essence of that response here, under five sub headings: context; justification; positively prepared; precedence and conclusion.

#### Context

There is nothing in law requiring a plan to have a 15 year period from adoption, and the NPPF at para 22 is, it is argued, clearly written with a full Local Plan update in mind (not a very small SIR). That said, if the NPPF is taken literally, the Council understands why the question is being asked, and why some respondents have raised this issue.

#### Justification

The purpose of the Plan, as submitted, is to bring up to date a policy which is recognised as being out of date; it is bringing it up to date to meet the area's up to date objectively assessed need for housing; and in bringing up to date that policy, it is aligning that policy (as updated) so as to be in conformity with the rest of the plan (as unaltered).

To amend the policy in any other way (i.e. 15+ years approach) would result in an ineffective policy, contrary to the tests of soundness, because there would be disjoint between the updated policy looking to, say, 2040, and the rest of the plan (and its allocations) looking to 2031.

It is further worth pointing out in the evidence base (both the submitted and the updated evidence base document EXLA02), that committed supply beyond the plan period (2031) presently amounts to 2,325 homes, over 700 of which already have planning permission. At a housing requirement rate of 600 per annum, this equates to very nearly 4 years' worth of additional and identifiable supply of homes, from 2031 onwards. On the basis that in the remaining nine year plan period to 2031 we have identified 7,371 homes, which equates to over 12 years' worth of supply (i.e. 3 years' worth of 'buffer'), the plan and evidence as submitted (eg EX.LA02(B)) identifies over 16 years' worth of housing supply. So, whilst the 'end date' of the plan may well be only nine years, the supply of homes identified is significantly more, and indeed exceeds the 'minimum 15 year' aim set out in the NPPF for a full plan review.

#### Positively prepared

The Plan is positively prepared because it is bringing up to date a policy which is recognised as being out of date; it is bringing it up to date to meet the area's up to date objectively assessed need for housing; and in bringing up to date that policy, it is aligning that policy (as updated) so as to be in conformity with the rest of the plan (as unaltered).

The alternative option to 'do nothing' (i.e. not update the out of date policy) would be the definition of not being positive.

## Precedence

There is both local and national precedent for a limited review of a plan not having to strictly comply with the '15 year' rule set out in the NPPF.

Adjacent neighbour Forest Heath (now part of West Suffolk) adopted a SIR of its housing requirement figure in September 2019, updating the housing requirement figure for the period to March 2031, a period of 11.5 years from adoption. See:

[https://www.westsuffolk.gov.uk/planning/Planning\\_Policies/local\\_plans/upload/Final-SIR-September-2019.pdf](https://www.westsuffolk.gov.uk/planning/Planning_Policies/local_plans/upload/Final-SIR-September-2019.pdf) . At that time, the same 15 year 'rule' was included in the NPPF (para 22 of the 2018 version).

Further afield, but far more up to date a case, the Inspector of this East Cambridgeshire Plan is presently examining a partial update of the Bath and North East Somerset Council Local Plan, albeit such a plan has already had the benefit of its hearing sessions. The same issue arises in that Plan / Examination. In his post hearing letter of 11 August 2022<sup>1</sup>, the Inspector states:

*20. The NPPF in paragraph 22 says that strategic policies should look ahead over a minimum 15 year period from adoption, to anticipate and respond to long term requirements and opportunities, such as those arising from major improvements in infrastructure.*

*21. The submitted Plan as a partial update to the adopted Core Strategy and Placemaking Plan, has a limited scope, with the intention that changes proposed are confined to those areas that can be addressed without significantly changing the strategic policy framework of the adopted Plan. Consequently, the Plan is not seeking to amend the plan period, of 2011 to 2029. Inevitably, fitting with the Core Strategy timeframe means that the strategic policies which are proposed to be amended, or new strategic policies, would not look forward for a 15 year period from adoption.*

*22. Whilst the changes proposed in the submitted Plan are limited in scope and do not change the overall spatial strategy or the scale of development required, those amendments to policies considered necessary to address climate and ecological emergencies, such as that relating to wind energy development and the energy efficiency of buildings, are nevertheless significant.*

*23. I take into account the particular circumstances which led up to the point when the Council decided to prepare the Plan. The Council was preparing a new Local Plan (2016-2036) within the context of the West of England Joint Spatial Plan (JSP). However, following the withdrawal of the JSP, the Council paused the preparation of the new local plan. This has been followed by the West of England Combined Authority preparing the SDS, alongside which the Council intends to undertake a full review of its Local Plan. Whilst the Council has set out its commitment to do this in its Local Development Scheme, this will nevertheless take time. I consider it pragmatic therefore, for an otherwise sound Plan (as amended) to proceed to adoption despite the plan period being unchanged, and amended/new strategic policies not looking forward for a 15 year period, in order to update policies so that they better address the climate and ecological emergencies, address certain local issues, replenish housing supply and maintain the necessary supply of housing land, and amend policies so they are up to date with national policy.*

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<sup>1</sup> See <https://beta.bathnes.gov.uk/sites/default/files/EXAM%2018%20-%20Inspector%27s%20Post%20Hearing%20Letter%20110822.pdf>

Thus, in the above case, the Inspector is taking a 'pragmatic' approach and allowing a Plan to proceed without strictly meeting the '15 year' national policy recommendation, despite (a) the plan having an end date of 2029 (which is two years earlier than the East Cambridgeshire Local Plan, so likely only have 6 or 7 years before its end date is reached post adoption) and (b) that partial update having a much wider scope than the submitted East Cambridgeshire Plan.

It is accepted that all Plans must be considered on their own merits and in their own context (albeit we have the benefit in this case of the same Inspector, so the context is well known to the Inspector in both places). Nevertheless, from the evidence available, it appears extremely hard to make a case that is 'pragmatic' for Bath and North East Somerset to proceed, but that it is not 'pragmatic' in East Cambridgeshire's case. If anything, the 'pragmatic' case appears stronger in East Cambridgeshire, because the end date is further away, and the scope of changes much more limited.

### Conclusion

Overall, the Council's view is that imposing a minimum 15 year 'rule' on this SIR would be completely disproportionate (effectively causing this SIR to be abandoned); is not what the NPPF envisaged for circumstances like a SIR; and would be inconsistent with conclusions reached on past and currently examined partial updates of a Local Plan.

### **The housing requirement – overall approach**

*Q.12 The Plan seeks to apply a housing requirement in two parts, derived from the past delivery of housing from the base date of the local plan to date, and thereafter applying the outcome of the standard method for the remainder of the plan period. Is the approach set out in the Plan justified, positively prepared, consistent with national policy and would it be effective?*

Yes it is.

It is positively prepared, because it is bringing a policy up to date.

It is consistent with national policy, in terms of how to calculate the forward looking housing requirement and how to deal with past delivery.

It is effective, because it provides an up to date housing requirement for the remaining part of the plan period, and expresses the requirement in a clear way for decision makers to understand what the requirement is, how future supply can be tested (e.g. for 'five year land supply' purposes) and how future delivery can be tested (e.g. for 'housing delivery test' purposes).

It draws a clear line under what has happened in the past, it accounts for any shortfalls arising (via using the national method which addresses any shortfall), and provides a clear up to date statement of future housing requirements.

No known alternative approach, including all those as submitted by representors, would meet such soundness tests in the same they are being met by that proposed by the Council.

### **The housing requirement 2022 – 2031. Calculation of local housing need using the standard method**

Q.13 Why has the plan period not been rebased to the base date used in the standard method calculation? Is this justified?

This question was responded to in EX.LA03(A), which confirmed that rebasing the start date of the Local Plan to, say 2022, when the LHN assessment figures are utilised would be incredibly confusing, and would require widescale changes elsewhere in the Plan in order for the plan as a whole to ‘make sense’ and read coherently. There appears no benefit in bringing the start date of the Plan forward. For example, it would not alter the forward looking housing requirement figure.

Put another way, this option was not even considered as a reasonable alternative option, as the Council sees no benefit in doing so. It would, in the Council’s opinion, fail the effectiveness test, due to the wide ranging confusion that would arise.

Q.14 Is there any substantive evidence to demonstrate that it would be appropriate to plan for a higher housing need figure than the standard method indicates in this case as per advice set out in the PPG (Paragraph: 010 Reference ID: 2a010-20201216)?

It is important to remember that the soundness test applies to ‘policies in this Framework and other statements of national planning policy’. The Courts have made it clear that the NPPG (to which the Inspector is referring in this question) is not national policy, and therefore does not directly apply to the tests of soundness<sup>2</sup>. Mrs Justice Lieven said in that case:

*“[33] In my view the NPPG has to be treated with considerable caution when the Court is asked to find that there has been a misinterpretation of planning policy set out therein... As is well known the NPPG is not consulted upon, unlike the NPPF and Development Plan policies. It is subject to no external scrutiny... It can, and sometimes does, change without any forewarning. The NPPG is not drafted for or by lawyers, and there is no public system for checking for inconsistencies or tensions between paragraphs. It is intended, as its name suggests, to be guidance not policy and it must therefore be considered by the Courts in that light.”*

It is therefore important in the first instance to review what the NPPF says, as that forms the basis of national policy against which the plan should be tested (and not the NPPG).

At para 61, it makes it clear that to determine ‘*the minimum number of homes needed, strategic policies should be informed by a local housing need assessment, conducted using the standard method in national planning guidance.*’

The same para states: ‘*In addition to the local housing need figure, any needs that cannot be met within neighbouring areas should also be taken into account in establishing the amount of housing to be planned for.*’

Thus, the NPPF refers to a ‘minimum’ number derived from the standard method, and a potential top up of that arising from unmet need from its neighbouring authorities.

As far as the Council is aware there is no national policy, against which the Plan is being tested, which stipulates the council must consider other evidence which may indicate an uplift is required, other than any unmet need arising from its neighbouring authorities.

In the Council’s opinion, therefore, if the Inspector is to remain within the scope of the test of soundness and the judgement made by Mrs Justice Lieven, there is no need for the Inspector to

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<sup>2</sup> See R (Solo Retail) v Torridge DC [2019] EWHC 489 (Admin) [33]-[34].

consider whether or not there is any evidence to demonstrate an uplift in the housing need figure, other than to test whether an uplift is required due to unmet need from neighbouring authorities. To go beyond that scope, would arguably be going beyond what the Inspector is tasked to do.

Nevertheless, and for completeness, if it is determined that the NPPG guidance does form part of the soundness testing process, despite what Mrs Justice Lieven states (“it is...guidance not policy”), then the Council’s position has been consistently clear through the preparation of the Plan: there is no evidence that any of the examples or suggestions in 2a-010-20201216 apply.

*Q.15 Is there any substantive evidence to demonstrate that there should be an adjustment to the minimum housing requirement to help deliver affordable housing as per the advice in the PPG (Paragraph: 024 Reference ID: 2a-024- 20190220)?*

The commentary under Q14 in respect of the use of the NPPG to form the basis of testing the soundness of plan equally applies to this question. There is nothing in the NPPF, for example, which states a council has to consider such evidence or consider an adjustment to its housing requirement accordingly.

Nevertheless, should the Inspector determine that this part of the NPPG does form the basis of testing the soundness of the plan, then the simple answer to the question is: no.

Not only is there no direct evidence, but the NPPG explains that the standard method already helps to address the affordability of homes in more general:

*The affordability adjustment is applied in order to ensure that the standard method for assessing local housing need responds to price signals and is consistent with the policy objective of significantly boosting the supply of homes. The specific adjustment in this guidance is set at a level to ensure that minimum annual housing need starts to address the affordability of homes.*

Paragraph: 006 Reference ID: 2a-006-20190220

A fuller response to this question is set out in EX.LA03(A), and the Council has nothing further to add.

*Q.16 Is the explanatory text set out in paragraph 3.2.5 of the Plan relating to objectively assessed need and the standard method consistent with national policy as expressed in the NPPF?*

Yes it is, in that the previous NPPF (2012) requirement stated at para 47:

*“local planning authorities should...use their evidence base to ensure that their Local Plan meets the full, objectively assessed needs for market and affordable housing in the housing market area, as far as is consistent with the policies set out in this Framework”*

Those words have been replaced, in essence, by para 61 in the 2021 NPPF. Put simply, in 2012, it was up to Local Planning Authorities to come up with a method for calculating its objectively assessed needs. Now, it can only do so ‘by exception’ (para 61), and is instructed (if exceptions do not apply) to use the standard method.

It is accepted that the current NPPF still includes the phrase 'objectively assessed need' in four locations, but its meaning has changed by virtue of new para 61. And in that context, para 3.2.5 of the submitted plan is reflecting that change.

If the Inspector is offended by the wording in 3.2.5 (to the degree that such wording is unsound), then perhaps 3.2.5 (as proposed to be amended) could be further adjusted to:

“However, through periodic updates of the NPPF (latest version at time of writing is July 2021), Government has removed the requirement for a local planning authority to establish **its own method to assess** an 'objectively assessed need' for housing, and instead put in place a national standard method to determine a 'local housing need'...”

Or, if the Inspector would simply like the NPPF repeated, then this is another alternative:

“However, through periodic updates of the NPPF (latest version at time of writing is July 2021), Government has removed the requirement for a local planning authority to establish an 'objectively assessed need' for housing, and instead put in place a national standard method to determine a 'local housing need' **presently states that “To determine the minimum number of homes needed, strategic policies should be informed by a local housing need assessment, conducted using the standard method in national planning guidance – unless exceptional circumstances justify an alternative approach which also reflects current and future demographic trends and market signals. In addition to the local housing need figure, any needs that cannot be met within neighbouring areas should also be taken into account in establishing the amount of housing to be planned for.”** .  
Applying that standard method for East Cambridgeshire...”

For the avoidance of doubt, the Council does not think the current wording is 'unsound', nor does it particularly support either of the above as being necessary, but would be content to accept either (or potentially some other alternative) if this is considered appropriate by the Inspector.

## **The housing requirement 2011 – 2022 and dealing with past under-supply**

*Q.17 What is the Objectively Assessed Need (OAN) for housing for the first part of the plan period 2011 to 2022?*

It is perhaps easiest to take questions 17-19 together.

NPPG helpfully clarifies, simply, what the standard method is:

*“The standard method uses a formula to identify the minimum number of homes expected to be planned for, in a way which addresses projected household growth and historic under-supply.”*

Reference ID: 2a-002-20190220

It further adds:

*“The affordability adjustment is applied to take account of past under-delivery. The standard method identifies the minimum uplift that will be required and therefore it is not a requirement to specifically address under-delivery separately.”*

Reference ID: 2a-011-20190220

Thus, if the 'forward look' takes account of past under-delivery, then logic dictates that establishing the housing requirement 'backward look' can't be anything other than what was actually delivered.

For example, if the 'forward look' requirement gets boosted, via the standard method, to account for past under-supply (which is what the NPPG states), but the same 'forward look' figure arising also becomes the 'backward look' figure, then the 'backward look' figure would have been boosted for undersupply as well. That makes no logical sense.

An alternative way of explaining this logic is through the use of the standard method itself.

Step 1 of the standard method establishes the 'baseline'. For East Cambridgeshire, that is 423.5 (see submitted SIR Plan at para 4.3).

If the method stopped there, then the minimum housing requirement for East Cambridgeshire for the plan period would be  $423.5 \times 20 = 8,470$  dwellings (which, incidentally, is less than the proposed housing requirement figure of 9,035 dwellings).

However, we know the method doesn't stop there, and instead adds a Step 2 'adjustment for affordability'. And we know, as quoted above, this adjustment takes account of historic under-delivery. For East Cambridgeshire, the adjustment is significant, taking it to 599.78 dwellings per annum. That's an adjustment ('boost') of 176 homes per year, or a 42% 'boost' above baseline.

The standard method does not require a plan making authority to apply such a boost to years gone past. Indeed, that would be completely illogical. You can't 'boost' something that has already happened in history – that would be entering Orwellian Ministry of Truth territory. National policy wants to 'boost' housing supply and delivery from **now** (the future).

Thus, the OAN for the 11-year period of 2011-2022 can only possibly be one of two figures.

It can be based on

- the non-boosted 'baseline' LHN figure of 423.5 homes per annum ( $423.5 \times 11$ ) = 4,658.5; or
- past actual delivery = 3,637

But there is a clear flaw with using the first of these, because the forward look is 'boosted' to take account of under-delivery. Put another way, the baseline figure can't be used if Step 2 of the standard method is applied, which it must (Step 2 being the boost to take account of historic under-delivery).

There is no logical alternative, therefore, for the OAN for the plan period up to the year the standard methods applies as being anything other than actual completions in those years. Any other alternative calculation would either be illogical or contrary to national policy.

*Q.18 What is the justification for basing the first part of the dwelling requirement upon completions to date in the plan period?*

Please see above response.

*Q.19 Does the Plan as proposed as a minimum, provide for objectively assessed needs for housing for the period 2011 to 2022, and is the proposed approach set out in the Plan consistent with national policy?*



Yes, please see above

*Q.20 Given that the base date of the Plan has not been changed to that of the standard method calculation, which is proposed to be applied over the remaining part of the plan period, should past under delivery of housing in the plan period to date (measured against the adopted Local Plan) be taken into account in establishing the housing requirement for the remainder of the plan period in the amended Policy GROWTH1 (See PPG Paragraph: 011 Reference ID: 2a-011-20190220)?*

No, there is no national policy (or PPG) guidance to that effect.

First, if the answer was 'yes' to this question, then how far do you go back? Just the current adopted Plan? Do you also add on under-delivery from the Core Strategy 2009? The Local Plan of 2000? Of course not, and that's why the standard method is so clear that under-delivery is accounted for in its method.

Second, if the answer was 'yes' to this question, and lets say for the case of argument we only did the under-delivery from the 2015 Local Plan, then presumably only Step 1 of the standard method would be used (i.e. without the Step 2 boost to take account of past under-delivery)? If so, the calculation for the nine year period 2022-2031 would be:

$9 \times 423.5 = 3,811.5$  (step 1 baseline)

Plus, backlog =  $(575 \times 11) - 3,637 = 2,688$

Equals 6,499.5 dwellings 2022-2031 (which compares with 5,398 as proposed)

But where is the national policy which describes that this calculation should apply? There isn't, therefore it shouldn't.

(Note: even if this hypothetical method was applied, which it shouldn't, it would make the total plan period housing requirement amount to 10,136 dwellings, a figure still lower than the 11,000+ supply identified by the Council).

## **Other matters**

*Q.21 Is paragraph 3.5.6 justified in relation to the stated status of the Broad Areas?*

Yes. The Council do not wish to remove Broad Areas in principle and consider them to continue to offer an option for further future housing supply. As mentioned in paragraph 3.5.6, two of the Broad Areas have received planning permission. Broad Areas provides the Council with the flexibility that it requires to respond to changes in circumstances to ensure its housing strategy remains on track.

In short, paragraph 3.5.6 is simply an updating of the text, reflecting the status of such sites and reflecting on recent decisions (including the Inquiry led appeal approval decision on Broad Piece, Soham, earlier in 2022).

*Q.22 Are the changes proposed to paragraph 3.5.7 of the adopted plan justified and consistent with NPPF 74 which includes that strategic policies should include a trajectory illustrating the expected rate of housing delivery over the plan period?*

Such a trajectory is provided for, and kept up to date annually, in the Council's Five Year Land Supply Reports (EX.LA02(B)). Table 3 of such a document provides a useful summary trajectory, whilst the appendices provide a site by site trajectory of how many homes are forecast to be delivered in each year, for each site, up to 2040/41.

Para 74, taken literally, suggests such a trajectory should be included within the strategic policy itself (i.e. within the text box of Policy GROWTH 1). The Council is not aware that this has ever been implemented in a Plan, but is aware of examples whereby such a trajectory has been included as supporting text or perhaps as an appendix to the Plan; or, as in East Cambridgeshire, within a monitoring report, and kept up to date every year. The Council thinks the latter is, on a pragmatic basis, the most effective. Including it in the Plan will inevitably lead it to being out of date, and potentially confusing to the reader in years to come.

That said, if the Inspector stipulates that such a trajectory, using the latest trajectory in the Five Year Land Supply Report, should be repeated in the Local Plan for soundness reasons, then the Council has no particular objections to that.