

Sent by email to: localplan@spelthorne.gov.uk

16/09/2022

Dear Sir/ Madam

Response by the Home Builders Federation to the consultation on the Pre-submission Spelthorne Local Plan.

1. Thank you for consulting the Home Builders Federation (HBF) on the Spelthorne Local Plan. The HBF is the principal representative body of the housebuilding industry in England and Wales and our representations reflect the views of discussions with our membership of national and multinational corporations through to regional developers and small local housebuilders. Our members account for over 80% of all new housing built in England and Wales in any one year.

Duty to co-operate

2. Paragraph 33A of the Town and Country Planning Act 2004 requires plan making authorities to engage constructively, actively and on an ongoing basis as part of the preparation of the local plan in relation to strategic matters. In order to show how the Council has co-operated in the preparation of the local plan, and will co-operate in its implementation, they are required by the National Planning Policy Framework to prepare statements of common ground (SoCG) with the relevant authorities identify the key issues where co-operation is required and what has been agreed and where there is disagreement in relation to those strategic matters.
3. One such matter, as recognised by Spelthorne in their Duty to Co-operate Statement of Compliance is the issue of housing needs. However, in its consideration of this issue in section 4 of the duty to co-operate statement no mention is as to the scale of unmet needs in other areas. Whilst the potential for unmet needs in Elmbridge Borough Council (EBC) are mentioned in section 3 the issue is then not raised later as a strategic issue. Even more concerning no mention is made of the identified shortfall in new homes in London between 2018 and 2028 that was identified during the examination of the London Plan. We consider these matters in turn below.
4. It is evident from the Duty to Co-operate compliance Statement that the Council disagrees with Elmbridge's chosen strategy not to amend Green Belt boundaries and that it has urged Elmbridge to consider alternative strategies to meet needs. As Planning Practice Guidance notes in paragraph 61-022 local planning



authorities may not reach agreement on some matters. However, where there is disagreement, the Council must set these out clearly in a SoCG not only where the parties disagree but also whether they have done all they can to try and address the strategic matter through effective joint working.

5. The Council will therefore need to update its Statement of Common Ground (SoCG) with EBC, the latest iteration does not appear to have been amended since 2018, prior to submitting its local plan clearly setting out where they disagree, how it has approached this matter and whether it considers EBC's approach to co-operation on this matter to have been constructive, active, and on-going. A failure to produce an updated SoCG would indicate that co-operation between both SBC and EBC has not met the requirements of the legislation.
6. The updated SoCG should indicate that every effort was made to resolve the situation. For example, SBC will need to show that on being notified that Elmbridge could not meet their own housing needs whether they revisited their own assessments to consider whether they could provide assistance. Alternatively, if SBC consider that the EBC local plan to be unsound and that they can meet needs it must actively oppose this through the examination in public of that plan. Either way It is necessary to show in the evidence supporting the submitted local plan that proper consideration was given by officers and councillors to the latest position presented to SBC by EBC and that appropriate actions were taken in response. We recognise that the Council has responded previously that it could not provide any support on housing needs and that it is not obliged to accept needs where these would have an adverse impact when assessed against the policies in the NPPF¹. However, given that the duty to co-operate is an ongoing requirement of plan making, it is important that the Council acted on the new information.
7. The issues relating to co-operation with Elmbridge is with regard to SBC's response to EBC's changing position on meeting housing needs. With regard to London the issue is a failure to properly consider identified unmet needs in the first instance. No reference is made in the Duty to Cooperate compliance statement to the significant level of unmet needs across the capital. It is important to recognise when considering unmet needs in the capital that London is a single housing market area. As such it is necessary for those authorities adjoining the capital to take account of the unmet needs of this neighbouring area and not just the London Boroughs with which it shares a border.
8. Over the next ten years there is projected to be a shortfall of 14,000 homes per annum in the capital that resulted from the over assessment of delivery from small sites and the subsequent amendments by the Panel examining the London Plan. Whilst the mayor intends to produce a revised London Plan before the termination date of the new London Plan with revised targets, the constraints on the capital will continue make it very difficult for the city's needs to be met in full and it will be

¹ Paragraph 61-022 Planning Practice Guidance

important for areas that adjoin London, such as Spelthorne, to consider how it could increase its own housing supply to address some of these unmet needs.

9. No recognition is given to the fact that the GLA informed Council's across the South East that it could not meet need and was seeking willing partners to provide support. This position is set out in paragraph 2.3.4 which states:

"... the Mayor is interested in working with willing partners beyond London to explore if there is potential to accommodate more growth in sustainable locations outside the capital ..."

So, whilst there may have not been a direct plea for assistance there was a clear call for support that the Council should have been aware of and which should have formed part of its duty to co-operate considerations, and any subsequent decision making by the Council on housing needs and supply. Without any in depth consideration of London's unmet needs we would suggest that co-operation on this matter has been neither active, constructive, or ongoing. It appears to have been consigned in the box marked too difficult and ignored. The focus in its co-operation with the GLA and London Boroughs has been on whether they have capacity to support SBC to meet its needs with no consideration as to the consequences of London's unmet needs on SBC and whether the Council should increase its housing requirement in line with paragraph 61 of the NPPF.

10. To conclude, if the objective of co-operation is to maximise the effectiveness of a local plan it cannot merely ask the question as to whether others can meet their needs it must also be an ongoing consideration as to whether they can do more to support other authorities and to test such scenarios through its Sustainability Appraisal. The Council has undertaken the former, but it has not properly considered the impact of unmet needs in neighbouring areas on Spelthorne and whether they could now, after rejecting its ability to do so relatively early in the plan making process, do more. In order to be effective co-operation must ensure that there is some feedback into the process of plan preparation. Without this the process is merely a tick box exercise and an exchange of correspondence and cannot be considered to be active or constructive as is required by 33A of the Town and County Planning Act 2004 (local development).

Sustainability Appraisal

11. As part of the Sustainability Appraisal of the local plan the Council are required to consider reasonable alternatives with regard to the strategies and policies that are taken forward. With regard to the spatial strategy a number of alternatives were considered in the SA of the Preferred Options consultation of plan preparation including an option² for an upward adjustment to housing needs in to order to support other authorities. This option was rejected on the basis that it would have a significant negative impact on the environment and may result in unsustainable

² Paragraph 3.6 of Preferred Options Sustainability Appraisal

development. However, considering these options it must be noted that they were not related to any particular spatial strategy or expected distribution of growth. The assumption made by the council is that any strategy that went above and beyond minimum needs would be less sustainable than one that met housing needs.

12. The high degree of supposition in its consideration of the options can be seen in its assessment of H1 in the Preferred Options SA on pages 58 to 63. Throughout this assessment the Council states that option 3 “*may*” have an impact, but without a corresponding spatial strategy outlining how higher needs would be met we would argue that the Council cannot reasonably state whether some of the negative impacts in relation to, for example, health and well-being, flooding, air and noise pollution, biodiversity, and heritage, would actually occur if the Council went beyond minimum housing requirements. The option of going beyond minimum housing needs was, we would suggest, discounted too early in the plan making process. As the plan progressed and sites were identified there may have been sustainable opportunities to go beyond the minimum requirement. However, these would have been rejected as being unsustainable purely because they went beyond the Council’s minimum housing requirement.
13. The rejection of sites on this basis described above can be seen in the Officer Site Assessment of Discounted Alternative Allocation Sites (2022) which seemingly rejects sites that meet the spatial strategy. For example, HS1/010 appears to have been rejected because it is a larger site when compared to other available options and that it received largely negative feedback. However, the site is in weakly performing Green Belt and in terms of its Sustainability Appraisal and size is not dissimilar to that for the allocated site SN1/006. The HBF is not promoting this or any other site and is purely using this as an example to show that opportunities are present to go beyond minimum needs within the Council’s spatial strategy. However, in discounting the possibility of going beyond needs early in the plan making process the Council has fixated on meeting its minimum requirement and in the process discounted sustainable development opportunities.
14. The considerations in the SA of the preferred options have ultimately led to a local plan that only seeks to meet its minimum requirement with no consideration as to whether the chosen spatial strategy, or an alternative strategy, could sustainably deliver more homes than this minimum. The effect of rejecting the option of going beyond minimum development requirements at the early stage was to neuter considerations at a later stage of including suitable sites in order to support other areas meet their needs or to better address the need for affordable housing in the Borough and means that the SA is fundamentally flawed in its consideration of housing needs and supply in ST2 and H1.

ST2: Planning for the Borough

Polciy is unsound as it is inconsistent with national policy and is not justified.

Housing requirement.

15. The HBF agree that the minimum number of homes that the Council should be planning for is 618 dwellings per annum (dpa). However, we disagree with the plan period and as such the total number of homes that should be planned for based on the minimum requirement. Paragraph 22 of the NPPF requires strategic policies in local plans to look ahead over a minimum timeframe of 15 years from the point at which the plan is adopted. From submission it is reasonable to assume that it will take at least 18 months before the plan to be adopted.
16. Therefore, if the plan is submitted at the start of 2023, it is highly unlikely to be adopted before the autumn of 2024. As such the plan will only look ahead for 12 full years from the point at which it is adopted. The Council should therefore extend the plan period to 2039/40 to ensure that the plan looks forward at least 15 years post adoption and should have a total housing requirement of 11,124 homes. As such the Council's housing requirement is not consistent with national policy and should be amended. As a consequence, consideration needs to be given prior to submitting this plan whether there is additional capacity on those sites allocated in the local plan to deliver more homes alongside further amendments to the Green Belt boundary to ensure needs are met in full.
17. In order to be consistent with paragraph 74 of the NPPF the local plan should include a housing trajectory illustrating the expected rate of housing delivery over the plan period. At present the trajectory is included in the supporting evidence base but not the local plan.

Overall housing supply

18. The Council outline in the justification to this policy that they anticipate the plan to deliver 9,439 homes over the plan period – 169 homes over the minimum requirement. As such there is no flexibility in overall supply should any of the sources identified in the table at paragraph 3.9 of the local plan does not come forward as expected. This is especially concerning given that a significant amount of supply is expected to come forward on brownfield sites that have historically delivered relatively slowly. According to the Council's report Planning for Housing Delivery, the average annual build-out rate between 2010/11 and 2018/19 was 8.52 units per annum³. Whilst this is an average encompassing a wide range of sites it does indicate that the Council should have considered a much large buffer if it was to ensure needs are met in full.

Five-year land supply

19. A rolling assessment based on the trajectory in the local plan of the Council's five-year housing land supply position across the plan period is set out in appendix 1. This shows that whilst there would be a five-year land supply on adoption in 2024 it is marginal and within three years of adoption the Council's land supply would

³ Table 3 on page 48

fall below the five-year requirement and the plan would be considered out of date on the basis of paragraph 11 of the NPPF. This is a direct consequence of the Council seeking to meet needs but nothing more. No consideration has been given to the need to provide some flexibility in supply to ensure needs are met in full and that a plan does not become out of date soon after the plan is adopted. In order for the plan to be effective it is required to be deliverable over the plan period and on the basis of the Council's proposed trajectory this not the case.

20. In addition, we have some concern regard to the larger allocations in the Green Belt sites that are due to be delivered between 2023 and 2027. Such sites must wait until the plan is adopted before they can achieve and planning consent and as such, we are concerned that sites such as SN1/006 will not come forward within that time frame if the plan is not adopted until mid-2024. Start to Finish by Lichfields indicates that the average planning approval period on sites of between 100 and 500 homes is 2.1 years, with on average a further 1.9 years being required to get from planning to first delivery. It can be expected that an allocated greenfield site should move through the planning and onto commencement more quickly than the average, but it can be reasonably expected that from application to first deliver will take at least three years. If SN1/006 is built out at circa 60 dpa, as suggested in paragraph 5.20 of the Council's report Planning for Housing Delivery, for average build out rates for sites in Spelthorne then the final year of delivery would be in 2028/29.
21. With regard to delivery rates between greenfield and brownfield sites in the same report the Council suggest that an uplift over brownfield delivery rates for green field sites in the borough of 34%. This is on the basis of Start to Finish which suggests that large scale greenfield sites deliver some 34% faster than similar sized brownfield sites. However, the figure quoted appears to relate to large scale sites of 2,000 homes or more and as such we would question its relevance in Spelthorne where greenfield sites are much smaller and unlikely to exceed a delivery rate 60 dpa.
22. Similarly, the Council will need to justify the inclusion of outline permission on Renshaw Industrial Estate of 275 homes. The decision notice for this scheme is dated 27 July 2018 and as such has expired. Even if the Council can provide evidence as to its continued availability it is doubtful whether it is deliverable within five years. It is concerning that such a site has been included in the existing permission and we would suggest that the Council provides more detail as to the deliverability and developability of each site in the land supply pipeline for housing.
23. It is difficult to assess the impact of these two adjustments on overall supply without an annualised trajectory for each site that makes up the council's supply pipeline. Given that five-year land supply is marginal there is a risk that even minor adjustments will mean the plan not having a five-year land supply on adoption.
24. Therefore, in order to further assist the inspector examining the plan and other interested parties we would also suggest that the Council set out an annualised

trajectory for each site. At present the Housing Trajectory Topic Paper sets out anticipated supply on each site in five-year tranches and provides no indication as to when the site is expected to commence or finish. Some sites may deliver across the tranches provided but without individual annualised trajectory it is not possible to tell which sites will deliver when and at what rate. Given that the Planning for Housing Delivery Report indicates that the Council has seemingly overestimated build out rates (Figure 3, page 80) it will also allow improved scrutiny as to how the findings of this report have been applied by the Council to the delivery trajectory in the submitted local plan and whether it is sound.

Exceptional circumstances

25. As the Council recognise Green Belt boundaries can only be amended in exceptional circumstances as part of the preparation or review of a local plan and only once it has made as much use as possible of brownfield sites, optimised densities and ensured no other authority can accommodate some of their need. SBC have shown that it is unable to meet its housing needs from within the urban area and that there are no other areas willing to meet some of their needs. Whilst there may be some opportunities to increase densities through more flexible policies, a point we return to later, such amendments would not on their own meet needs and as such the Council are justified in considering the amendments to Green Belt boundaries on the basis of paragraph 141 of the NPPF.
26. The Council set out the exceptional circumstances in the Topic Paper 1: Background to Strategy and case for exceptional circumstances to amend Green Belt boundaries. The key point raised by the Council is that just 0.7% of the Green Belt would be removed for development and that the benefits from redeveloping those sites being removed from the Green Belt outweigh any harm. However, the Council go on to state that the same position would be unlikely to support a much larger release of Green Belt or the release of more strategically important Green Belt sites. Whilst the HBF agrees that there are exceptional circumstances to support amendments to the boundary we do not consider these to stop at the point at which their own housing needs are met, especially given that this is based on a plan period that is inconsistent with national policy.
27. The issue of housing needs and affordability alone are sufficient to justify further amendments to the Green Belt boundary. The Council recognises that its proximity to London and its location close to Heathrow has a negative impact on affordability. These factors alongside low levels of housing delivery in the last ten years have had an impact on affordability, with the median house prices some 12 times median work place-based incomes. These all indicate an area that is increasingly unaffordable for newly forming households in the Borough and that this is creating even more needs for affordable housing. In addition, the type of site that is expected to come forward on brownfield sites and through town centre regeneration will not deliver the family housing the Council consider to be important.

28. The evidence on affordable housing need is set out in the Strategic Housing Market Assessment and establishes that 459 affordable homes must be delivered each year to meet needs, roughly 74% of the annual housing requirement. However, on the basis of the spatial strategy and the affordable housing policy H2 it is inevitable that there will be a significant shortfall in meeting these needs across the plan period. The Planning for Housing report provides evidenced as to the scale of the problem in Table 29. This shows that on the basis of the 30% affordable housing requirement on PDL sites the Council would deliver 714 affordable homes over the next five years – over 1,500 short of what is required to meet needs. The only way for the Council to increase the supply of affordable housing is through the delivery of additional market housing, which in Spelthorne will require additional amendments to the Green Belt boundary given the limited availability of sites in the urban area.
29. The allocation of further sites would also ensure that the Council's land supply is in much healthier position. SBC are, correctly, acutely aware of the risk of not having a five-year housing land supply. However, in restricting itself to a strategy that only just meets needs the Council are not addressing that risk. There needs to be a much stronger pipeline of housing land to ensure that the inevitable delays in delivery will not impact on the five-year land supply.
30. Given the pressing need for affordable housing and the limited supply of available land in the urban the HBF consider there to be sufficient scope to justify further amendments to address either the unmet needs in neighbouring areas, providing a sufficient buffer in supply to maintain a five-year land supply or to ensure needs are met in full over an NPPF compliant plan period.

PS1: Responding to the climate emergency

Parts of the policy are unsound as they repeat national policy.

31. Part 3b of the policy requires development to incorporate active electric vehicle charging points in accordance with local guidance. Given that standards for electric vehicle charging points are now included in part S of the Building Regulations it is not necessary for the Council to set out these standards in planning policy. Part 3b should be deleted.
32. Similarly, part 5 of the policy requires new homes to achieve a reduction on dwelling emission rates yet in June of this year the updated part L of the Building Regulations came into force which requires development to achieve a 27% reduction in emission rates compared to the Target Emission Rate in the 2013 regulations. Rather than have a multiplicity of standards the Government is seeking to address energy efficiency measures through Building Regulations and not the planning system. The Government recognised the need for some improvement not be supported prior to these changes and as such allowed for policies to seek energy efficiency improvement equivalent to the those achieved through level four of the code for sustainable homes (roughly a 20% improvement

on the 2013 regulations). Now the latest building regulations are in place that achieve higher improvements with future regulations from 2025 expected to go well beyond current levels there is no need for planning policies on this issue. As such the Council should delete part 5 of this policy.

H1: Housing needs

Parts of the policy are unsound as they have either not been justified or repeat policy.

33. Part 1 of the policy repeats the minimum housing need set out in policy ST2. This is unnecessary and should be deleted from his policy H1.
34. Part 8(a) requires all new homes to be built to part M4(2) of the building Regulations. The Government have now confirmed in their response to the recent consultation on accessible homes that they will make Part M4(2) the mandatory standard. This is likely to come into force prior to the plan being adopted and as such we would recommend the requirement is deleted to avoid repetition with national policy.
35. Parts (b) seeks to encourage the provision of wheelchair adaptable housing in line with Part M4(3) and part (c) seek requires 10% of dwellings on major housing developments to be built to this same standard unless it is unviable. The Council must decide whether they are requiring provision or seeking for this to be provided voluntarily. If it is the later then the Council must justify why this should be set at 10%. The Council's latest SHMA indicates that there is a growing number of people with long term health problem or disabilities but does not provide any evidence as to the number of households that are expected to require wheelchair adaptable home. If the Council are to require the 10% of all homes on major development are wheelchair adaptable it must, as set out in footnote 49 of the NPPF, provide the evidence justifying this policy.
36. Finally, part 14(c) of this policy states that where self-build plots have been made available and market for a 12-month period they will expect to remain on the open market as self-build or be offered to Council of Housing Association before being built out by the developer. Whilst the HBF agree that the policy needs to set out when unsold plots should return to the developer, we disagree with the approach being proposed. There is no reason to require a site to be retained on the open market following the 12-month period nor is there any justification for having to offer these to the Council or a housing association first. These are plots that would have been available for market housing and as such they should return to developer to be built out after the 12-month period. The Council should therefore amend the policy accordingly.

E2 – Biodiversity

Part 5 is unsound as it repeats national polciy.

37. Part 5 of the policy repeats the requirement set out in the Environment Act 2021 for new development to provide for at least a 10% net gain in biodiversity. However, as this is a requirement in legislation with a significant amount of supporting regulation and guidance, we would question whether it is necessary to repeat the requirement in this policy. As such we would suggest any reference to the legislative requirement is solely within the supporting text.

ID2: Sustainable Transport for New Development

Policy in relation to parking standards is unsound as it is inconsistent with national policy and ineffective.

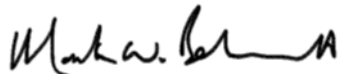
38. Part 2 of this policy requires developments to deliver parking at the levels set out in the latest supplementary planning document (SPD). Firstly, if the council should make it clear that new development should have regard to or take account of the relevant SPD as the Council can only set policy through the local plan.
39. Secondly, the Council state in paragraph 9.14 that they are seeking to maximise use of sustainable and active forms of travel yet within this policy they are requiring all development to provide as a minimum 1 parking space per dwelling on affordable homes and 1.25 on market housing. This rigid approach to parking standards is counterproductive and will reinforce car use even those areas will be served by public transport.
40. Rather than require development to meet these standards the Council should set out in policy that in locations well served by public transport a lower level of provision will be acceptable. The Council states in paragraph 9.16 of the supporting text that the policy does not preclude developers from bringing forward car-free development but given that these statements are made in the supporting text and makes no reference to wider flexibility and the circumstances when these may be applied it cannot be considered an effective in supporting new development that seeks to prioritise sustainable and active forms of travel.
41. The proposed flexibility to parking standards will also mean that development in more sustainable locations but where viability is challenging will be able to deliver at densities that make such sites deliverable without amending other policies. The Council's viability evidence notes at paragraph 3.2.4 and 3.2.5 that viability on PDL sites is more challenging especially those faced with high EUVs and potentially higher development costs – such as delivering underground or undercroft parking in order to meet parking standards. Therefore, in order to maximise delivery on sites with good access to public transport and encourage the use of sustainable travel options we would recommend the Council set out in policy where it considers it appropriate to deliver parking standards below those recommended in the Council's SPD.
42. The Council should also remove part 1(b). As we outlined in our comments on PS1 the standards for electric vehicle charging points are now included in part S

of the Building Regulations. As such it is not necessary for the Council to set out these standards in planning policy.

Conclusions

43. At present we do not consider the plan to be sound, as measured against the tests of soundness set out in paragraph 35 of the NPPF. In particular we consider it necessary for the Council to identify further development sites in order to ensure that it can meet its own needs in full over an extended plan period that is consistent with national policy. As part of this process the Council will also need to revisit its Sustainability Appraisal and consider alternative strategies and sites that could deliver in excess of what is being proposed in this plan.
44. Finally, the Council will need to ensure prior to submitting the plan that it has sufficient evidence to support its assertion that it has met its duty to co-operate. At present the Council lacks the necessary statements of common ground that show how it has considered the strategic issues of unmet housing needs in neighbouring areas and without these the Council will find it difficult to show how the plan has been prepared in line with the relevant legislation.
45. I can also confirm that the HBF would like to attend participate in the public hearings in order to put forward the concerns of our members with regard to the Spelthorne Local Plan.

Yours faithfully



Mark Behrendt MRTPI
Planning Manager – Local Plans
Home Builders Federation
Email: mark.behrendt@hbf.co.uk
Tel: 07867415547Pre-submission

Appendix 1: Rolling Assessment of five-year housing land supply

	22/23	23/24	24/25	25/26	26/27	27/28	28/29	29/30	30/31	31/32	32/33	33/34	34/35	35/36	36/37
Requirement	618	618	618	618	618	618	618	618	618	618	618	618	618	618	618
Cumulative	618	1,236	1,854	2,472	3,090	3,708	4,326	4,944	5,562	6,180	6,798	7,416	8,034	8,652	9,270
Delivery	755	749	772	849	848	591	566	592	518	522	557	541	541	527	511
Cumulative	755	1,504	2,276	3,125	3,973	4,564	5,130	5,722	6,240	6,762	7,319	7,860	8,401	8,928	9,439
Surplus/ deficit	137	268	422	653	883	856	804	778	678	582	521	444	367	276	169
Five-year requirement	3,090	3,090	3,090	3,090	3,090	3,090	3,090	3,090	3,090	3,090	3,090				
Add deficit/ surplus	3,090	3,041	2,987	2,914	2,793	2,775	2,761	2,755	2,736	2,751	2,767				
Buffer	618	608	149	146	140	139	138	138	137	138	138				
Total req	3,708	3,649	3,136	3,060	2,933	2,913	2,899	2,893	2,873	2,889	2,905				
Five-year supply	3,973	3,809	3,626	3,446	3,115	2,789	2,755	2,730	2,679	2,688	2,677				
Surplus/ deficit	265	160	490	386	182	- 124	- 144	- 163	- 194	- 201	- 228				
5YHLS	5.36	5.22	5.78	5.63	5.31	4.79	4.75	4.72	4.66	4.65	4.61				

