

THE EAST HAMPSHIRE DISTRICT LOCAL PLAN

ASSESSMENT OF HOUSING NEED

OPINION

INTRODUCTION AND SUMMARY OF ADVICE

1. I have been asked to confirm in writing the advice which I initially gave to East Hampshire District Council (“EHDC”) in conference on 4 March 2025, concerning that implications of recent amendments to the National Planning Policy Framework (“the NPPF”) and Planning Practice Guidance (“PPG”) for the use of the standard method when calculating EHDC’s housing need, given that the South Downs National Park (“SDNP”) accounts for over half of the district.
2. For the reasons set out below, I consider the latest version of the PPG provides clear support for EHDC to disaggregate needs which arise in its area outside SDNP from those which arise within the SDNP. In my view, that disaggregation should be based on the proportions of EHDC’s overall housing stock which lie within and without the SDNP. Until such time as EHDC has been able to produce a robust evidence base to support an affordability (which has been agreed with neighbouring authorities) which is specific to those parts of the District which lies outside the SDNP, it should continue to use the District-wide affordability ratio.

BACKGROUND

3. This is the second occasion on which EHDC has sought my advice on the calculation of its housing need. In my previous advice dated 3 July 2024 (before the most recent changes to the NPPF and PPG) I advised that:

- a. para 61 of the NPPF directed Local Planning Authorities (“LPAs”) to use the standard method when calculating housing need within their area. However, where (as was the case in East Hampshire) the area of a LPA included part of a National Park, there was no provision within the standard method for that LPA to disaggregate needs which arose within the National Park from those within the part of its area for which it exercised planning powers;
 - b. although para 61 of the NPPF stated that a local planning authority could depart from the standard method in “exceptional circumstances”, the circumstances referred to needed to be demographic and/or housing-market related, and did not include physical, or environmental factors;
 - c. leaving aside the transfer of planning powers to the South Downs National Park Authority (“SDNPA”), the SDNP was essentially an environmental factor which – while it may be relevant in determining the extent to which it was possible for EHDC to meet the need for housing in its district without unacceptable environmental harm - had no bearing on the level of need itself;
 - d. having regard to the fact that, under the duty to co-operate, EHDC was expected to assist in meeting unmet needs with the SDNP, the fact that planning powers within the SDNP were vested in the SDNPA was not related to demography and did not justify a departure from the standard method when calculating need across the EHDC area as a whole.
4. On 12 December 2024, the government published a number of significant changes to the NPPF and the PPG. Of particular relevance for the purposes of this Opinion:
- a. Paragraph 27(b) of the new NPPF requires “strategic policy making authorities” to ensure that:

“the unmet development needs from neighbouring areas are provided for in accordance with paragraph 11b”

- b. The advice in para 61 of the old NPPF that “the outcome of the standard method is an advisory starting point for establishing a housing requirement” and the reference to exceptional circumstances which justify an alternative approach to assessing housing need has been removed from the NPPF. These issues are now addressed in the PPG.
- c. Paragraph 2a-003 of the PPG has been amended. Where the previous version specifically stated that use of the standard method was not mandatory (albeit that it should only be departed from in “exceptional circumstances”) the new text begins with the observation that “The standard method should be used to assess housing needs”. However, the new para 2a-003 goes on to recognise that

“there are some specific circumstances in which an alternative approach could be justified, for example as explained at para 014 below”.

- d. Paragraph 2a-014 of the PPG has been amended to provide more extensive guidance on the situation where strategic policy-making authority boundaries do not align with local authority boundaries, or data is not available, as follows (emphasis added):

“Where strategic policy-making authorities do not align with local authority boundaries (either individually or in combination), or the data required for the model are not available such as in National Parks and the Broads Authority, or local authority areas where the samples are too small, an alternative approach may have to be used.

Such authorities may continue to identify a housing need figure using a method determined locally. In doing so authorities should take into consideration the best available evidence on the amount of existing housing stock within their planning authority boundary, local house prices, earnings and housing affordability. In the absence of other robust affordability data, authorities should consider the implications of using the median workplace-based affordability ratio for the relevant wider local authority area(s).

For local authorities whose boundaries cross National Parks or Broads Authority areas, the proportion of the local authority area that falls within and outside the National Park or Broads Authority area should also be considered – for example where only a minimal proportion of the existing housing stock of a local authority falls within the National Park or Broads Authority area it may be appropriate to continue to use the local housing need figure derived by the standard method for the local authority area.”

Of these three sub-paragraphs, the first, and the first part of the second are not dissimilar to the previous version, but the text which is shown highlighted is entirely new.

- e. Subsequent guidance in the PPG¹ details how an alternative method would be tested at examination. Where specific circumstances justify an alternative approach, consideration will be given to whether it provides a basis for a plan that is positively prepared, taking into account the information available on existing levels of housing stock and housing affordability.
5. If the standard method is applied, the district-wide output for EHDC under the most recent iteration of the NPPF is 1,142 homes per annum.
6. The standard method includes an adjustment for housing affordability, which uses the median workplace-based affordability ratios published by the Office for National Statistics at local authority level. However, the “local authority level” for which the ONS has published ratios is limited to the whole of East Hampshire, when some 57% of the land and approximately 26% of the housing stock within East Hampshire lies within the SDNP, which has its own planning authority.
7. The ONS figures do not provide separate affordability ratios for the parts of East Hampshire which lie within the SDNP, and those which lie outside it, and my instructions indicate that there is at present “no easily accessible data to determine housing affordability separately for these parts. I understand that EHDC is currently liaising with the SDNPA and other similarly affected authorities to commission a

¹ Paragraph: 015 Reference ID: 2a-015-20241212

consistent piece of work to determine a disaggregated approach that reflects housing stock and housing affordability within each local planning authority area, but this is still “work in progress”.

8. In the meantime, if the ONS’ median affordability ratio for the whole of East Hampshire is used to determine need in both SDNP and the parts of East Hampshire which are outside the SDNP (i.e. if no attempt is made to apply different affordability ratios according to whether the housing stock is within or outside the SDNP), the 26:74 split in housing stock would indicate a need for 301 new dpa within the SDNP, and 841 dpa within EHDC outside SDNP. This is the analysis shown in Table 1 of my instructions. Against this, the emerging South Downs Local Plan (which is currently at reg 18 stage) proposes to provide around 86 homes p.a. within that part of the SDNP which lies within East Hampshire. It is self-evident that this falls some way short of the figure of 301 dpa shown on Table 1.

ISSUES

9. Against this backdrop, I have been asked:
 - a. whether the exceptional circumstances outlined in the revised PPG warrant an alternative approach to the government’s new standard method for assessing housing needs in East Hampshire, as outlined in Paragraph: 014 Reference ID: 2a-014-20241212;
 - b. if the answer to (a) is “yes”, how should the proportion of EHDC’s area that falls within and outside the National Park should be considered? Does the large amount of housing stock that falls within the SDNP part of East Hampshire, which holds the highest protection status for conserving and enhancing landscape and scenic beauty, result in a different approach to be taken for determining local housing need?
 - c. in light of the above, and before a new local plan identifies a housing requirement, would a disaggregated approach, similar to Table 1 in my

instructions, be appropriate for determining five-year housing calculations, until such time further work has been commissioned to identify East Hampshire's local housing need outside the SDNP?

ADVICE

Issue 1: Whether the exceptional circumstances outlined in the PPG warrant an alternative approach to the government's new standard methodology for assessing housing needs in East Hampshire, as outlined in Paragraph: 014 Reference ID: 2a-014-20241212

10. The short answer to this question is “yes”. The newly introduced final paragraph in para 2a-014 makes it clear that the non-alignment of the strategic policy-making authority and the local authority boundary is one of the “specific circumstances” in which an alternative approach to the standard method may be used, and that this alternative approach can be based on disaggregating the proportions of the local authority area which lie within and without the National Park. While the new paragraph suggests that it may be appropriate to continue to use the local housing need figure derived from the standard method in cases where “only a minimal proportion of the existing housing stock of a local authority falls within the National Park”, the obvious corollary to this is that a departure from the standard method may be justified where the proportion of housing which lies within the National Park is more than minimal. In this regard, I agree with those instructing me that 26% is not a “minimal proportion” of the housing stock within East Hampshire. By implication, therefore, EHDC would be entitled to adopt an alternative method which disaggregated needs within and without the SDNP.

11. This constitutes a significant change since my previous Opinion. As a matter of principle, I consider it would now be possible for EHDC to justify a departure from the standard method. However (and as discussed below) whether departure would be either sound (or even lawful) will depend on the details of and underlying rationale for the alternative method which is adopted. I address this under Issue 2 below.

Issue 2: If the answer to (a) is “yes”, how should the proportion of EHDC’s area that falls within and outside the National Park should be considered. Does the large amount of housing stock that falls within the SDNP part of East Hampshire, which holds the highest protection status for conserving and enhancing landscape and scenic beauty, result in a different approach to be taken for determining local housing need?

12. I begin with the observation that the more detailed question set out in the second sentence above conflates two separate issues, namely:

- a. The fact that 26% of East Hampshire’s housing stock falls within the SDNP;
- b. The fact that SDNP “holds the highest protection status for conserving and enhancing landscape and scenic beauty”.

13. In my view, the first of these is a relevant and permissible basis for departing from the standard method, but the second is not. In this regard, I reiterate the advice at paragraphs 9 –14 of my previous Opinion, that:

- a. National policy identifies a two stage-process for the purposes of development plan policies which are intended to meet housing need. The first stage is to assessing housing need (normally by applying the standard method), the second is to consider how much of that need can actually be met, having regard to environmental constraints.²
- b. Those two stages make it clear that issues such as environmental constraints are only relevant at the second stage, and not at the first. This point has been recognised in the case-law,³ which establishes that the assessment of “raw” need is a “policy off” process which ignores environmental constraints.

² For the purpose of this Opinion, “environmental constraints” are not limited to the considerations identified at para 7 of the NPPF (habitats sites, SSSIs, Green Belt, National Landscapes, National Parks, irreplaceable habitats, designated heritage assets and areas at risk of flooding or coastal change. While (having regard to para 11(b) of the NPPF) the constraints listed in fn 7 may have a greater significance or weight than others, the assessment of what is “sustainable” for the purposes of development plan includes wider environmental constraints such as landscape.

³ See e.g. *R (Hunston Properties Ltd) v. SSCLG and St Albans City and District Council* [2013] EWCA Civ 1610; *Gallagher Estates Ltd v. Solihull MBC* [2014] EWCA Civ 1610

- c. Leaving aside implications of the transfer of planning functions for land within the SDNP to the SDNPA, the fact that the SDNP is a landscape which “holds the highest protection status for conserving and enhancing landscape and scenic beauty” is an environmental constraint which (while it may be relevant to the ability of SDNPA and or EHDC to meet that need, and therefore to any “requirement” eventually arrived at for the purposes of identifying Local Plan allocations) has no impact on the scale of the need for housing in the EHDC area (irrespective of whether that need arises within or outside the SDNP).
14. There is nothing in the recent changes to the NPPF or the PPG which alters that advice. In particular, there has been no material change to para 2a-001 of the PPG, which states that (emphasis added):

“Housing need is an unconstrained assessment of the minimum number of homes needed in an area. Assessing housing need is the first step in the process of deciding how many homes need to be planned for. It should be undertaken separately from assessing land availability, establishing a housing requirement figure and preparing policies to address this such as site allocations. For further details on how constraints should be considered once a housing need figure has been identified, please see Housing and economic land availability assessment guidance.”
15. For the purposes of para 2a-001, the significance of the SDNP as a landscape resource is that it operates as a constraint which affects the availability of land which is suitable land to meet the need. As such, it may be relevant when establishing a housing requirement, but it does not and cannot affect the extent of the need itself.
16. This does not mean that SDNP is irrelevant, but it is essential to the understanding of how it is relevant, and the ways in which, as a consequence, it would be appropriate for that to be applied when creating an alternative to the standard method. In very simple terms, the basis of the change must still relate to the demographic consequences which flow from the existence of SDNPA as a separate administrative

body, rather than the geographic consequences which flow from the existence of SDNP as a landscape feature.

17. Before turning to the (relatively limited) guidance which PPG provides on how an alternative to the standard method might be developed, I note the following:
 - a. Although para 2a-014 allows departure from the standard method in cases such as the present, it needs to be remembered that the standard method remains the normal starting point. This does not mean that an alternative approach needs to mirror the standard method, but in my view, the more an alternative departs from it, the more likely it is to attract objection and the more closely it will be scrutinised at the Local Plan EiP.
 - b. When an alternative method is tested at EiP, a key question will be “whether it provides a basis for a plan that is positively prepared, taking into account the information available on existing levels of housing stock and housing affordability”. Although, as a matter of principle, it is obvious that an alternative method cannot be “unsound” simply because it arrives at a different assessment of need to the standard method, an alternative method that results in a materially lower level of need than the standard method will almost certainly be objected to on the grounds that the perceived “shortfall” shows it has not been “positively prepared”. Those objections will not necessarily succeed, but it would not be surprising if a Local Plan Examiner approached an alternative method which produced a lower need figure with a degree of scepticism. The LPA relying on it may therefore have to work that much harder to justify its selection.
 - c. Although it is not essential that an LPA’s alternative method is agreed with other strategic authorities, it will be much harder to defend if it is not. In particular, there should ideally be agreement between the LPA and the relevant NPA. Moreover, where (as in this case) the reason for the use of the alternative method relates to the administrative boundary between a LPA and a Park Authority, as opposed to any underlying demographic feature concerning the population, any significant disparity between the need figure which

emerges from the standard method and the combined output of the two authorities using the alternative method is likely to require particularly careful explanation (especially if that disparity is a shortfall).

- d. Irrespective of points (a) - (c)) above, any alternative will need to be underpinned by robust evidence. If this is not available, then inputs or assumptions which are consistent with the standard method will be the most obvious fall-back.⁴

18. Applying the above to East Hampshire, my advice is as follows:

- a. To the extent that the new text in Para 2a-014 provides any detailed guidance on how an alternative method might be developed, it refers to two different things: the proportion of the local authority area which falls within and outside the National Park, and the proportion of housing stock which falls within and outside the National Park. This is unhelpful, because these are two potentially very different things which are capable producing very different results.
- b. However, if the purpose of the method is to arrive at an unconstrained understanding of need, I consider it is the proportion of housing stock which falls within the National Park, rather than the proportion of the local authority area, which is the relevant consideration. In particular, it is the existing housing stock which is the key input in Step 1 of the standard method, which makes no reference whatsoever to the area of land within which that stock is located. That is only logical, since it is the existing housing stock, rather than the area of land which that existing stock occupies, which will be the key generator of sources of future need.
- c. On this basis, I endorse the thinking which underlies Table 1 in my instructions, in as much as it suggests that any attempt to arrive at a need

⁴ Hence, for example, the advice in para 2a-014 that “In the absence of other robust affordability data, authorities should consider the implications of using the median workplace-based affordability ratio for the relevant wider local authority area(s).”

figure for the parts of East Hampshire which outside the SDNP should be on the basis of the 26:74% split in housing stock, rather than the 57:43% split in area. In my view, this approach would be defensible at EiP: (i) the concept of considering the proportions of housing stock within and without the National Park is expressly referred to in the PPG; (ii) because it is based on housing stock within the plan area, this effectively uses the same approach as that which underlies the standard method, but then adapts it in the simplest way possible to reflect the particular circumstances in EHDC; and (iii) the 26:74% split is based on evidence which is easily proven i.e. it can be shown to be “robust”.

- d. In contrast, I think an alternative method based on geographic area would be almost impossible to defend: it would be obvious nonsense to argue that, because the area outside SDNP is only 43% of its overall area, EHDC should only cater for 43% of the need, even though that 43% area contained 74% of EHDC’s population.
- e. Table 1 in my instructions applies the 26:74% split to an overall level of need (1142 dpa) which is taken straight from the standard method. In so doing, it implicitly accepts the use of the median workplace-based affordability ratio published by the Office for National Statistics for EHDC at local authority level, i.e. Table 1 draws no distinction between affordability levels in those parts of the District which lie within SDNP, and those which are outside. Although other approaches could be justified (see (f) below) I consider this the most easily defensible approach, because (i) in the absence of other robust affordability data, the PPG specifically refers to the use of the median affordability ratio for the “relevant wider local authority area”. The approach taken in Table 1 is thus specifically sanctioned by the PPG; (ii) it minimises the extent to which EHDC would be departing from the standard method; (iii) it is reasonable to assume that the ONS data is “robust”; and (iv) in the case of EHDC, the use of the district wide affordability ratio is likely to result in a higher overall level of need within East Hampshire (but outside the SDNP) than an affordability ratio which is specific to the part of East Hampshire

outside the SDNP area. This approach is therefore less susceptible to criticism on the grounds that the Plan has not been positively prepared.

- f. Notwithstanding (e) above, the new text at the end of the second subparagraph of para 2a-014 clearly suggests that LPAs do not need to use the affordability ratio for the wider plan area if they have “other robust affordability data”. My instructions are clear that, at present, this data is not available, but if EHDC is able to collate robust data which is specific to the parts of the District which are outside the Park, I consider it would be entitled to use that when determining the level of need. However: (i) it would be extremely important to show that the way in which the affordability ratio had been arrived at had been agreed with neighbouring authorities (and in particular SDNPA); (ii) ideally, SDNPA should adopt a similar approach when assessing its own need, so there is no “gap” between the two plans; (iii) the closer the sum of the two figures independently arrived at by EHDC and SDNPA to the 1142 derived from the standard methodology, the less scope there will be for objector to argue that the approach is not robust or sufficiently positive.

Issue 3: In light of the above, and before a new local plan identifies a housing requirement, would a disaggregated approach, similar to Table 1 in my instructions, be appropriate for determining five-year housing calculations, until such time further work has been commissioned to identify East Hampshire's local housing need outside the SDNP?

19. Yes. This answer flows directly from para 18 above.

Further observations

20. My advice above is directed specifically at the questions set out in my instructions. For the reasons I have given I consider it is now possible for EHDC to arrive at a more refined assessment of need within the area which its Local Plan will cover, which disaggregates need which arises within SDNP. However, I would sound a note

of caution as to the extent to which this is likely to the overall approach to meeting “need” for the purposes of preparing EHDC’s plan. In particular:

- a. Para 62 of the new NPPF retains the advice from the old para 61 that:

“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.”

- b. Para 69 of the new NPPF retains the advice from the old para 67 that (emphasis added):

“Strategic policy-making authorities should establish a housing requirement figure for their whole area, which shows the extent to which their identified housing need (and any needs that cannot be met within neighbouring areas) can be met over the plan period.”

- c. These passages have been reinforced by the new paragraph 27(b), which requires strategic policy making authorities to ensure that (emphasis added):

“the unmet development needs from neighbouring areas are provided for in accordance with paragraph 11b”

- d. The meaning of paras 62 and 69 in terms of the place of unmet need from an adjoining area in the two-stage approach to plan preparation is often debated. In my view, it is clear from the words “the amount of housing to be planned for” in para 62, and the reference in para 67 to the “housing requirement figure” that the unmet need of adjoining areas is brought into the equation when determining an LPA’s requirement, rather than its need. Nonetheless, the figure which is brought in still represents a level of “raw” need: although the extent to which an LPA is able to assist in meeting that need will vary according to the environmental constraints within its own planning area, the level of need itself is not susceptible to change simply because it arises in a

different district, or because it arises in a landscape which enjoys a high level of policy protection. In other words, while the fact that need arises within the SDNP will be a good reason for EHDC to treat it as the need of neighbouring area, rather than part of EHDC's own need, the status of the SDNP as a protected landscape does not in any way reduce the extent of the need arising in that part of the Park, or the importance of addressing any part of that need which cannot be met within the SDNP itself.

- e. This is directly relevant to EHDC. If SDNPA's current proposal to bring forward 86 dpa in the part of the SDNP that lies within East Hampshire is carried through into its adopted Local Plan, this will mean that (unless some other LPA steps in to meet that need) there will be a shortfall of 215 dpa across the combined area, as compared with the standard method. Of itself, that is likely to be a cause for concern at the examination of EHDC's Local Plan. That concern would simply be magnified if EHDC were to apply a lower affordability rate to the housing within its own area, since this would produce an even lower need figure for the part of East Hampshire outside the SDNP (and, presumably, a correspondingly higher level of need within the SDNP) and so increase the disparity between the combined requirement figures for SDNA and EHDC and the need identified.
- f. Consequently, while the disaggregation shown in Table 1 will allow EHDC to arrive at a more accurate assessment of need within its own (planning) area, it will not alter fact that there is a wider need within East Hampshire, or the expectation that EHDC should assist in meeting any unmet needs arising within the SDNP. Unless (which seems unlikely) it can be argued that the SDNP is a different housing market area to the rest of East Hampshire, this expectation will be particularly strong in relation to the part of the SDNP which lies within East Hampshire.
- g. This is important, given the indication in my previous instructions that environmental constraints were unlikely to prevent EHDC from addressing the levels of need (including those within the SDNP) which had been identified at that point in time. My latest instructions indicate that this will be more

challenging, following the latest changes to the standard methodology (which have increased the overall need) but are not entirely clear whether it will still be possible. That is a question which EHDC will need to consider when preparing its new Local Plan. If it is still possible for EHDC to meet unmet needs which arise within the Park (or any other adjoining authority) that is what it will be expected to do, and if it does not do this it can expect to be challenged on this.

- h. None of the above is a reason why EHDC should not seek to determine its own need by disaggregating needs which arise within the SDNP. That is, in essence, the starting point for all other authorities unaffected by overlapping administrative boundaries, and in this respect, EHDC is no different to any other authority whose neighbours are unable to meet their own needs. Presentationally, it is always better to be able to say to a Local Plan Examiner “We have met our own need, and what we are arguing about now is the extent to which we can help meet the needs of a neighbour”. At the end of the day, however, EHDC will need to be able to explain what it has done to address unmet need, and why it could not do more. It is important to be realistic about the extent to which adopting the approach in Table 1 will materially alter the shape of EHDC’s Local Plan.

SUMMARY AND CONCLUSIONS

21. In summary, my advice is that:

- a. The new PPG provides explicit support for the argument that, when calculating housing need for the purposes of its new Local Plan, EHDC is entitled to depart from the standard method by disaggregating the needs which arise within the parts of East Hampshire which lie inside SDNP from those which lie outside it.
- b. That alternative method must still be based on demographic features. The fact that the SDNP is a landscape which attracts a high degree of protection under

National Policy is irrelevant to the number of people living in it or to the level of need which arises there.

- c. I would endorse the approach taken in Table 1 of my instructions, in which a need figure which is specific to the parts of East Hampshire which lie outside the Park is derived by a simple pro-rata reduction from the standard method by reference to the proportions of housing stock which lie within and outside the SDNP. I consider this limited departure from the standard method is supported by the recent changes to the PPG, and would be relatively easy to defend at any Local Plan EiP.
- d. In contrast, I would strongly advise against an approach which was based on the geographical proportion of the District which is within or outside the SDNP. That analysis would have no bearing on the number of people living in those areas, who will be a key source of future need.
- e. At present, the outputs from Table 1 reflect a single District-wide affordability ratio. In the absence of more robust evidence, that approach is also fully supported by the PPG. In principle, however, the PPG would also allow EHDC to apply a more refined affordability ratio which was specific to the area outside the Park. The evidence to support a more refined ratio would need to be robust, and it would be important for EHDC to be able to demonstrate that the approach had been discussed and agreed with neighbouring authorities - in particular SDNPA, who would ideally adopt the same approach when arriving at an affordability ratio which was specific to their area.
- f. At present, the evidence base to support a more refined ratio does not exist. In the meantime, I agree with those instructing that Table 1 is the most appropriate way forward.
- g. While the above would enable EHDC to come up with a more refined assessment of its own needs, which would be lower than the standard methodology figure for the District as a whole, it is important to be realistic about the extent to which this will make any difference to the housing

requirement for EHDC. In particular, national policy requires EHDC to assist in meeting any unmet needs arising in neighbouring authorities, as far as it is able to do so. Disaggregating the need which arises in the SDNP may reduce EHDC's own need, but EHDC will still be expected to assist in meeting needs which, though they arise within the SDNP, cannot be met there.

22. If there are any questions arising from the above, those instructing should not hesitate to contact me.

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6 March 2025

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