



Department for Levelling Up,
Housing & Communities

Rachel Maclean MP

Minister of State for Housing and Planning

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Our reference: MC2023/00888

Councillor Joanne Sexton
Leader of Spelthorne Borough Council
Spelthorne Borough Council Offices
Knowle Green
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31 October 2023

Dear Councillor Sexton,

I am writing in response to your letter of the 21 September and your subsequent letter of 6 October, which sets out your exceptional circumstances in relation to the Secretary of State's direction of 14 September.

Whilst it is not my intention to reply to all the points you have raised in detail, I will respond to some of the points you raise.

In relation to the publication of the revised National Planning Policy Framework (NPPF), I have been clear that waiting for this is not a reason to stall plan making. The Neighbourhood Planning Act 2017 sets the requirement for all areas to be covered by one or more plans which addresses the strategic priorities for their area and many areas are not delaying their plans. Authorities that fail to ensure an up-to-date plan is in place are failing their communities by not recognising the homes and other facilities that local people need, and relying on ad hoc, speculative development that may not make the most of their area's potential or meet the needs of the local community.

The Secretary of State has the power to intervene in a plan at any time up to the adoption or withdrawal of a plan, and as such any authority seeking to withdraw a plan, particularly those at an advanced stage of preparation, would be aware that intervention is a possibility.

As I indicated in my previous letter, circumstances dictated that we were unable to give you more notice of the decision to intervene or to invite you to provide exceptional circumstances for why intervention should not take place. The final decision to intervene was only taken on the day of the meeting, as I was not aware of the potential withdrawal of the plan until the papers for the meeting were made publicly available on Friday 8 September.

Your letter indicates that you consider not giving the Council the opportunity to set out exceptional circumstances before intervention took place constitutes a failure of due process and a procedural flaw on our part, you also compare the approach taken in your case to that taken with other councils in the past. For the reasons set out above any request for exceptional circumstances in advance of issuing the intervention letter would have led to giving Spelthorne Council the shortest possible time to respond and this in itself would have been unreasonable. In order to address any concerns, I have given the Council a reasonable period to provide exceptional circumstances following intervention, in the knowledge that the direction can be lifted at any time if the

exceptional circumstances necessitated a reconsideration of my decision. I do not believe that the Council have been materially disadvantaged by this decision.

Your letter raises the use of the intervention criteria set out in the 2017 White Paper "Fixing our broken housing market". Whilst proposed changes to intervention criteria were included in the Planning White Paper in 2020, the proposals have not been confirmed and therefore the criteria set out in the 2017 White Paper are still the relevant ones for my consideration.

As regards the application of the 2017 intervention criteria in respect of the Spelthorne Local Plan, the following were important considerations in my assessment.

- *317 local planning authorities have adopted plans since Spelthorne adopted its plan in 2009, putting Spelthorne's Adopted plan well within the bottom 10% of local plans by age.*
- *Your current adopted plan is 14 years old and the current plan period ends in 2026.*
- *Withdrawal of your plan at this advanced stage would mean you would need to submit your new plan within 20 months to meet the proposed cut-off date for the current system of June 2025.*
- *Affordability ratios in your area exceed both national and southeast averages.*

I have taken the time to consider your responses and whilst I note the points you make, I do not consider there are any exceptional circumstances set out in the letter which would justify removal of the direction at this time.

I anticipate that you will continue to have concerns about the steps which I have taken to ensure the Spelthorne Local Plan remains at examination. However, it is now for the independent Planning Inspector to have the opportunity to examine your local plan and to consider whether the plan is legally compliant and sound.

I am aware that you have been granted a further pause in your examination. Once the revised NPPF is published Planning Inspectors and Councils will need to consider whether there are any implications of the changes for plans at examination and whether these raise issues of soundness for those plans, in particular in relation to plans being consistent with national policy.

I am encouraged to note that there have been a number of meetings between your officers and my officials to discuss the programme of ongoing work. I will be asking my officials to ensure that the Council set out milestones and a clear timetable which can move the plan forward to examination hearings.

Given that you have reserved your legal position and are considering whether to challenge the decision of the Secretary of State to intervene and direct you not to withdraw the Spelthorne Local Plan, it would not be appropriate to meet you at this time to discuss the exceptional circumstances you have provided. My officials, however, will continue to meet with your officers in order to discuss progress on the plan.

I am sending a copy of this letter to the Chief Executive and the Rt Hon Kwasi Kwarteng MP.

Yours sincerely,



RACHEL MACLEAN MP
Minister of State for Housing and Planning