

Draft Upper Eden Neighbourhood Plan
Written Representations submitted to Eden District Council

Respondent	Comments
Ann Sandell, Public	<p>In response to this Neighbourhood Plan, I would advise that whilst I wholeheartedly support the plan in respect of the outlying villages and hamlets of Upper Eden, I am unable to endorse the plan in regard to Kirkby Stephen.</p> <p>The plan is exceptional in meeting the aspirations of the villagers and farmers in allowing sustainable small development where needed and the people are able to voice their wishes in wanting the countryside to be able to expand naturally but Kirkby Stephen is to be sacrificed to Core Strategy with colossal unsustainable development to meet housing targets which the majority of the people of Kirkby Stephen do not want. We would prefer natural sustainable growth to meet demand and economic expansion and not imposed urban style sprawl housing estates similar to the Story development which is alien to this small town particularly with its central Conservation Area and surrounding agricultural and open access land. The development figures for Kirkby Stephen would impose five large unwanted estates, of a size similar to the Story development, over the plan's period. This will have a detrimental effect on the existing town in terms of appearance, quality of life, traffic and road problems because of Victorian infrastructure, economic factors including housing prices and services including drainage, schools, health centre, etc.</p> <p>Perhaps there is a need to take a lesson from history in viewing slow growth and even small reductions where economic factors prevail leading to with slow sustainable development, unless of course, there is a sudden influx of jobs attracted to the area as seen in the 19th century with the arrival of the railways. Large housing development can only lead to the purchasers spending hours on the road in search of employment in larger towns and cities as there is very little employment in the near vicinity or imposing an even higher retirement population. I do however, support small scale secure housing for older people who would prefer to live within Kirkby Stephen and not have to transfer to Penrith and Kendal in their latter years, this should not however, seek to unbalance the make-up of the population of a mix of young families, older working adults and retired.</p> <p>My preference for Kirkby Stephen would be a plan similar to that proposed for the outlying areas and not outside imposed housing targets that are nothing to do with need or understanding of the area, but greed.</p>
Rachel Bust, The Coal Authority	<p>Thank you for the consultation email on the above.</p> <p>The proposed area is outside of the current defined coalfield and therefore The Coal Authority has no specific comments to make.</p>
Katherine Austwick, Environment Agency	<p>Thank you for consulting the Environment Agency on the Upper Eden Neighborhood Plan which we received on 17 August 2012.</p> <p>We have considered the proposals within the plan and have no specific comments to make.</p>
Graham K Norman, Architect	<p>I am writing in support of the Upper Eden Neighbourhood Plan which, if implemented, should improve the deliverability of housing generally in Upper Eden. In rural areas smaller scale developments are more acceptable to the local communities, are developed by local builders to meet local needs and demand, and can have a positive impact on the landscape. Whereas larger scale developments tend to adversely affect the character of villages and are</p>

	<p>harder to deliver given the current funding constraints for the development industry generally.</p> <p>The ability to deliver affordable housing as housing for older people in villages will also improve the delivery of affordable housing and housing generally. This type of housing is in very short supply locally and should provide improved confidence to developers to build out their schemes. At present developers with consents are struggling to find ways to find schemes that have affordable housing requirements because Housing Associations have limited interest in these locations or more importantly available funding. The developers themselves cannot fund affordable housing for rent or the low discounted price (i.e. at a loss) to be delivered, as required by the council, up front.</p>
Lindsay Alder, Highways Agency	<p>Thank you for the opportunity to comment on the latest draft of the above document. I note the changes made within the document but feel that at this time the Agency has no specific comments to make.</p> <p>Where any development that may affect the safety of the Strategic Road Network we would continue to expect that any development would be discussed with ourselves at the pre application stage as per the guidance. We would also like to be notified of the eventual decision to adopt the plan.</p>
Kaber Parish Council	<p>Kaber Parish Council has been advised that the current consultation is procedural, requiring that EDC 'publicise' the fact of the plan's submission to them, rather than undertake a consultation on it.</p> <p>As Kaber is one of the Parishes which has been involved with the development of the the Upper Eden Neighbourhood Plan, the Council has been able to make comments throughout the process.</p> <p>The Council has responded to the Plan previously and are happy with its content.</p>
Kirkby Stephen Parish Council	<p>At its meeting of 4th September the Town Council accepted and endorsed the draft Upper Eden Neighbourhood Plan.</p>
Mr NF Atkins RTPI (Ret'd)	<p>I have read, with interest, the Draft Upper Eden Neighbourhood Plan which has been placed on your Council's website.</p> <p>Whilst I fully support the general approach of the Plan which is to ensure that we retain a 'living countryside', I do worry that the policies being advanced could result in some isolated dwellings being developed in the open countryside without adequate justification and, potentially, conflict with paragraph 55 of the NPPF. It appears that the Plan proposes that the personal circumstances of the applicant or landowner should, to a quite unusual extent, be taken into account in decision making. Development permitted would, for all practical purposes, be permanent and endure long after such personal circumstances have changed.</p> <p>The policies proposed must be exercised with great care if the integrity and impartiality of the planning system is to be preserved.</p> <p>However, my main concern relates to the standard 'local occupancy condition' (Section 16) which, in my view, fails to satisfy the acknowledged tests of reasonableness and precision. For example, it would clearly be perverse for a qualifying household to be simply one that 'has, <i>for whatever reason</i>, the written support of the relevant Parish Meeting or Parish Council'.</p> <p>I am also concerned that a number of terms such as 'a reasonable period of active marketing' are capable of wide interpretation – at the very least there</p>

	<p>should be a requirement that such marketing is undertaken in a manner which reflects the effects of the local occupancy condition in relation to property value.</p> <p>I note that the local occupancy condition does not require that dwellings approved under the relevant policies should be occupied as a main residence (even if ultimately sold on the open market).</p> <p>It is not entirely clear if occupancy controls are to be exercised solely by this condition or by means of a Section 106 Planning Obligation. If the latter, it is perhaps intended that further elaboration or clarification of terms should be incorporated in any Agreement?</p> <p>Finally I wish to emphasise that my views are entirely personal and do not purport to represent those of any body with which I might be associated.</p>
<p>Chris Woodley-Stewart, Director, North Pennines AONB</p>	<p>Upper Eden Neighbourhood Development Plan</p> <p>Thank you for consulting the North Pennines AONB Partnership on the above document. We consider that the Plan contains clearly-argued cases for the policies it contains and we are generally supportive of its content. We have the following specific comments:</p> <p>The relative importance of different planning policies</p> <p>We note on Page 12 para 8.6 that ‘due regard must be taken of national and international designations for biodiversity, landscape and cultural heritage assets protection and enhancements for them should follow, whether or not specific reference is made to them in the Neighbourhood Development Plan’. Part of the Plan area falls within the North Pennines AONB and we therefore welcome this reminder of the duties placed on the Local Planning Authority and other public bodies to have due regard to conservation and enhancement of natural beauty in the AONB in the discharging of their functions.</p> <p>Page 6 of the document (para 1.1) however, says that policies in the Plan will ‘take precedence over other existing planning policies’. Even though the document frequently mentions the need for development to be in keeping with the character of the landscape, we would welcome some clarification over this statement on page 6 and a confirmation that these policies do not over-ride or weaken national and local planning policy in relation to the conservation and enhancement of natural beauty in the North Pennines AONB, including the North Pennines AONB Building Design Guide (adopted by the Local Planning Authority as SPD).</p> <p>The importance of good design</p> <p>We would welcome a specific reference to the existence of the North Pennines AONB Building Design Guide and its importance as adopted SPD, as this gives locally-tailored guidance and advice which is likely to be more relevant to the area than the kinds of generic best practice documents such as those from English Heritage referred to in paragraph 8.6. The Plan would usefully make specific reference to the AONB Building Design Guide as a source of support which has weight in the local planning system in the District; where planning policies are made more flexible, as is proposed here, good design takes on even greater importance.</p> <p>Thank you for your time in considering our brief response. We hope that the Neighbourhood Plan will help the communities of the Upper Eden area to meet local housing need in ways which complement the quality, character and distinctiveness of the local landscape.</p>

Winton Parish Council	I am responding on behalf of Winton Parish Meeting to the draft Upper Eden Neighbourhood Plan. Winton Parish has been involved in the development of this Plan and has responded to previous consultations and discussions on the Plan. The Parish Meeting is happy with the content of the Plan and would welcome adoption of the Plan by Eden District Council.
Dave Sherratt, United Utilities	<p>United Utilities PLC supports growth and sustainable development within the North West. United Utilities PLC would like to build a strong partnership with Local Planning Authorities [LPA] to aid sustainable development and growth. Our aim is to proactively share our information; assist in the development of sound planning strategies, to identify future development needs and to secure the necessary long-term infrastructure investment.</p> <p>Water and wastewater services are vital for the future health and well-being of your community and the protection of the environment. When developing your Local Development Framework [LDF] and future policies LPA should consider the impacts on the health and well-being its community, environment and ensure infrastructure capacity is available. If infrastructure deficiencies cannot be addressed, an alternative location and/or timescale should be sought where infrastructure capacity is available and it meets the LPA development needs.</p> <p>Inappropriate development could result in the closing of a hospital and/or school etc, due to the inappropriate development siphoning off the historical water or wastewater infrastructure capacity; no water supply for washing and catering facilities and/or sewerage flooding of the property/highway.</p> <p>Investment programme and funding mechanism</p> <p>Every 5 years United Utilities PLC and other water and sewerage companies [WaSC] assemble and a submit business case to Ofwat for approval; this is process is known as the Price Review. Within the Price Review process, Ofwat will set the price limits that each WaSC can charge their customers. The outcome of the Price Review process will define what, where and when capital investment is undertaken over the next 5 years; set the serviceability limits and measures to meet new regulatory standards and any additional enhanced levels of service. The Price Review process includes a five year capital investment programme known as the Asset Management Plan [AMP]; there have been five AMPs since privatisation and the current AMP is AMP5 [1 April 2010 – 31 March 2015]. The AMP has a number of defined funding areas; the area covering capital investment for growth is 'supply and demand'. There is a number of funding mechanism for supply and demand; the main funding process involves the identification of defined outputs to meet growth needs; this funding is ring fenced and cannot be used to support growth elsewhere. The Price Review is the only wastewater supply and demand funding mechanism available to WaSC. United Utilities PLC is currently producing detailed plans [Integrated Asset Plans – (IAP)] for each wastewater catchments and water supply demand zone to identify their future requirements and therefore capital investment needs. The IAP process will review and identify future supply and demand needs across the North West.</p> <p>The output from the IAP will support and inform United Utilities PLC's Price Review business case submission to Ofwat for AMP6 [2015-2020] and beyond. It is essential that neighbourhood groups; LPA and developers support United Utilities PLC in this process, to ensure the correct sustainable solutions are delivered. Unfortunately, United Utilities PLC cannot guarantee Ofwat will support and/or approval United Utilities PLC's Price Review submission and/or any of the identified supply and demand projects.</p>

Caveat on comments

Assessments are based on the following specific requirements, any deviation from these requirements will invalidate the assessment.

- This is only a high level assessment, which does not guarantee capacity availability and/or deliverability of future supporting infrastructure;
- United Utilities PLC's assets have a finite ability to accommodate growth;
- United Utilities PLC cannot confirm if capacity is available until the connection point/s, flows and completion dates are available;
- United Utilities PLC will determine all water supply connection points and flow rates;
- United Utilities PLC will determine all sewerage discharge points and flow rates;
- No surface water to be discharged into the public combined and/or foul sewerage networks [see follow the Surface Water comments below];
- The assessment is based on a single development only; the cumulative effect has not been assessed; and
- These comments should be included within your future policies and planning application conditions.

United Utilities PLC would like to make the following specific comments, to be included in further consultations and if possible, the development of the Upper Eden Neighbourhood Development Plan [UENDP] and future sustained economic policies.

Wastewater

United Utilities PLC currently has no Ofwat approved projects to support wastewater supply and demand within the Upper Eden Neighbourhood, but plans to include supply and demand proposals in future Price Reviews and therefore support your growth aspirations. Again, United Utilities PLC would seek the support of neighbourhood groups, LPA and developers to identify any future supply and demand projects.

Kirkby Stephen

- Kirkby Stephen Wastewater Treatment Works [WwTW] currently serves a connected population equivalent [PE*] of circa 2711;
- The UENDP has proposed 312 additional properties over the 13 year plan period; this equates to a 736 PE entering the sewerage network and WwTW;
- This will result in a 27% increase in WwTW capacity demand;
- The current WwTW could NOT accommodate all the planned growth [312];
- However, there is capacity to accommodate a certain level of growth before triggering capacity improvements; therefore, the phasing of the housing growth is vital to protect the quality of life for the existing community and the protection of the environment.
- In meeting the needs of the Water Framework Directive and the EA's no deterioration policy, the increase would promote the EA to issue a new environmental permit for the WwTW;
- The growth would therefore drive the need for not only capital investment improvement at the WwTW to increase the processing capacity but also process improvements to meet the needs of the new environment permit;
- Capacity improvements may be required to the sewerage network to prevent sewer flooding of customers' properties and the protection of the environment;

- The capacity issues at the WwTW would be exacerbated by the growth plans for the Nateby, Hartely and Winton settlements which discharge to the WwTW; adding a further 42 PE; and
- The IAP process has identified a supply and demand need for the WwTW, and plans to include a supply and demand project in the Price Review for AMP6 [2015 – 2020].

Nateby, Hartley and Winton

See comments associated with Kirkby Stephen above

Crosby Garrett

- Crosby Garrett WwTW currently serves a connected circa 158 PE*;
- The UENDP has proposed 8 additional properties over the 13 year plan period; this equates to a 19 PE entering the sewerage network and WwTW;
- This will result in a 12% increase in WwTW capacity demand;
- The current WwTW could NOT accommodate all the planned growth [8];
- However, there is capacity to accommodate a certain level of growth before triggering capacity improvements; therefore, the phasing of the housing growth is vital to protect the quality of life for the existing community and the protection of the environment.
- In meeting the needs of the Water Framework Directive and the EA's no deterioration policy, the increase would promote the EA to issue a new environmental permit for the WwTW;
- The growth would therefore drive the need for not only capital investment improvement at the WwTW to increase the processing capacity but also process improvements to meet the needs of the new environment permit;
- Capacity improvements may be required to the sewerage network to prevent sewer flooding of customers' properties and the protection of the environment;
- The IAP process has identified a supply and demand need for the WwTW, and plans to include a supply and demand project in the Price Review for AMP6 [2015 – 2020].

Kaber

- No concerns associated with one additional property over the 13 year plan.

Warcop

- No concerns associated with 28 additional properties over the 13 year plan; and
- An assessment will be required to determine the impacts on the sewerage network and to define future connection point/s and discharge rates.

Brough

- Brough WwTW currently serves a connected circa 777 PE*;
- The UENDP has proposed 42 additional properties over the 13 year plan period; this equates to a 99 PE entering the sewerage network and WwTW;
- This will result in a 12% increase in WwTW capacity demand;
- The current WwTW could NOT accommodate all the planned growth [42];
- However, there is capacity to accommodate a certain level of growth before triggering capacity improvements; therefore, the phasing of the

housing growth is vital to protect the quality of life for the existing community and the protection of the environment.

- In meeting the needs of the Water Framework Directive and the EA's no deterioration policy, the increase would promote the EA to issue a new environmental permit for the WwTW;
- The growth would therefore drive the need for not only capital investment improvement at the WwTW to increase the processing capacity but also process improvements to meet the needs of the new environment permit;
- Capacity improvements may be required to the sewerage network to prevent sewer flooding of customers' properties and the protection of the environment;
- Based on a linear growth profile of 3.3 dwellings per year, additional improvements to Brough WwTW is not required until AMP7 [2020-2025], therefore the phasing of the housing growth is vital to ensure there is sufficient capacity at the WwTW to support the entire 13 year development target.
 - Caveat - EA may issue a new environmental permit for the WwTW ahead of this timescale

Brough Sowerby; Helbeck; Mallerstang; Musgrave; Stainmore; Waitby; Wharton;

- United Utilities PLC does not manage the wastewater assets in these locations; advice from third parties should be sought to identify their sewerage network and WwTW capacity constraints.

Soulby

- No concerns associated with 11 additional properties over the 13 year plan.
- An assessment will be required to determine the impacts on the sewerage network and to define future connection point/s and discharge rates.

Ravenstonedale

- Ravenstonedale WwTW currently serves a connected circa 396 PE*;
- The UENDP has proposed 37 additional properties over the 13 year plan period; this equates to a 87 PE entering the sewerage network and WwTW;
- This will result in a 22% increase in WwTW capacity demand;
- The current WwTW could NOT accommodate all the planned growth [87];
- However, there is capacity to accommodate a certain level of growth before triggering capacity improvements; therefore, the phasing of the housing growth is vital to protect the quality of life for the existing community and the protection of the environment.
- In meeting the needs of the Water Framework Directive and the EA's no deterioration policy, the increase would promote the EA to issue a new environmental permit for the WwTW;
- The growth would therefore drive the need for not only capital investment improvement at the WwTW to increase the processing capacity but also process improvements to meet the needs of the new environment permit;
- Capacity improvements may be required to the sewerage network to prevent sewer flooding of customers' properties and the protection of the environment;
- The IAP process has identified a supply and demand need for the WwTW, and plans to include a supply and demand project in the Price

Review for AMP6 [2015 – 2020].

It is important that the Upper Eden Neighbourhood group develops a site allocation plan that defines and sets the location, scale, type and phasing of development. This will aid and support utility infrastructure providers in developing sustainable infrastructure plans required to support your growth aspirations.

As there is no land allocations are included in the UENDP, United Utilities PLC need to review each planning application in isolation, as the number of variables when assessing the impact to our sewerage network assets from developments varies from land allocation to land allocation - e.g. when is the land development occurring, housing densities of the land, connection points to the sewerage network, impact of ongoing impermeable area creep, etc

*United Utilities PLC generally uses a PE of 2.36 this is based on an average occupancy and additional flows such as trade effluent waste, infiltration etc.

Water Supply

As with wastewater, United Utilities PLC will need specific development locations to be able to determine if the infrastructure could accommodate the future growth, but from a large scale supply and demand perspective, there are no issues.

The Upper Eden Neighbourhood needs to read the specific comments in conjunction with the following remarks and not extract/use the specific comments in isolation.

United Utilities PLC would like these to be taken into consideration and incorporated into your future policies and/or documents:

General notes:

National Planning Policy Framework [Framework]

The presumption in favour of sustainable development

LPA should adopt proactive strategy priorities in their Local Plan. This should include strategic policies to deliver:

- the provision of infrastructure for transport, telecommunications, waste management, water supply, wastewater, flood risk and coastal change management, and the provision of minerals and energy [including heat];
- the provision of health, security, community and cultural infrastructure and other local facilities; and
- climate change mitigation and adaptation, conservation and enhancement of the natural and historic environment, including landscape.

Crucially, Local Plans should:

- plan positively for the development and infrastructure required in the area to meet the objectives, principles and policies of the Framework;
- be drawn up over an appropriate time scale, preferably a 15-year time horizon, take account of longer term requirements, and be kept up to date;
- be based on co-operation with neighbouring authorities, public, voluntary and private sector organisations;
- indicate broad locations for strategic development on a key diagram and

land-use designations on a proposals map;

- allocate sites to promote development and flexible use of land, bringing forward new land where necessary, and provide detail on form, scale, access and quantum of development where appropriate;
- identify areas where it may be necessary to limit freedom to change the uses of buildings, and support such restrictions with a clear explanation;
- identify land where development would be inappropriate, for instance because of its environmental or historic significance; and
- contain a clear strategy for enhancing the natural, built and historic environment, and supporting Nature Improvement Areas where they have been identified.

Infrastructure

Framework 162. Local planning authorities should work with other authorities and providers to:

- assess the quality and capacity of infrastructure for transport, water supply, wastewater and its treatment, energy [including heat], telecommunications, utilities, waste, health, social care, education, flood risk and coastal change management, and its ability to meet forecast demands; and
- take account of the need for strategic infrastructure including nationally significant infrastructure within their areas.

To ensure that future development is sustainable; prevents environmental damage and preserves the quality of life for the existing and future generations, developments should not be permitted until infrastructure capacity is available.

United Utilities PLC cannot confirm if capacity is available until the connection point/s, flows and completion dates are available.

If additional supporting infrastructure is required then the LPA should work closely with United Utilities PLC [and other utility providers] to ensure a sustainable cross-boundary solution is identified and approved by the appropriate Regulators bodies before granting planning approval; failure may result in the deterioration of the community's quality of life and/or environmental damage.

The scale and type of development needs to be defined so the appropriate infrastructure is in place to ensure growth is sustainable.

United Utilities PLC has a number of recent examples where infrastructure has been provided based on identified growth, but not delivered; this has resulted in major operational issues; the treatment process is under loaded; it is failing to operate because it cannot reach its operational capacity.

Additional temporary engineer solutions are in place; this represents a significant risk to the exiting customers; the environment and United Utilities PLC; not forgetting the additional financial burden on United Utilities PLC's customers.

The Upper Eden Neighbourhood has a number of capacity issues; any additional developments in these and/or adjoining areas without firstly ensuring infrastructure solutions are implemented could result in an increased number and frequency of sewer flooding incidents.

The Upper Eden Neighbourhood should also consider the constraints [are not limited to, but include] that are outside the control of United Utilities PLC and may influence the timely delivery of supporting infrastructure:

- Regulatory approval
- Environmental constraints
 - Does the receiving watercourse/environment have the capacity to accept additional flows without causing environmental damage?
 - Small river : large development
- Environmental consents and permits
 - Timescales in involved in the construction/delivery of new processes to meet new consents and/or permits
- Planning approval
 - The consultation has not highlighted and/or specified land for infrastructure use, therefore future planning applications for future supporting utilities infrastructure may be thwarted or a prolonged process
 - Historical local resistance to the expansion of utilities assets
 - Planning application approval restrictions/conditions delay implementation of supporting infrastructure assets
- Land acquisition
 - Timescales involved in the purchased land needs
 - Land may not be available for expansion due to the encroachment of development
- Access into the highway
 - Limitations from the highway departments for road works
- Environmental restrictions
 - bird breeding and/or nesting seasons; great crested newts; badgers etc
- Implementation and commissioning restrictions
 - Planning application approval conditions; working hours etc.
 - Environmental consents/permits conditions
 - Its psychical delivery

[Reason: Ensure timely delivery of development and infrastructure to protect the good quality of life and the environment]

Surface Water

Site drainage should be a major consideration for LPA and developers when selecting possible development sites; ground conditions; local flooding issues; development layout; design and planning policy.

The treatment and processing of surface water [storm water; rainwater] is a not a sustainable solution; the sites' current natural discharge solution should be continued and/or mimicked; if the existing surface water does not have an existing natural solution, United Utilities PLC questions the development of a flooded site.

Surface water should be managed at source and not transferred; if not this will only transfer the issue to another location; generally to a single pinch point, generating further problems in that location.

Developments must drain on a separate sewerage system, with only foul drainage connected into the foul sewerage network.

Every option should be investigated before discharging surface water into a public sewerage network.

Connecting surface water to the public sewerage network is not a sustainable solution and LPA should discourage this practice.

The priority options for the management of surface water discharges are:

- Continue and/or mimic the site's current natural discharge process
- Store for later use
- Discharge into infiltration systems located in porous sub soils
- Attenuate flows into green engineering solutions such as ponds; swales or other open water features for gradual release to a watercourse and/or porous sub soils
- Attenuate by storing in tanks or sealed systems for gradual release to a watercourse
- Direct discharge to a watercourse
- Direct discharge to a surface water sewer
- Controlled discharge into the combined sewerage network ~ this option is a last resort when all other options have been discounted.

Development on greenfield sites shall not discharge surface water into the public combined sewerage network and shall not increase the rate of run-off into the public surface water network ~ this statement does not replace the priority options for surface water management above.

On previously developed land, a reduction of at least 30% will be sought, rising to a minimum of 50% in critical drainage areas ~ this statement does not replace the priority options for surface water management above

Any discharge to the public sewerage system must be via approved SuDS and will require an approved discharge rate.

Consideration should given for green infrastructure, low carbon, soft engineering SuDS solutions, such as ponds; swales; wet land areas and detention basins etc.

<http://www.ciria.com/suds/index.html>

A discharge to groundwater or watercourse may require the consent of the Environment Agency.

[Reason: To ensure that the surface water is properly discharged to prevent flooding or the overloading of the public sewerage network]

Green Infrastructure

The Upper Eden Neighbourhood should seek opportunities to use developer financial and/or resources contributions to meet common objectives.

Use green and open spaces, sports and recreation facilities to address surface water and climate change issues.

Building green infrastructure assets such as ponds, swales and wetlands will not only meet the Upper Eden Neighbourhood's Green Space needs but also

their local existing and/or future surface water/ climate change issues.

Artificial pitches; cycle paths; play areas multi-use games areas and skate parks can be used to local underground civil engineering SuDS solutions. SuDS solutions that incorporate irrigation systems will help support and maintain the Upper Eden Neighbourhood's allotments, parks and garden areas.

The Upper Eden Neighbourhood's should identify opportunities for the installation retro fitting SuDS.

[Reason: To ensure that the development is sustainable, properly drained; prevents flooding and environmental damage]

Climate change adaptation

Climate change is a major consideration on the future available capacity of sewerage networks; wastewater treatment works and watercourses.

Planners and Developers should consider that the impacts of climate change on future development, existing infrastructures, and the environment.

Developments to be designed to reduce the impacts of climatic change on the development itself, the existing infrastructure and the environment; with consideration for hotter, drier summers, greater flood risk and more severe weather events.

To reduce the impacts of climate change on the existing infrastructure LPA should seek a significant reduction in the discharge from developments.

Urban creep has a significant impact on capacity; the paving over of gardens contributes to flood risk and should therefore be discouraged.

[Reason: To ensure that the development is properly drained; prevents flooding and environmental damage]

Water Resources Planning

On 12 March 2012, seven water companies [Anglian Water, South East Water, Southern Water, Sutton and East Surrey Water, Thames Water, Veolia Water Southeast and Veolia Water Central] announced they are consulting on temporary restrictions to be in place by 5 April 2012.

The number of drought measures highlights the need to manage water resources effectively, given increasing pressure on water supply because of population increase, changing household usage patterns and by climate change.

All this despite the UK having a reputation as being a rainy country, we may face a future with less rainfall and less certainty about when that rain will fall.

United Utilities PLC's Water Resources Management Plan published in 2009, sets out our strategy for water resources management for the next twenty-five years and highlights areas where there is likely to be a supply deficit and what activities will be put in place to mitigate any shortfall in supply.

The plan can be accessed here:

<http://www.unitedutilities.com/WaterResourcesPlan.aspx>

United Utilities PLC would encourage all developers and planners to contact United Utilities PLC at the earliest opportunity to enable identification of points of connection with least cost to the developer.

[Reason: To maintain the public water supply and to provide satisfactory/sustainable development]

Increased Water Capacity

The developer is required to pay for their increased capacity [up to the point of a treatment works] and they are only allowed to connect at specific points identified by United Utilities PLC and following approval to connect.

Planners and Developer should obtain local capacity information from the United Utilities PLC Area Teams\Connections who would be able to identify areas where there is current capacity for development; this would be on a case by case basis and developers are required to pay a fee for this service [a pre development enquiry].

[Reason: To maintain the public water supply and to provide satisfactory/sustainable development]

General Water Efficiency Guidance

United Utilities encourages the use of water efficient designs and development wherever this is possible. There are a number of actions developers can undertake to ensure that their developments are water efficient. The most up to date advice for water efficiency and water efficiency products can be found at Waterwise who have recently published a best practice guide on water efficiency for new developments. United Utilities PLC would encourage utilisation of the following water efficiency activities:

- Installing of the latest water efficient products, such as a 4.5l flush toilet instead of the 6l type.
- Minimise run lengths of hot and cold water pipes from storage to tap/shower areas. This minimises the amount of waste during the time the water goes from cold to hot.
- Utilising drought resistant varieties of trees, plants and grasses when landscaping.
- Install water efficient appliances such as dishwashers, washing machines.

[Reason: To maintain the public water supply and to provide satisfactory/sustainable development]

Responding Strategic Housing Land Availability Assessment [SHLAA]

Responding to an individual site identified in a SHLAA will not give a true reflection on impact on the existing infrastructure or provide a clear investment plan for the future.

A single plot will not be constructed, a number of plots will and therefore numerous build scenarios can be created from the list of sites identified in a SHLAA.

What if:

Plots A, B, C and Z are constructed

Or

Plots B; C; D; Y and Z are constructed.

United Utilities PLC can not provide a true impact assessment on the development plots identified in your SHLAA, United Utilities PLC would prefer to meet a member of your team to discuss this in further detail.

[Reason: To ensure that no foul or surface water discharges take place until proper provision has been made for their disposal and to provide satisfactory/sustainable development]

Development adjacent to infrastructure assets

The future expansion of infrastructure assets to meet the needs of future development and changes in legalisation could create a potential conflict with development plans, this may result in £Millions of customers money being spent in building a new infrastructure outside the locality; therefore developments adjacent to United Utilities PLC assets should be discouraged by LPA

Water and sewerage companies have a legal right of access to their assets; this can be for their operational and/or maintenance therefore United Utilities PLC will not permit the building over and/or near its infrastructure assets.

By their nature, wastewater processes generate odour levels, which the public may deem to be unacceptable; in addition, the filter processes attract flies.

To avoid any conflict historically these facilities have been sited away from the general population.

To protect the public from these by-products United Utilities PLC would ask that the Environmental Health Authority be consulted in any future developments adjacent to wastewater infrastructure assets. In most cases, the distance of 400 metres from the WWTW is used as a guide, but this can differ due to local topography, climatic conditions, size and nature of the wastewater infrastructure asset and development in question.

The Upper Eden Neighbourhood must ensure United Utilities PLC is kept informed of any waste management related development and/or planning application within 500m of a Large Diameter Trunk Main [LDTM]. Prior consent will be required from United Utilities PLC before granting approval. It is also essential that this information is included in future planning policy

United Utilities PLC would seek the support of LPA in the LDF and planning application processes to protect/secure land for infrastructure use. Failure could mean United Utilities PLC cannot provide the additional capacity required to support your growth plans therefore a failed and/or unsound development plan.

[Reason: To protect existing and future infrastructure and maintain service]

Infill land

You should be aware that, on occasion, gaps are left between properties; this is due to the presence of underground utility assets. United Utilities PLC will not allow the building over or near to these assets and development will not be acceptable in these locations.

[Reason: In order to allow sufficient access for maintenance and repair work at all times]

Carbon impact

LPA and developers should consider to the total carbon impact of future developments; not only the footprint of the development but also the carbon impact for additional infrastructure assets; their associated treatment processes and their future maintenance and operation requirements. To meet future reduction targets LPA and Developers should considered the wider carbon impact when determining the location of future developments.

[Reason: Satisfactory and sustainable development]

Windfall Sites

Windfall sites siphon investment and resources away from defined development plans; sabotaging infrastructure investment identified to address specific water and wastewater infrastructure needs.

For LPA this could greatly impact their development plans to address areas of deprivation; poor housing; high unemployment; education and health care issues.

A single development site [windfall] must not impair and/or sabotage the time; resources; infrastructure investment and partnerships developed to support the future growth of a LPA and/or number of LPAs.

[Reason: Protect investment, well being of the community and deliver sustainable development]

Greenfield Development

Generally green field sites have limited or no supporting water supply and/or sewerage infrastructure assets; they may be adjacent to existing infrastructure assets that are located on the fringe/limits of the existing water supply and/or sewerage infrastructure networks which are of a small diameter and have limited capacity to support additional capacity.

Providing supporting infrastructure to greenfield development sites could result in the upsizing of the existing assets to support the additional capacity needs; therefore disrupting to the existing community, which would see little or no benefit for their reduced quality of life during the construction, and commissioning phases

The existing community and new residents may also experience a reduced quality of service until the new supporting infrastructure is commissioned.

[Reason: To protect the quality of life for the existing community by

	<p><i>protecting and maintaining the public water supply and sewerage services and to provide satisfactory/sustainable development]</i></p> <p>LIABILITY</p> <p>United Utilities PLC does not promise that the data will provide any particular facilities or functions. You must ensure that the data meet your needs. You are entirely responsible for the consequences of any use of the data, United Utilities PLC give you no warranty about the fitness for purpose or performance of any part of the data.</p> <p>If an electronic format has been used, United Utilities PLC do not promise that the media on which the data are provided will always be free from defects, computer viruses, software locks or other similar code or that the operation of the data will be uninterrupted or error-free. You should carry out all necessary virus checks prior to loading the data on to your computer system.</p> <p>United Utilities PLC does not guarantee that the data will always be accurate, correct, complete, up to date or valid. United Utilities PLC gives you no warranty about the condition or satisfactory quality of any part of the Data.</p> <p>United Utilities PLC is only able to undertake to use reasonable endeavours to ensure that United Utilities PLC is providing you with an accurate a copy from our records.</p> <p>United Utilities PLC are not in any circumstances [including if United Utilities PLC have been negligent] liable for any damage to property, loss of business capital, earnings, profit, reputation, goodwill or enjoyment or any other indirect or consequential loss or damage at all arising out of or in connection with this Agreement or its subject matter.</p> <p>You accept that United Utilities PLC shall not be under any liability to you of any kind, which arising directly or indirectly, for any conditions, warranties, undertakings or representations of any kind, express or implied, statutory or otherwise, relating to the data.</p>
Eden District Council	<p>This letter sets out Eden District Council's comments on the submission draft of the Upper Eden Neighbourhood Plan. They are intended to be passed on the Plan Examiner once appointed, and should be read alongside our earlier comments on the pre-submission draft (attached at Appendix 1).</p> <p>This response was authorised by the Council's Economy and Planning Portfolio Holder on 26 October 1012 and was also considered by Eden District Council Planning Committee on 18 October.</p> <p>Since publication of the earlier draft we have had numerous discussions with the plan's author and this has resulted in a number of changes to the draft plan. This response highlights where changes have been made, and aims to inform the Examiner of areas of particular concern where he or she may need to direct their attention.</p> <p>We have discussed the following areas of policy with the author of the plan and advised that where there is potential conflict with national or local policy some justification should be provided through the Basic Conditions</p>

Statement. In our view these areas are:

1. Whether it is in line with national policy on new housing in the countryside (National Planning Policy Framework (NPPF, paragraph 55), in that it will allow isolated new dwellings to come forward in rural areas.
2. Whether this plan risks less housing coming forward than would be built in its absence. The draft neighbourhood plan has set out a quantum of housing to be delivered in particular locations but has not allocated housing sites. The Eden District Core Strategy at paragraph 4.12 of the adopted Core Strategy states that the proportions of development set out should not be seen as annualised caps to provide flexibility in spatial planning. In addition the methodology does not take account of existing permissions, which already exceed the development rates set out in certain Parishes. For the benefit of the Examiner the completions rates now set out have been revised since the pre-submission draft and are now in line with District Council statistics.
3. Whether Policy UENP6 raises the possibility of any allocated housing sites being 'put back' in the housing supply pipeline (by refusing permission on the basis that unidentified sites have come forward) to the point where it fetters the ability of the Council to demonstrate a five year land supply of identified and deliverable sites. Failure to do so risks planning applications being permitted on appeal, both in Upper Eden and elsewhere in the district.
4. Whether it risks reducing the delivery of affordable housing in the district. Whilst we support the policy's stated intentions, the district council previously raised concerns over new housing delivered under Policy UENP3 counting towards the delivery of affordable housing. Affordable housing is usually considered affordable if it is occupied by someone unable to secure suitable housing on the open market, and this is usually tested by comparing incomes against lower quartile prices or affordable rent levels. In previous comments we suggested that the policy be amended to include a reference to incomes and rents to make sure housing delivered through this policy goes to those unable to secure housing on the open market. A reference to incomes and prices was included which constrained occupation to:
 - People of at least retirement age
 - People whose income is no more than mean income (c.£27,000 today)
 - People unable to secure housing at more than the mean price (c£208,000 today).

Under these restrictions a developer has the option meeting their affordable housing requirements if they can sell a unit for £208,000 (and no more) to an older person earning less than £27,000. This is around market price for a two bed house, and it is likely that as retirees older people will have an income below £27,000. By comparison, under existing Eden District Council policy, the discount a developer would have to offer is equivalent to the difference between the lower

quartile market price (around £151,000 in the district according to CACI data) and an average of 3.5 times income plus any savings/equity held (£94,500 plus equity/savings). There is therefore a clear financial incentive for a developer to build housing for older people in preference to general affordable housing.

The intention of the policy seems to be to incentivise developers to build older people's housing in preference to general affordable housing. This risks unbalancing the market and making areas less sustainable as affordable housing for families may not be built in favour of older people's developments. This seems to be confirmed by the Basic Condition Statement paragraph 66 which states that the market will decide the efficacy of this policy. Policy UENP3 then puts the onus on EDC to seek additional 'general affordable' units where it can prove it is viable to do so. It is not clear how general affordable dwellings would come forward in this scenario. In addition, the National Planning Policy Framework definition of affordable housing clearly states that low cost market housing should not be included within the definition of affordable housing. We would therefore contend that this policy risks reducing the supply of genuinely affordable housing in the district. Members of the Planning Committee have also expressed concern that this policy may have the effect of less 'general' affordable housing coming forward in the area, and wish to encourage and facilitate all types of affordable housing.

On each of these points we are aware that the amount of development potentially triggered by this plan, when compared to the overall amount across the district may not drastically reduce the ability of the council to meet its policy requirements and help meet the housing needs of the residents of the district. We are however concerned that if other similar plans come forward in the district this may make it increasingly difficult for the Council to comply with some national planning policies or deliver corporate priorities (in particular around land supply and affordable housing). We therefore recommend that should the examiner approve the policy, his or her report should make clear that the circumstances of Upper Eden are such that these policies can be applied on an exceptional basis and adoption of the plan should not set a precedent for others to pursue similar policies.

We would also advise the examiner to make clear that any referendum taking place on this plan should relate only to the area covered by the designation order. This is to make it clear that only those living within that area will have the right to vote. The examiner is required to consider whether the area for any referendum should extend beyond the neighbourhood area to which the draft neighbourhood plan relates (see paragraph 8 of Schedule 4B of the 1990 Act as inserted by the Schedule 10 of the 2011 Localism Act).

Finally, the District Council would like to end by thanking the Examiner for their time and expertise and look forward to receiving his or her report.

Yours faithfully

Paul Fellows

Senior Planning Officer

Appendix 1 – Eden District Council's response to the earlier pre-submission draft.

Your Reference:

Our Reference: PLP35/1

Enquiries to: Paul Fellows

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Mobile:

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Date: 30 July 2012

Upper Eden Neighbourhood Plan
c/o Local Links
Vicarage Lane
Kirkby Stephen
CA17 4QX

Dear Mr Woof

Upper Eden Neighbourhood Development Plan - Pre-Submission Draft.

Thank you for sending the pre-submission draft Upper Eden Neighbourhood Plan to Eden District Council for comment. A response was made by officers of the Council on 9 July in order to meet your deadline. The Council has now approved officer's comments and this version should be taken as the final response.

The Council fully supports the community's initiative to produce Neighbourhood Plans. We recognise that the intention of the Neighbourhood Planning system is to allow a community-led approach to produce policies that add detail to or go beyond policies produced by the District Council within a framework of general conformity, and that Eden District Council has a duty to support their production. Our duty at this stage is therefore to helping the Upper Eden Neighbourhood Plan Group in making sure the draft you submit to us is in a form that will allow the Inspector at the forthcoming examination to recommend that it goes ahead to referendum. To help you in this we have looked at the draft against the questions the Inspector will be likely to assess the draft against.

We have tried to outline the areas where there may be some degree of conflict with national planning policy, to help you in preparing justification for these departures. We have also set out the policies that depart from our own planning policies, to allow the Inspector to see whether there may be any general conformity issues.

In our view there are three main areas where the Inspector may require reassurance that the draft is in line with national policy and won't have unintended consequences for housing delivery. These are:

- 1) Whether it is in line with national policy on new housing in the

- countryside, and if not whether it is justified in doing so
- 2) Whether it risks delivering less rather than more housing than would be delivered in its absence
 - 3) Whether it risks reducing the delivery of affordable housing in the district.

In addition we do have some concerns over whether the draft is compliant with EU Regulations on Habitats, and as the authority responsible for making sure this is the case will need to work with you to make sure it is fully compliant before it goes to examination.

Part 1 of this response sets out our thoughts on these issues. We have, where possible, suggested possible amendments or options that could be made to address these issues. We make these suggestions in the spirit of easing the draft plan's progress to adoption, and they should not be taken as the District Council requiring or requesting changes to the document, as ultimately any decisions over the eventual contents and whether to take comments on board rest with the Upper Eden Neighbourhood Plan Group.

As the District Council will be the eventual main user of the Plan to help decide planning applications we have also made comments (Part 2) where we think additional clarification is needed or where issues over delivery and implementation may need further consideration. If there are any areas where we have misinterpreted or misunderstood any policy or intentions please let us know.

PART 1

The Inspector will be examining the draft against the following considerations:

Has the plan taken account of policies in the National Planning Policy Framework (NPPF)?

Much of the NPPF applies to plans prepared by Local Authorities but some direction is given to what neighbourhood plans should contain. We have tried to identify the following areas where there may be the potential for conflict with policies in the NPPF, and where the Inspector is likely to seek reassurance that such departures are justified in light of the characteristics of the Upper Eden area:

Paragraph 55 – Local Planning Authorities should avoid isolated homes in rural areas unless there are special circumstances, such as they are essential for rural worker, make optimal use of or enable a heritage asset, would reuse redundant buildings, or be of an exceptional design.

Paragraph 8.1 of the draft states that one of the intentions of the Upper Eden Neighbourhood Plan is to avoid what's termed 'the sustainability trap'. This would be brought about by:

- Policy UENP1 – allows for additional single plot affordable dwellings in all rural locations, not just those with three existing dwellings or more and as such classed as a settlement by Eden District Council.
- Policy UENP2 – allows for additional housing on farms and at

existing rural businesses. This includes market housing for rent to local people.

- Policy UENP3 – allows additional single plot dwellings for older persons housing, potentially in all rural areas in line with UENP1.

Single plot affordable housing, homes for market rent to those meeting local occupancy or for family members on farms will extend the categories of housing deemed acceptable due to special circumstances envisaged under paragraph 55 of the NPPF. As development rates are set out in the Plan for parishes rather than settlements the Plan is supporting development to come forward outside settlements which could lead to a more dispersed form of development. Although the numbers involved may be small for Eden there is a possibility that as this is one of the first neighbourhood plans this may set a precedent that others may wish to follow, which could undermine national policy. If the Inspector is to conclude that these policies are not in conflict with national policy he or she will need to be reassured that such a departure from national policy is justified and there are special circumstances applying to Upper Eden that are not applicable in other rural areas.

Core Planning Principle 1 & Paragraph 157– planning should be genuinely plan-led. Local Planning Authorities should indicate land use designations on a Proposals Map and allocate sites to promote development. Local Planning authorities should allocate sites to promote development and flexible use of land, bringing forward new land where necessary, and providing detail on form, access and quantum of new development where appropriate

The draft neighbourhood plan has set out a quantum of housing to be delivered in particular locations but has not allocated housing sites. It is also running ahead of Eden District Council's own forthcoming housing allocations strategy, which it is aiming to publish sites for consultation this autumn. The Inspector may wish to consider how the eventual plan influences or changes any future strategy EDC may produce and whether adoption of the UENP may compromise the ability of EDC to meet the policy requirement set out above. For this reason we thought it might be worth outlining the relationship between the two plans, and how we see them working together.

The methodology used for distributing development rates is different to how a local authority would be to required plan for new housing development, as an authority is required to assess options and then allocate sufficient housing sites to show it will meet plan targets. It would also factor in any shortfalls in housing completions since the base date of the Core Strategy, and would take account of any deliverable housing already in the planning pipeline. In effect national planning policy requires a frontloading of identified sites to give the development industry a degree of certainty over whether planning permission will be granted, and to allow the consideration of options on which sites to bring forward.

The draft Upper Eden Plan takes a different approach and rather than allocating sites it encourages small scale unidentified developments to come forward through the planning application process. A development rate is then applied for the next 13 years which should not be exceeded. The justification for this approach is set out at paragraph 14.5 which states that the purpose of Policy UENP6 is to ensure that larger developments that could change the

character of a settlement can be resisted should the Parish wish to do so, and to encourage smaller developments to come forward.

Our understanding is that any housing allocations document the District Council produces will still be able to allocate housing sites (in Kirkby Stephen and the Local Service Centres only, in line with the Core Strategy) and could make assumption that small sites could come forward elsewhere.

Permissions are then monitored and under the intention of the policy (paragraph 14.5) larger sites that may change the character of a particular settlement can be resisted. The Inspector may need to consider:

- Whether Policy UENP6 raises the possibility of any allocations being 'put back' in the housing supply pipeline (by refusing permission on the basis that unidentified sites have come forward) to the point where it fetters the ability of the Council to demonstrate a five year land supply of identified and deliverable sites. Failure to do so risks planning applications being permitted on appeal, both in Upper Eden and elsewhere in the district
- Whether small scale unallocated development will be able to help support local services in the way that targeting of larger allocations may be able to achieve
- Whether the infrastructure demands of such development (particularly cumulatively) can be addressed at the planning application stage
- Whether there will be a reduction in developer contributions as the economies of scale applying to larger sites will not exist if the bulk of housing in the area is delivered on smaller sites.
- Whether single site development outside of settlements can be proved to support the requirement of sustainable development.

We do however appreciate that it is open to the Upper Eden to pursue this approach, and that the numbers of dwellings outside the Key Service and Local Centres may be small and may not risk the scenarios outlined above. Again, our concerns are more over whether any Inspector would see this as a precedent allowing other plans coming forward to the point where it runs the risk of compromising the ability of local authorities to meet national policy requirements. We would therefore advise that justification needs to given for why this approach is appropriate to the Upper Eden and would not be advisable elsewhere.

Paragraph 184 - Neighbourhood Plans and Orders should not promote less development than set out in the Local Plan.

One of the Government's intentions in introducing the Neighbourhood Planning system is that it allows local communities to bring forward additional housing over and above that which may be planned by the Local Authority. You may need to make sure that evidence is available to reassure the Inspector that this will be the case. To help you we discuss why and if this could happen below.

Firstly more up to date figures for households are available which suggest that those presented may need updating. The draft does not include a source for the data presented at Table 6 which should be cited, but we assume it is a mixture of data previously supplied by the Council and input from the Parishes. The latest data is attached at Annex 1 and is from electoral role data for 2012 and empty home data for 2011. You may need to take these into account as they indicate that there are an additional 588 households not currently included in the figures.

We are also not certain the current draft does risk less housing coming forward, but this obviously depends on the rate at which unidentified sites come forward. To help you think about whether there is a risk we have identified the following issues:

- The current draft does not explicitly factor in any shortfalls in delivery since the Core Strategy's base date of 2003/4 - over the last eight years only 57% of planned housing has been completed across the district, and only 33 dwellings completed in the Key Service Centre of Kirby Stephen against a target of 133. The District Council would be expected to take these shortfalls into account when allocating new development. On checking the figures the approach to calculating development rates does however rectify this, as:
 - Table 6 applies the full 22 year Core Strategy allocation for Kirkby Stephen across the next 15 years
 - Previous housing completions have not been factored in.
 - The table sets out annual rates over 13 years whereas the Core Strategy has another further 14 monitoring years left to run (2011/12 – 2024/25), resulting in this compressed annualised rate increasing the figures slightly

Again, whilst therefore not such necessarily an issue for Upper Eden we are concerned that this approach of 'resetting the clock' and not taking account of shortfalls could set a precedent for similar approaches elsewhere which could potentially reduce housing delivery. To avoid this being an issues we would also advise that the methodology is changed to update figures, take shortfalls or surpluses into account for the key and local service centres and amend the period to 14 years. We do not think that this would result in any significant changes to the figures or their distribution.

- An argument could be made that the draft places additional burdens on developers that are currently untested for viability – for example the new requirement for older people's housing and possible ducting for broadband access. Viability testing is currently to be done on a case by case basis where necessary at planning application stage (see our detailed comments below). We would advise that some consideration of how Paragraph 173 of the national Planning Policy Framework is met, which states that plans need to be deliverable, the sites and scales of development set out in plans should not be subject to a scale of obligations and policy burdens which may mean their ability to be delivered viably is threatened.
- The setting of an upper limit on development rates could be seen to

be inconsistent with the presumption in favour of sustainable development set out in the NPPF. The Eden District Core Strategy at paragraph 4.12 of the adopted Core Strategy states that the proportions of development set out should not be seen as annualised caps to provide flexibility in spatial planning. We note that the penultimate sentence of paragraph 14.1 does state that Kirkby Stephen is excluded from Policy UENP6 but a reading of the policy itself cross refers to the table which includes it, so a reading of the policy alone would assume it's included. As a way forward one option could be to remove Kirkby Stephen from Table 6, and state in the supporting text that housing rates at Kirkby Stephen are set in the Core Strategy and will be managed through EDC's forthcoming housing supply strategy - although we would stress that this is a decision for UENP in consultation with the Parish Council. Furthermore as the methodology does not take account of existing permissions it could also be seen to have already prevented any additional housing coming forward in certain Parishes. For example extant planning permissions at Brough already exceed the rate set out over the lifetime of the draft plan (see Annex 1). For these reasons you will need to address the issue of whether the plan will bring forward additional housing.

Annex 2 of the National Planning Policy Framework - eligibility for affordable housing should be determined through reference to local incomes and house prices. Paragraph 50 – local authorities should plan for a mix of housing for different groups of the community, and identify the size, type, tenure and range of housing available, and create mixed and balanced communities

We support the intentions of this policy but have some concerns over how it may be delivered and what its effects may be. This policy appears to extend the definition of intermediate affordable housing to include market housing limited to occupation by older people. If this is the intention whilst this policy will have a positive effect on meeting the needs of older people it does extend the definition of affordable housing set out in Annex 2 of the NPPF and Eden District Council's own definition set out in paragraph 3.1.5 of the Housing SPD. Both of these definitions set out affordable housing against an ability to pay, in terms of the relationship in between incomes and prices/rents. Our concern is that by allowing developers to meet their affordable housing requirements through the provision of market housing for older people this may reduce the ability of the area to deliver affordable housing for all those defined as being in housing need. We would advise that the policy is amended to make it clear that housing delivered through this policy would be within the definition of affordable. Part 2 of this response expands on this point.

Is the draft plan in general conformity with the Local Plan?

We recognise that paragraph 5.1 of the UENP states that it is in general conformity with Eden District Council's strategic policies and agree that the test of whether the UENP conforms with the Local Plan is one of general rather than absolute conformity.

In our view there are policies in the draft UENP that clearly depart from those set out in the Core Strategy. However, this is acceptable as long as the strategic policies in the Core Strategy are not undermined in such a way as

to make the Plan undeliverable.

We therefore offer a commentary below on where we feel the draft may depart from our planning policies so that you (and eventually the Inspector) can establish a view on whether there is a general conformity issue.

There is no current Government guidance on what is meant by general conformity but it is an established principle in planning and previous versions of the now defunct Planning Policy Statement 12 has explained it as:

“The test is of general conformity and not conformity. This means that it is only where an inconsistency or omission in a development plan document would cause significant harm to the implementation of the spatial development strategy, that it should be considered to not be in general conformity. The fact that the development plan document is inconsistent with one or more policies in the spatial development strategy, either directly or through the omission of a policy or proposal, does not, by itself, mean that the document is not in general conformity. Rather the test is how significant the inconsistency is from the point of view of delivery of the spatial development strategy.”

The main areas of departure from the Eden District Council’s Local Development Framework are:

UENP1 – Rural exceptions policy would apply in all areas, not just those where there are settlements of three or more dwellings (potential conflict with Policy CS9 of the Core Strategy and paragraph 4.1.1 of the Housing SPD).

UENP2 – This allows for additional new dwellings to come forward on farms and associated with rural businesses, and includes homes to rent out to local people at market rents or for holiday letting. This is in potential conflict with Policy CS1(1) of the Core Strategy which sets out sustainable development principles and CS9 restricting small scale rural developments to affordable dwellings only.

UENP 3 – This policy alters the EDC approach towards seeking affordable housing by including market housing for older people within the definition.

UENP6 – This applies a development rate against which new development will be assessed at planning application stage. Paragraph 4.12 of the adopted Core Strategy states that the proportions of development set out (including 7% of new housing at Kirkby Stephen) should not be seen as annualised caps to provide flexibility in spatial planning.

UENP7 – LSC De-designation policy. This alters the approach that would be taken to assessing applications in de-designated areas, and allows for single market dwellings to be permitted in these areas. Under existing policy this would be restricted to affordable dwellings only.

Does the draft plan meet European Obligations?

Two particular European Directives must be adhered to for development plans to be adopted, and the Council is the responsible authority for making sure there are complied with as it responsible for eventually adopting the UENP. They are:

- 1) [The Strategic Environmental Assessment \(SEA\) Directive](#), brought into legislative force through the [Environmental Assessment of Plans and Programmes Regulation 2004](#)

An SEA is mandatory for plans/programmes which set the framework for future development consent of projects listed in the EIA Directive 85/337/EEC (Article 3 of the SEA Directive and Section 5 of the 2004 Regulations), except where no significant impacts can be demonstrated. This potentially includes Neighbourhood Plans.

We note that a screening exercise has been carried out and the effects of each policy has been examined to see if there are any significant impacts, with the conclusion being that none are identified and a full SEA is not required. We agree with this conclusion. Item 10 of Schedule 2 of the [2011 Environmental Impact Assessment Regulations](#) indicates that for planning applications, urban development projects of more than 0.5 hectares would be considered potentially significant, and this is a useful rule of thumb when considering whether an SEA may be needed. Given the levels of development coming forward outside Kirkby Stephen and the Local Service Centres we would not consider them to be capable of causing significant effects under the meaning of the Directive or Regulations. Please however note that if a need for a full Appropriate Assessment is triggered (see below) the need to do an SEA is mandatory

The Habitats Directive

Regulation 2 of the Neighbourhood Planning Regulations requires that a qualifying body must submit sufficient information to allow the local authority to make an assessment under the Conservation of Habitats and Spaces Regulations 2010 that the plan will not have any significant effect on site protected under European law (for Eden this includes Special Protection Areas (SPAs) and Special Areas of Conservation (SACs). Several sites are within or adjacent to the Upper Eden Area, including The North Pennines, Asby and Moore House Special Areas of Conservation.

The relevant piece of European Law is the EU Habitats Directive. Article 6(3) of this Directive states that: *“Any plan or project not directly connected with or necessary to the management of the site but likely to have a significant effect thereon, either individually or in combination with other plans or projects, shall be subject to appropriate assessment of its implications for the site in view of the site's conservation objectives”.*

Under this requirement all plans must be screened for potential significant effects, and if this screening demonstrates a potential risk a full appropriate assessment must be made of those effects, with mitigating actions set out.

A screening report concluding no significant effects on Habitats is supplied. This has assessed the impact of the plan against six different criteria, concluding low or positive effects. We are concerned that this screening does not currently look at the effects in combination with other plans and projects or at the effects in view of the site's conservation objectives and could therefore be said to not meet the requirements of the Habitats Directive. We have previously corresponded with you on this issue and will need to work with you to make sure this is carried out by the time the Plan is

submitted to the Inspector.

If you have any questions about this response or require further information please let me know. We wish you every success in bringing the plan through to adoption.

Yours sincerely

Paul Fellows
Senior Planning Officer

PART 2 - Detailed comments on policies

The following comments discuss how and whether policies can be implemented, and to make sure that the operation of the policies is not hindered by any uncertainties over meaning or intent.

Policy UENP1 is intended to extend the use of the existing rural exceptions policy set out in Core Strategy CS9. At present this policy is amplified through supplementary planning guidance (paragraph 4.1.1) which requires housing to be in a settlement of three or more dwellings. This policy is intended to extend this to allow single plot exceptions development in all locations.

Comments

- Read in isolation from the supporting text the policy does not seem to alter the intentions of paragraph 4.1.1 of the Housing SPD. Reference could be made to the relaxation of the criteria for such a policy operating in an area where less than three current dwellings are present to make sure this is noted when planning applications are assessed. Similarly, the supporting text states that there is no intention to apply a maximum size of any property built, but this is not included in the policy itself, which will form the basis for decision making. We would suggest that to make this clear the draft policy should state that it operates in all rural locations and no size restriction applies.
- Paragraph 9.2 states that there is no intention to impose a size restriction on new housing developed through this policy. This would overtake the Council's current policy of restricting self build affordable housing to 125 square metres set out in paragraph 4.2.2 of the Housing SPD. This was set to ensure viability of development and to ensure properties were affordable, and was considered large compared to the HCA's minimum standard of 109 sq m for a four bedroom house. Is there any evidence to suggest that any house above this size and restricted to 60% of market value (paragraph 4.1.5 of the Housing SPD) would be genuinely affordable when compared against the definition of affordable used by the Council (paragraph 3.1.5 of the Housing SPD)? Is there also a risk that the policy raises expectations that larger houses can be built, only for land owners to find they cannot viably be delivered or the loan to value ratios are such that a mortgage cannot be secured?

Policy UENP2 extends the possible use of dwellings on farms from farm diversification type uses to housing for family members, holiday lets or rented accommodation for local people. We understand that the policy is also intended to include housing also alongside existing rural businesses. The policy could be clarified to make it more explicit that it includes the development of new housing alongside any rural business (and not just those on a farm) as from the title and reasoned justification the policy seems to only apply to land within farms.

We would also ask whether the policy contains sufficient safeguards to ensure that a significant quantity of development is not delivered on single sites if development rates are not exceeded.

Policy UENP3 requires any housing of four or more units in Kirkby Stephen or Local Service Centres to address the need for older people's housing and also supports the use of single plot development elsewhere for older people's housing where a need has been established. The policy also covers those requiring specialist housing due to personal incapacity. We comment on this policy in Part 1 of this response, but a more detailed response is set out here.

Whilst we support the intentions of this policy our concerns are:

- This policy on the face of it extends the national definition of affordable housing set out in Annex 2 of the NPPF and Eden District Council's own definition set out in paragraph 3.1.5 of the Housing SPD, both of which define affordable in terms of the relationship in between incomes and prices/rents. We are therefore concerned that where housing for older people is developed under this policy as written there is no requirement for it to be 'affordable' in terms of going to older people in housing need, and yet it counts towards affordable housing targets. We would advise that it needs to made clear that such housing is targeted towards older/incapacitated people defined as being in need.
- Affordable housing policy in Eden District requires on site contributions on sites of more than four dwellings and applies to all those identified as being in housing need. By requiring the provision of accommodation for older people at the same threshold this would seem to mean that it may be less possible to deliver affordable housing for other younger age groups, or give developers the option of developing housing for older age groups in preference to meeting wider housing need.
- Does this policy raise enforcement issues, particularly when someone owns the property? The intention is that the Section 106 agreement contains a clause that the house is sold on to another household with a member over retirement age. Is there a risk that it could be occupied for long periods of time by a household not meeting the criteria should the older person pass on or move away, for example into a retirement home? Alternatively is the expectation that the District Council would take enforcement action when the older person is no longer present in the household? Any further guidance on this would be appreciated.

UENP4 – This policy allows departure from a density figure of 30 dwellings per hectare for sites under one hectare. Since publication of the National Planning Policy Framework this is in line with national policy and we have no comments to make.

UENP 5 – This policy requires submission of a connectivity statement with a planning application to demonstrate how broadband access has been catered for, and where no internet service provider is available requires suitable ducting to the public highway or local access networks. This is supported in principle, but we have questions over:

- How this would operate in practice? At present the District Council does requires viability statements for larger housing sites (above four dwellings) with an affordable element where there is a possibility that policy requirements cannot be complied with. These are examined by external consultants which incurs a cost for the council. Is the intention that all applications made where no ISP is available will be subject to some form of assessment?
- Who will be producing the guidance mentioned in the first paragraph?
- Does this policy need to require connectivity for all new development, or can it be restricted to certain uses?
- Is the intention to make this policy enforceable through the use of a planning condition attached to any permission? If this is the case you need to be aware that any condition must meet the five legal tests set out in statute (Community Infrastructure Planning Regulations Regulation 122) and paragraph 204 of the NPPF. These state that any planning condition must be necessary to make the proposed development acceptable in planning terms, must be directly related to the development; and must be fairly and reasonably related in scale and kind to the proposed development. We are concerned that any attempt to attach conditions needs to be relevant to the planning of development, and the provision of access through ducting is considered a must rather than a desirable feature. It has not been practice in the past, for example to place planning conditions on new development to ensure phone lines are installed. Are there any examples elsewhere that have shown to be enforceable?
- Is there a risk that case costs are incurred when the eventual occupier either does not require an internet connection or can gain it eventually from another source, for example future 4G networks?

Local Occupancy Condition - This is mostly the same as the Local Connection Criteria used by Eden District Council and set out in its Housing SPD Appendix E and in the table supporting Policy CS7 of the Core Strategy. It adds a criterion covering the written support of the Parish Council, replaces reference to the County with reference to the Upper Eden and the District.

<p>Upper Eden Community Interest Company</p>	<p>Comments on UENDP with particular reference to Eden Councils report.</p> <p>Introduction</p> <p>The Upper Eden Community Interest Company is the sponsoring body for the Upper Eden Neighbourhood Development Plan. It is the legal body for the Upper Eden Community Plan Group who conceived the idea of seeking to change planning policy for the benefit of the community in the Upper Eden area. It pressed for a greater role for the parishes and a greater degree of flexibility in the way policy was implemented to take more account of the specific circumstances that affected local people.</p> <p>The UECIC thanks Brough Parish Council and its Clerk for their role in the Neighbourhood Planning process as lead parish and Qualifying Body. It also wishes to thank Action for Communities in Cumbria, Cumbria Rural Housing Trust, Eden District Council, other Members of the Project Steering Group, Crimson Cameleon, the Department of Communities and Local Government and all the individuals, groups and bodies who have responded to the various drafts and versions of the UENDP over the preceding 2 years. The Upper Eden Community Interest Company wholeheartedly supports the Upper Eden Neighbourhood Development Plan, the implementation of which will assist greatly in the delivery of the Upper Eden Community Plan and its action points. It considers that the UENDP meets the Basic Conditions as set out in paragraph 8 of Schedule 4B to the Town and Country Planning Act 1990 as amended. These comments on the Upper Eden Neighbourhood Development Plan below are made by the Upper Eden Community Interest Company in response to the Report by the Communities Director to Eden District Council's Economy and Planning Portfolio 26th October 2012. The numbering in this document refers to the numbering in the EDC Report CD104/12 and Appendix 1 attached thereto. The concerns raised in EDCs response to the pre-submission version of the Plan shown in Appendix 2 of that report have been responded to previously in the UENDP Consultation Statement Annex B2.</p> <p>These comments have been approved for submission to the Neighbourhood Plan Examiner by the Directors of the Company.</p> <p>3.6. Instruction to the Examiner.</p> <p>To clarify the requirement on general conformity, the Council has referred in error to the provision that the NP must be in general conformity with its 'own development plan'. The correct phrasing is 'general conformity with the strategic policies contained in the development plan for the area of the authority (or any part of that area)' para 8 of schedule 4B.</p> <p>3.7 bullets</p> <p>First bullet, the Council gives some examples of the type of special circumstances it envisages justifying the approach in NPPF 55. The provision of affordable housing to meet an identified local need is also one such special circumstance.</p> <p>Second bullet, the plan provides an annual rate of development within each parish which is there as a general guide for the parish against which it can judge if a proposal is likely to breach it. The parish is empowered to offer advice to the LPA about a particular proposal and the annual development rate, which the Council can override if it has sufficient justification for doing so. Exceptionally and <i>in extremis</i> the Council could possibly justify ignoring the parishes view if it felt that it was in jeopardy of not meeting its strategic housing figure and a particular proposal in a particular parish would remedy</p>

that. However, this is not particularly likely given the overall quantity of development expected in Upper Eden compared to that within the District as a whole.

Third bullet, the pattern of development in Upper Eden, both in the past and, as the most appropriate one for the future, is for small scale sites to come forward. The fact that they are generally unallocated is a consequence of the Council's own decision to filter out smaller sites (for understandable reasons of resourcing). However, this is no reason to seek to prevent the most appropriate and deliverable pattern of development from occurring. The Neighbourhood Planning process is precisely the mechanism that is needed to overcome bias in the system that favours large sites over smaller ones for reasons of administrative efficiency. The UENDP does not prevent the Council from allocating any sites as it wishes, although it should do so in Upper Eden in cognisance of the development rate that the UENDP sets. Moreover, the NPPF specifically allows an LPA to make an allowance for windfall sites if it chooses.

Therefore, it is considered that the Council's concern is overstated.

Fourth bullet, the affordable housing delivered through UENDP3 is still affordable housing as defined by NPPF and will meet the Council's corporate priority. If the Council considers its definition of affordable housing to be strategically significant then it can seek to include it within a Strategic Document, rather than an SPD which has not been subject to any independent scrutiny. In any case, the Council's argument that it will be economically favourable for develops to construct UENDP3 affordable housing is not proven, because of the greater land take required for bungalows and; the restriction of state retirement age will significantly reduce the potential market for such dwellings locally. Furthermore, the UENDP will significantly increase the numbers of affordable housing in the rural areas where it is needed, and for a specifically identified need, through self build secured through UENDP1. This delivery mechanism has significant advantages over more traditional methods, namely, it has no reliance of the public purse, it provides affordable housing where there is needed and no Registered Provider would wish to build, it is more responsive to need, and will make a significant contribution to the sustainability of rural communities.

Paragraph 3.8

The Council has raised the issue of precedent for the examination of this Neighbourhood Plan and is worried that if other such plans from Neighbourhoods come forward it may compromise the Council's ability to deliver land supply and affordable housing. There is nothing in the UENDP that threatens land supply or affordable housing. Indeed, it is likely that the UENDP will increase both the delivery of housing generally and that of affordable housing. The Council seeks that the examination report provides guidance to Neighbourhood Groups in other areas. This may not be possible under the terms of the Examination.

Appendix 1

In the report on the submission draft plan, the Council makes the following points:

Paragraph 1

The Council seeks justification in the Basic Conditions statement that NPPF 55 will allow new housing in the countryside as proposed in the UENDP. It is considered that this is provided in the relevant sections of the BCS (paragraphs 54 and 55 of the BCS).

Paragraph 2

The Council queries whether there is a risk that less housing than would be built without the NDP. Aside from noting that the Council's latest housing

trajectory (see below) shows that the Councils strategy for delivery housing so far shows there is a shortfall across the whole district of (5258-1207= 4051). This means that the Council needs to deliver almost three times as much housing per year in the next 13 years as it has done per year in the last 5 years; it should also be emphasised that 4.12 of the Core Strategy is not replaced or diminished by the UENDP. Rather 4.12 relates to district wide figures for LSCs (20%) and a figure for Kirkby Stephen (7%). The development rates within the UENDP will not result in less development coming forward overall, rather they will help deliver acceptable schemes in sensitive LSC villages and provide small quantities of additional housing outside of these areas to meet identified need. Therefore the Council should see the UENDP as a positive plan which will help deliver the housing that is required. Nevertheless the greatest threat to the delivery of housing in Upper Eden is not the policy framework, which (with the UENDP) is inherently positive and flexible; but the decision making of the Council which must embrace the policies put forward in the NDP and positively seek solutions. We are grateful that the Council has recognised that the figures in UENDP6 now align with the statistics that the Council has provided.

Paragraph 3

The Council has raised a hypothetical concern about allocated sites being 'put back' because other unidentified sites have come forward to a point that it cannot demonstrate a five year supply of housing. This concern seems to turn on whether an allocated site would be considered undeliverable if the development in a parish rate has been met. It is acknowledged by Officers that this is a low risk and is only a possible outcome. Clearly, if an allocated housing site is refused consent because the annual rate has been met and the parish have decided that to allow consent would breach the rate, and the Council agree, then the site can remain part of the five year supply and would be deliverable if required (at least up to the annual rate times 5). If the site is so large that it is greater than 5 times the annual rate for Kirkby Stephen (i.e. 120 houses) then it should be phased in any case. If the site in question is in a smaller LSC then the numbers involved are hardly likely to affect the District wide land availability. The largest site of this type would be in Brough and 5 years supply there is 17.5 houses. To suggest that this could undermine the Council's five year supply of housing which equates to about 1558 or 90 times the supply in Brough is overstated.

Paragraph 4

The Council has acknowledged that the UENDP 3 includes the required references to local income and house prices. However it has misrepresented the policy in its criticism - it does not provide low cost market housing. The housing market is so difficult at present that the delivery of even 20% rented affordable housing units is almost impossible even on a clean greenfield site. However, the need for affordable housing is much greater that can be delivered in the traditional s106 manner. This has become even harder since the reduction of grant funding from the HCA which means that developers or RPs must forward fund the construction and finance costs of rented AH, which effectively prevents development at all because no bank is lending to build rented affordable housing up front. Therefore, other more imaginative ways of delivering affordable housing must be found. This policy may, in the first instance, make sites more deliverable if this type of affordable housing is more attractive to developers (although this is not proven because of the greater land take required for bungalows and the limited market secured through the age, local connection and income restrictions). If HCA funding returns (or an equivalent) then general rented affordable housing may be provided under this policy too. However, if sites do become more deliverable

	<p>generally and older persons affordable housing is dominant in relevant schemes, this policy will only affect the first 30% of affordable housing. The Councils aspiration target of 50% in CS10 can be used to seek additional general affordable housing if that is viable and in line with NPPF 173. On larger sites (over 14 units) at least 2 'general' affordable housing units must be provided in any case. The Council is also securing 3% of the value of market housing in schemes of three units or less, which is to provide affordable housing in the relevant area. This fund is designed to meet the need for general affordable housing and can be offered as grant aid to secure the type of affordable housing that the Council considers appropriate in any given area.</p> <p>Concluding remarks</p> <p>The Council refers again to the issue of precedent in the preparation of other Neighbourhood Development Plans. It is not within the scope of the Examination of this Neighbourhood Development Plan to seek to curtail or in any way fetter the approach or policies that other Neighbourhood Planning Groups choose to pursue. Neighbourhood Development Plans are one of a powerful set of tools for local people to ensure that they get the right types of development for their community. The Upper Eden Neighbourhood Plan is considered to do that for the Upper Eden Area, other areas may choose similar or different policies according to their own circumstances and ambitions. The CIC agrees with the Council that the referendum area should be the same as the Neighbourhood Area.</p> <p>It also joins with the Council in thanking the Examiner for his time and input into this first examination of a Neighbourhood Plan in the Country.</p>
<p>Janet Nuttall, Natural England</p>	<p>Natural England is a non-departmental public body. Our statutory purpose is to ensure that the natural environment is conserved, enhanced, and managed for the benefit of present and future generations, thereby contributing to sustainable development.</p> <p>Natural England has recently responded to the Upper Eden Community Group on the draft Upper Eden Neighbourhood Plan and Habitats Regulations Assessment (HRA). We are satisfied with the conclusions of the HRA that Plan policies are unlikely to result in adverse effects on European sites, although some uncertainty remains at this strategic stage, for example in relation to the details of foul sewerage disposal and potential disturbance associated with location and design of development. However, we are satisfied that the Neighbourhood Plan includes a caveat to specify that development will only be taken forward where it can be demonstrated that it will not have an adverse effect on European sites.</p> <p>We are also pleased to note that the Plan requires development proposals to have due regard to national and international designations for biodiversity and landscape, including their protection and enhancement.</p> <p>I hope that these comments are helpful. For any correspondence or queries relating to this consultation only, please contact me using the details below. For all other correspondence, please contact the address above.</p>
<p>Ali Morgan, Policy Advisor, NFU</p>	<p>The NFU wishes to thank Eden District Council for this opportunity to comment on the Upper Eden plan on behalf of our members. The NFU represents 55,000 farm businesses in England and Wales involving an estimated 155,000 farmers, managers and partners in the business. In addition we have 55,000 countryside members with an interest in farming and the country. The NFU represents 2,545 Farmer and Grower members in Cumbria.</p>

The NFU is keen to encourage development which supports economically sustainable farming and enables the industry to contribute to a prosperous local economy and vibrant rural community whilst minimising negative environmental impacts. And we wish to encourage a positive response to the development needs of farming, particularly where these arise in response to regulatory changes.

General Comments

We welcome the proposals in this plan and believe that it represents a positive approach to development that will support the needs of the farming community, and the wider rural community. We support the proposals for Housing on farms in particular.

Specific Comments - UENDP2 Housing on farms

We welcome the proposals under Paragraph 10 for housing on farms. We believe this will provide greater flexibility and help farming families to manage generational transition and improve the viability of their businesses.