

Sent by email to: [ldf@maidstone.gov.uk](mailto:ldf@maidstone.gov.uk)

18/12/2020

Dear Sir/ Madam

**Response by the Home Builders Federation to the consultation on the review of the Maidstone Local Plan – Preferred Approach**

1. Thank you for consulting the Home Builders Federation (HBF) on the review of the Maidstone Local Plan. The HBF is the principal representative body of the housebuilding industry in England and Wales with our members accounting for over 80% of all new housing built in England and Wales in any one year. Our representations reflect the views of discussions with our membership of national and multinational corporations through to regional developers and small local housebuilders. It is important that the Council recognise the variety of businesses that make up the housebuilding sector and seeks to ensure its local plan provides sites that are support this variety of business. In particular we would welcome explicit support for small and medium sized builders in the type of site allocated. As we will mention later the sites developed by this sector compliment delivery from larger sites ensuring consistent supply across the plan period.
2. Our primary concerns relate to approach taken in meeting housing needs as set out in the consultation document as well as some of the proposed amendments to current development management processes. However before considering these matters the HBF would also like to raise our concern regarding the approach taken to this consultation and the need to ensure that the submitted plan is supported by all the necessary evidence. The Council have chosen to undertake a 3-week consultation with the expressed objective of not having to meet a higher level of housing needs that would result from the application of the new standard method that the Government consulted on earlier this year.
3. Whilst the Council would evidently prefer to plan for fewer homes, we would caution against rushing a plan through to submission without having all the necessary evidence in place. The Council will be fully aware of the difficulties faced by one of their neighbouring authorities who rushed to submit plans prior to the introduction of the standard method. Such an approach rather than expediting the plan towards adoption has led to the inspector's halting the examination of that plan with the likelihood of it being withdrawn. Therefore, whilst the HBF encourages the Council to move forward swiftly with a reviewed local plan that identities further sites for development we do not want to see this plan fail due to a desire to submit prior to any changes in the standard method.



## Housing needs

4. The Council are proposing in policy SS1 to adopt a new plan period of 2022 to 2037 which will deliver 18,210 new dwellings. As the Council note in paragraph 5.7 this will need to be reviewed to take account of the most up to date data on affordability, but it will also be important for the plan period to reflect the base date for the evidence. However, as set out in paragraph 60 of the National Planning Policy Framework this is the minimum number of homes that should be planned for in this local plan. The Council will need to consider, through the duty to co-operate, whether there are any unmet needs in neighbouring areas.
5. Whilst we note that the Council has highlighted the progress made in neighbouring authorities with regard to plan preparation the Council has not considered the impact of London's unmet needs on Maidstone. As the Council are surely aware one of the outcomes of examination into the new London Plan was that the panel of inspectors did not consider there to be sufficient evidence to support the Mayor's estimates on supply. Paragraph 174 of the Panel's report notes that the overestimation of the contribution of small sites reduces the supply of new homes from 65,000 to 52,000 homes per annum. This means that there is a shortfall of some 140,000 homes between 2018 and 2028 in the capital against its own assessment that the capital needs to deliver 66,000 homes each year across the plan period to meet future need and address the current backlog.
6. In addition, there is also the concern that the capital will struggle to meet the 52,000 homes identified in the examination report as being deliverable. London has consistently delivered fewer homes than it required with average delivery over the last five years of just under 33,000 additional dwellings with the first year of the new London Plan delivering 36,000 new dwellings. Without a significant increase in delivery, it is almost inevitable that the identified shortfalls will drive increased levels of out-migration from the capital to surrounding areas adding pressure in housing markets where affordability is already poor.
7. At present the London Plan has not been adopted due to disagreements between the Mayor and Secretary of State for Housing and Local Government as to the modifications required ensure the plan is sound. The Mayor has indicated he will publish the plan without the Government's modifications, but this would not remove the fact that there remain unmet needs. Furthermore, the most recent modification proposed by the Secretary of State to allow the redevelopment of employment uses in the capital to meet housing needs and avoid Green Belt release are unlikely to address the significant shortfalls in supply.
8. The Mayor is looking for partner authorities across the South East to deliver additional homes to address the unmet needs in London. With its excellent transport links to the capital and the fact that land in the Borough is largely unconstrained from national designations such as Green Belt and AONB, it will be important for the Council to carefully consider whether it could increase supply to meet some of London's needs, or indeed any other neighbouring area such as

Medway which will struggle to meet its development needs. A failure to properly consider unmet needs in neighbouring areas would be a failure of its duty to co-operate and could lead to the plan failing to be found legally compliant.

9. In addition to London's unmet needs the Council will also need to consider whether there are any other reasons why housing supply should be increased as set out in paragraph 2a-010 of Planning Practice Guidance. The Council must consider whether the minimum number of homes it is required to deliver will support its economic growth aspirations prior to the preparation of the pre-submission local plan.

## **Housing Supply**

10. The Council considers that it will be necessary to identify sufficient land to supply an additional 5,790 new homes taking into account existing permissions and allocations. It is stated in paragraph 5.42 that there is a political preference to provide a significant proportion of these new homes within new settlements and to limit growth in Maidstone and in rural settlements. Whilst the HBF welcomes the identification of land to deliver new settlements it is important not to be overly reliant on the delivery of new settlements in meeting housing needs. We are concerned that many local authorities use new settlements as a means of reducing the amount of housing that is delivered on smaller sites on the edge of existing settlements. It is important that the Council identifies a range of sites both in terms of size and location to ensure that it can maintain a strong and stable land supply that meets needs consistently across the plan period.
11. Whilst the HBF does not generally comment on the specific allocations within local plans would stress the importance of the Council having the proper evidence to support its allocations and in particular the evidence supporting the allocation of Garden Communities. The Council do not appear to have included specific delivery trajectories for each allocation in this plan as part of its evidence. This information is essential to allow for the proper scrutiny of any delivery expectations and whether needs will be met in full. The HBF would expect this to be included in the next iteration of this plan.

## *Garden Communities*

12. The development of new settlements requires clear evidence that there is a commitment from all relevant parties not just in relation to new homes and employment uses but also with regard to strategic infrastructure. There must be a reasonable prospect that the infrastructure required to support those new communities will be delivered. This was a key failing of both the North Essex Authorities part 1 local plan and the Uttlesford Local Plan. Both authorities failed to provide sufficient justification that each of the new settlements and in particular the infrastructure to support those settlement would be viable or delivered within the plan period. Given that the Council's own evidence highlights a range of complex infrastructure and ownership issues associated with, for example, the

proposed new settlement at Heathlands it will be important to ensure that all of these are resolved prior to submission if the Council is to have its plan found sound. As we highlighted earlier the Council must not rush forward without this evidence in order to submit a plan with a lower housing number as it is likely that this will delay the delivery of new homes rather than accelerate them.

#### *Smaller sites*

13. In particular it is important that the Council, as required by paragraph 68 of the NPPF, ensures that 10% of total housing supply is delivered on sites of one hectare or less. Up until the 1980s, small developers once accounted for the construction of half of all homes built in this country, resulting in greater variety of product, more competition, and faster build-out rates. Since then, the number of small companies has fallen by 80% following the introduction of the plan-led system in 1990.
14. The HBF has undertaken extensive consultation with its small developer members. One of the chief obstacles for small developers is that funding is extremely difficult to secure with a full, detailed, and implementable planning permission. Securing an implementable planning permission is extremely difficult if small sites are not allocated. Without implementable consents lenders are uneasy about making finance available or else the repayment fees and interest rates they set will be very high. Small developers, consequently, need to invest a lot of money and time up-front in the risky business of trying to secure an allocation and a planning permission, and this is money that many small developers do not have. This is why the Government, through the NPPF, now requires local authorities to allocate more sites of varying sizes.

#### *Contingency*

15. The Council state at paragraph 7.1 of the consultation document that due to the uncertainties created by Brexit and the pandemic they do not consider it prudent to allocate a surplus of land beyond what is required to meet its minimum development needs. This approach is not sound for two reasons. Firstly, it does not meet the requirement set out in paragraph 11 of the NPPF that plan is sufficiently flexible to adapt to rapid change. It is important that the supply of land ensures that should some sites not deliver as expected then there must be sufficient capacity to ensure needs are met in full. It stands to reason that in order for a minimum number of homes to be delivered then the Council needs to allocate land to deliver beyond its minimum requirement.
16. Secondly the Council should not be preparing a plan for the next 17 years on the basis of what is happening now. This is the antithesis of positive planning. The Council should be looking to ensure its minimum needs are meet in full and the only way to ensure this happens is by including a contingency within its supply of development land.

17. Finally, the Council's decision to deliver a significant proportion of its future housing needs in garden communities means that there is a greater risk of the housing requirement not being met should there be delays to either of the proposed new settlements. The infrastructure requirements necessary to deliver new settlements inevitably creates an increased risk of delay and we would therefore suggest that the Council plans to deliver more homes than their requirement. HBF recommends that Councils plan for at least a 20% buffer in their land supply to ensure that their development needs are met in full. This contingency should also consist of small and medium sized sites in order to give more certainty that needs will be met in full.

## **Viability**

18. The viability assessment is still to be published and without this evidence it is not possible to comment on whether the Council's policy requirements, such as those for affordable housing, are viable and the plan as whole is deliverable. However, we would like to make some broad comments on viability in relation to the approach establishing the 2019 NPPF and its supporting guidance.
19. The 2019 National Planning Policy Framework (NPPF) requires development viability to be resolved through the local plan and not at the planning application stage. The aim of this approach is to ensure that, as outlined in paragraph 57 of the NPPF, decision makers can assume that development which is in conformity with the local plan is viable and to, ultimately, reduce the amount of site-by-site negotiation that takes place. As such it will be important that the Council's approach to its viability assessment and the costs it places on development are cautious to take account of the variability in delivering the range of sites that will come forward through the local plan. To support local planning authorities in preparing their viability evidence the HBF has prepared a briefing note, attached to this response, which sets out some common concerns with viability testing of local plans under the latest guidance and how these should be addressed. Whilst this note focuses on all aspects of the viability testing of the residential development and should be taken into account, we would like to highlight four particular issues with whole plan viability assessments.
20. The first issue is with regard to the approach taken to abnormal infrastructure costs. These are the costs above base construction and external costs that are required to ensure the site is deliverable. Prior to the 2019 NPPF viability assessments have taken the approach that these cannot be quantified and were addressed through the site-by-site negotiation. However, this option is now significantly restricted by paragraph 57 of the 2019 NPPF. As such these abnormal costs must be factored into whole plan viability assessments. We recognise that the very nature of an abnormal costs is difficult to quantify, but it is a fact that they are often substantial and can have a significant impact on viability. Where and how these costs arise is also variable. They can occur in site preparation but can also arise with regard to the increasing costs of delivering infrastructure, such as upgrades to increase the capacity of utilities. It is also the case that abnormal costs

are higher on brownfield sites where there can be a higher degree of uncertainty as to the nature of the site and the work required to make it developable.

21. The HBF undertook some work with its members in the North East and whilst this is a different context to that found in Maidstone it provides an indication as to the abnormal costs that can occur. This study, which was prepared to support our comments on the Durham Local Plan, indicated that abnormal costs on the four PDL sites was £711,000 per net developable hectare and an average of £459,000 per hectare on the 10 greenfield sites. Whilst we recognise that abnormal costs are expected to come off the land value, we are concerned that if abnormal costs are high then it will result in sites not being developed as the land value will be insufficient to incentivise the landowner to sell. It is therefore important that a significant buffer is included within the viability assessment to take account of these costs if the Council are to state with certainty that those sites allocated in the plan will come forward without negotiation.
22. Secondly, we would encourage the Council to use the upper end of any of the ranges suggested with regards to fees and profit margins. Again, these will vary from developer to developer but given that the Government want to minimise negotiation on planning obligations it would make sense to use the highest point of any range. The changing landscape with regard to viability assessment could lead to development slowing significantly if the correct variables are not taken into account.
23. Thirdly, the council must ensure that all the policy costs associated with the local plan are included within the viability assessment. Whilst affordable housing and infrastructure contributions for the majority of the additional costs that are placed on developers by the Council it is important that the cumulative impact of all policies are tested. With regard to the local plan review the Council will need to consider the impact of its proposed policies on bio-diversity net gains, electric vehicle charging, sustainable design and construction; and renewable energy.
24. Finally, the approach to land values needs to be a balanced approach and one that recognises that there will be a point at which land will just not come forward if values are too low to take account of policy and infrastructure costs. There are a variety of reasons why a landowner is looking to sell their land and it cannot be assumed that they will absorb significant reductions in land values to meet policy costs. Land is a long-term investment and the returns being offered must take account of this.

## **Development Management Policies**

### **Policy HOU5: Density of Residential Development**

25. Given that the NPPF focuses that planning takes a more positive approach to the management of development we consider that the wording on HOU5 should be amended to reflect this overarching consideration. This policy currently states in

the second sentence that proposals that fail to make the most efficient use of land will be refused. This should be amended to read "*Development proposals that make efficient use of land will be supported*". Whilst only a slight change it will ensure a more positive approach to decision making on the efficient use of land as envisioned by the NPPF.

#### **TRA4: Parking Standards**

26. This policy introduces a range of new requirements for electric vehicle charging points. The HBF supports the use of electric and hybrid vehicles and the introduction of the necessary supporting infrastructure via a national standardised approach implemented through the Building Regulations to ensure a consistent approach to future proofing the housing stock. It is the industry's preference for a national approach to the provision of charging points *rather* than local authorities setting their own standards. We consider this is necessary to allow research and development and supply chains to focus upon responding to agreed national targets, and for training providers to plan their programmes to equip the labour force to meet these new requirements. It is fundamentally inefficient to create a plurality of standards.
27. The Government has recognised in recent consultations the possible impact of any requirement to provide electric vehicle charging points on housing supply, where the requirements are not technically feasible. The same consultation proposed introducing exemptions for such developments. The costs of installing the cables and the charge point hardware will vary considerably based on site-specific conditions in relation to the local grid. The introduction of Electric Vehicle Charging Points (EVCP) in new buildings will impact on the electricity demand from these buildings especially for multi-dwelling buildings. A requirement for large numbers of EVCPs will require a larger connection to the development and will introduce a power supply requirement, which may otherwise not be needed. The level of upgrade needed is dependent on the capacity available in the local network resulting in additional costs in relation to charge point instalment.
28. Where such costs are high the Government are proposing that any potential negative impact on housing supply should be mitigated with an appropriate exemption from the charge point installation requirement based on the grid connection cost. The consultation proposes that the threshold for the exemption is set at £3,600. In instances where the additional costs are likely to make developments unviable, it is the Government's view that the EVCP requirements should not apply and only the minimum Energy Performance of Buildings Directive requirements should be applied.
29. As such we would suggest that the requirement for EVCPs should not be included in the local plan because the Government's proposed changes to Building Regulations will provide a more effective framework for the delivery of charging points for electric vehicles.

## **Q&D 6 Technical standards**

### *Part 1) Internal Space Standards*

30. Whilst the HBF shares the Council's desire to see good quality homes delivered across Maidstone we also consider that space standards can, in some instances, have a negative impact upon affordability issues and reduce customer choice. In terms of choice some developers will provide entry level two, three and four-bedroom properties which may not meet the optional nationally described space standards, but which would allow on lower incomes can afford a property which has their required number of bedrooms. Given the poor affordability of property in the area and the tight constraints on development it is therefore important that the Council can provide robust evidence that there is a need to introduce the optional space standards – that these standards are a must have rather than a nice to have policy.
31. As the Council are aware paragraph 56-020 of PPG establishes the type of evidence required to introduce space standard through the local plan. The Council must therefore have a robust justifiable evidence to introduce any of the optional housing standards, based on the criteria set out in PPG. However, we could not find any evidence presented by the Council that space standards are needed in either area. Without the necessary evidence the inclusion of part 1 of Q&D6 cannot be considered to be justified.

### *Part 2) Accessibility standards*

32. When considering the implementation of the optional standards it is important to note that footnote 46 in paragraph 147 in the NPPF states that policies on adaptable and accessible housing should be used: "... *where this would address an identified need ...*". Whilst we recognise that the Government are currently considering its position with regard to part m of the building regulations the current approach is needs-based and as such the number of homes built to part M4(2) should be proportional to identified needs. Whilst the HBF recognises that there is a need for some homes to be built to higher accessibility standards the Council have not provided sufficient evidence from sources such as those identified in paragraph 56-007 of PPG to support the requirement for all new homes are built to the optional standard part M4(2).
33. Firstly, the evidence presented appears to be based on the fact that there is an ageing population. We would not dispute that across the UK there is an ageing population, however the HBF does not agree that this leads to the conclusion that all new homes should be built to part M4(2).
34. Secondly, the need for more accessible homes above current standards is further reduced for those who live in a recently constructed house. All new homes will be built to part M4(1) which, according to Part M of the Building Regulations, will ensure reasonable provision for most people, including wheelchair users, to



approach and enter the dwelling and to access habitable rooms and sanitary facilities on the entrance storey. As such these standards are likely to be suitable for the significant majority of people as they get older and including many those with long term health problems or disabilities.

35. Thirdly many older people with a long-term health problem or disability will be able to adapt their current home to meet their needs. Given that many of those who will need to adapt their homes in future will already live in the Borough this will reduce the number of people moving to meet their housing needs. Some evidence related to this is provided in the English Homes Survey. Whilst we recognise that this is a national study it provides an indication as to the proportion of more adaptable homes that are required. The study examined the need for adaptations in 2014/15<sup>1</sup> and noted that just 9% of all households in England had one or more people with a long-term limiting illness or disability that required adaptations to their home and that this had not changed since 2011-12. So, despite an increasing proportion of older people in the general populace the proportion of the population requiring adaptations had not changed. The survey also found that in 2014-15, 81% of households that required adaptations in their home, due to their long-term limiting disability, felt their current home was suitable for their needs and that 10% of those households whose home required an adaptation were trying to move somewhere more suitable.
36. So, whilst there is an ageing population this does not directly lead to the need for all new homes built to higher accessibility standards. An ageing population will lead to more people who are likely to have a mobility problem but not necessarily more people who need a new more home built to the M4(2). Many older people, and indeed those of all ages with a long-term limiting illness or disability, will be able to adapt their existing homes to meet their needs and do not need to find alternative accommodation. It is also the case that for many people a new home built to the mandatory M4(1) standard will offer sufficient accessibility and adaptability throughout their life.
37. If the Council wants to adopt higher accessibility standard it must be based on appropriate evidence as to the need for such homes. Until such evidence is provided part b of LP06 cannot be considered sound.

## **Conclusion**

38. We hope these representations are of assistance in taking the plan forward. Should you require any further clarification on the issues raised in this representation please contact me.

Yours faithfully

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<sup>1</sup>[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/539541/Adaptations\\_and\\_Accessibility\\_Report.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/539541/Adaptations_and_Accessibility_Report.pdf)

A handwritten signature in black ink, appearing to read 'Mark Behrendt'.

Mark Behrendt MRTPI  
Planning Manager – Local Plans SE and E  
Home Builders Federation  
Email: [mark.behrendt@hbf.co.uk](mailto:mark.behrendt@hbf.co.uk)  
Tel: 07867415547