

Sent by email to: [localplan@dartford.gov.uk](mailto:localplan@dartford.gov.uk)

07/04/2021

Dear Sir/ Madam

### **Response by the Home Builders Federation to the consultation on the Dartford Local Plan**

1. Thank you for consulting the Home Builders Federation (HBF) on the pre-submission Dartford Local Plan. The HBF is the principal representative body of the housebuilding industry in England and Wales and our representations reflect the views of discussions with our membership of national and multinational corporations through to regional developers and small local housebuilders. Our members account for over 80% of all new housing built in England and Wales in any one year.
2. **We would like to submit the following representations on the Local Plan, and we would welcome, in due course, participating in hearings of the Examination in Public.**

#### **Duty to Co-operate.**

3. The National Planning Policy Framework (NPPF) establishes that effective and on-going joint working is an integral part of the plan making process that will, amongst other things, determine whether development needs that cannot be met wholly within a plan can be met elsewhere. The NPPF goes on to state at paragraph 27 that in order to demonstrate effective and on-going joint working strategic policy making authorities should:

*“... prepare and maintain one or more statements of common ground documenting the cross-boundary matters being addressed”.*

However, at present we could find only two statements of common ground (SoCG) the Council has prepared with a neighbouring authority – namely Sevenoaks District Council and the London Borough of Bexley. It is important that the Council publishes SoCGs with all neighbouring areas to ensure that its activities with regard to the duty to co-operate can be effectively scrutinised.



4. In particular we would expect a clear commentary in the SoCGs with the GLA and relevant London Boroughs on how the Council has considered its role in meeting the unmet needs of London. As the Council will be aware the examination report on new London Plan was published in October 2019 and outlined in paragraph 174 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.
5. However, there is also the concern that the capital will struggle to even 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. Given this situation it is surprising that no mention is made of this issue within the Duty to Co-operate statement. Reference is made to the issue in the statement of common ground with Bexley and the reduction in their housing target from 1,245 dpa to 685 dpa. However, what has not been noted is that this was a reduction based on capacity not housing needs. Even if Bexley, and indeed every other London Borough, were to meet its target there would still be a shortfall in housing needs across the capital. It should also be noted that the SoCG states that Bexley would only be able to deliver its London Plan target of 645 towards the end of 10-year plan period of the new London Plan. This would suggest that there are local shortfalls in supply that will need to be addressed elsewhere.
6. Whilst we acknowledge that this is a difficult issue to address the Mayor has made it clear in his recent letter to the Secretary of State<sup>1</sup> that he has no intention of asking other authorities across the South East to meet London's unmet needs. In washing his hands of this matter, it is being left to local planning authorities in and around London to consider this issue with their neighbours as part of the process of preparing their local plans. The issue of unmet needs cannot be deemed to have been effectively considered under the duty to co-operate if this has solely been at high level regional scale meetings with the GLA. If the activities outlined in the duty to co-operate statement and SoCGs are to be deemed to be effective the Council must also be able to show how it has considered with its neighbours, the potential for further allocations to meet some of London's unmet needs as part of the preparation of this local plan.

## **Plan period**

### The Plan period is unsound as it is not consistent with national policy.

7. The Council have chosen a plan period starting in 2017/18 and ending in 2036/37. However, the decision to commence the plan period from 2017/18 is not consistent

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<sup>1</sup> [https://www.london.gov.uk/sites/default/files/letter\\_to\\_the\\_mayor\\_of\\_london\\_13\\_march\\_2020.pdf](https://www.london.gov.uk/sites/default/files/letter_to_the_mayor_of_london_13_march_2020.pdf)

with the approach to establishing housing needs as set out in Planning Practice Guidance. The standard method uses the current year as the start of the base period with the most recent work place-based affordability ratios setting the appropriate uplift for an area above the base period. This is set out in paragraph 2a-004 of PPG. Given that the standard method seeks to wrap up under, or over, delivery from previous years through the affordability adjustment it is not consistent with national policy to include delivery from years prior to the point at which the standard method is calculated. The logical point at which to commence the plan period would be the year from which the affordability ratio is taken when establishing the affordability adjustment – in this case 2019/20.

#### **Policy S4: Borough Development Levels**

The policy is unsound as insufficient consideration has been given to the unmet needs of neighbouring areas and there is insufficient flexibility within planning housing supply.

8. The Council are proposing a housing requirement of 790 dwellings per annum (dpa), 14 homes above the minimum level of housing needs suggested by the standard method. The Council's justification for this decision is based on the need to support economic development in the Borough and is consistent with their aspirations to support a growth in jobs and services. Whilst we welcome the Council's decision to adopt a higher housing requirement than that resulting from the standard method, we still have the following soundness concerns with the proposed levels of development in the plan:
  - the Council have not considered an additional uplift to take account of the unmet needs of London;
  - the proposed level of supply will not address the Borough's needs for affordable housing;
  - there is limited flexibility in expected level of supply to meet the housing requirement; and
  - No evidence that 10% of all homes will be delivered on allocated sites of less than 1 ha.

#### *London's unmet needs*

9. As noted above there are significant unmet needs arising from the Mayor's failure to prepare a London Plan that met the needs of the Capital. Given that paragraph 60 of the NPPF which states that Council's must take into account any needs that cannot be met within neighbouring areas it will be important that the Council gives due consideration to increasing its housing requirement and land supply to address some of the capital's unmet needs. Given that the Council's duty to Co-operate statement makes no reference to London's unmet needs it does not appear that any consideration has been given to this matter as is required by national policy.

### *Affordable housing needs*

10. At present the level of affordable housing need in Dartford is estimated in the Housing Needs Assessment (HNA) to be 263 dpa – around 33% of the Borough’s housing requirement. However, what is clear from the Council’s affordable housing policy and its supporting evidence not all sites will contribute towards meeting the Borough’s affordable housing needs and as such there will be a shortfall of affordable housing. The Council’s HNA suggests on page 92 that a 35% affordable housing target, such as the one adopted by the Council, would deliver 26% of all housing as affordable units. This equates to 205 affordable homes per annum – 58 homes short of the need for such homes each year. In order to deliver sufficient affordable homes to meet the needs of Dartford’s current and future population will require the Council to deliver more homes overall. Given that paragraph 2a-024 of PPG states that “... *an increase in the total housing figures included in the plan may need to be considered where it could help deliver the required number of affordable homes*” we would recommend that the Council increases the supply of land for housing development to support affordable housing delivery by allocating further sites in this local plan.

### *Lack of flexibility in supply*

11. The Council state in paragraph 2.50 of the local plan that the decision to adopt a requirement of 790 dpa builds in flexibility in meeting the minimum requirement using the standard method. However, if the 790 dpa is required in order to ensure its regeneration objectives are met, a position put forward by the Council and one we support, then this is the minimum number of homes the Council should plan for, and as such any flexibility should be provided in its supply against this requirement and not the 776 dpa minimum resulting from standard method.
12. Using the Council housing supply estimates in the Strategic Housing Land Availability Assessment (SHLAA) we are concerned that whilst the Council can show a five-year housing land supply in 2021/22, the assumed year of adoption, the following 7 years there is no five-year housing land supply. Effectively for those years the plan will be considered out of date. This position can be seen in our appendix 1 which sets out the rolling five-year housing land supply for Dartford based on the Council’s delivery expectations in Appendix D of the SHLAA.
13. This evidence clearly shows that there is insufficient supply in the early years of plan following adoption even if past oversupply is taken into account. Paragraph 35 of the NPPF states that in order for a plan to be effective it must be deliverable across its plan period. As such a plan that is likely to be out of date within one year of its adoption cannot be considered a sound plan. In order to rectify this matter of soundness the Council must seek to identify further small and medium sized sites that can come forward earlier in the plan period.
14. In addition to ensuring a five-year land supply in the early years of the plan post adoption further allocations would also enable to Council to address the current

shortfall in supply across the whole plan period. Using the Council's proposed starting point for the plan period, one that is not consistent with national policy, this shortfall is 256 homes. However, on the basis of a plan period starting in 2019/20, a position that is consistent with national policy, this shortfall increases to 690 homes – a substantial shortfall that should be addressed through this plan.

15. In order to improve flexibility and address the overall shortfall in new homes across the plan period the Council may need to consider amendments to the Green Belt boundary if further supply on previously developed land cannot be identified. Given the high levels of unmet needs of London and pressing need for new market and affordable homes in the Borough we would suggest that there are the exceptional circumstances required to amend Green Belt boundaries through this local plan. The soundness of amending Green Belt boundaries to provide flexibility in supply was considered by the High Court in *Crompton Parish Council & Ors v Guildford BC* [2019] EWHC 3232 (Admin) in 2019 and found that it was reasonable to remove Green Belt land to provide headroom against slippage and for flexibility to ensure that a rolling five-year housing land supply could be maintained. In that case, headroom of 4000 dwellings on an OAN of 10,678 dwellings was found to be justified.

*Sites of less than 1 ha*

16. Paragraph 68 of the NPPF requires the Council to identify, either in the local plan or the brownfield register, sufficient sites of less than 1 ha to meet at least 10% of the housing requirement over the plan period. Whilst the SHLAA indicates on page 11 that a high proportion of its deliverable and developable sites are less than 1 ha there is no evidence presented as to the number of homes that this will deliver and if these sites are to be allocated or identified in the brownfield register.
17. Indeed, across the plan there is no mention of how the Council intends to support delivery from small and medium sized house builders. Up until the 1980s, small developers 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.
18. 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.

## **Policy M1: Good Design for Dartford**

Part f of this policy is unsound as it is inconsistent with national policy.

19. Part f of this policy seems to require the inclusion of public art in large developments. Whilst we recognise the Council's desire to include such a policy the Council cannot make its provision mandatory as it is not required to make a development acceptable in planning terms. We would suggest that this policy is either deleted or amended in a way that encourages public art on larger developments but does not require its provision. In addition, part f of policy M1 is too vague, stating that it applies to large development without clarification as to what is meant by a large development. Given that paragraph 16 of the NPPF requires policies to be clearly written and unambiguous, clarity must be provided as to what is meant by a large development, if the policy is to be retained.

## **Policy M7: Affordable Housing**

Part 2c of the policy is unsound as it is not effective or justified.

20. We welcome the Council's decision to adopt an affordable housing policy that recognises that both the location and site type will fundamentally affect its ability to provide affordable housing. However, what is evident from the Viability Assessment is that development on brownfield sites is marginal even at 20% affordable housing or will need to be sold at values towards the upper end of those identified in the study as being likely in Dartford to be viable. It is also notable that the additional costs such as the Future Homes Standard (tested in the viability study through a 5% contingency on build costs) indicates that development becomes marginal on brownfield sites even at the higher end of the value range expected in Dartford. Given the higher risk of abnormal costs on brownfield sites we would suggest that the policy needs to provide greater flexibility than is currently being suggested in part 2c).
21. The policy at part 2c) sets out that in exceptional circumstances and where it can be justified the Council will allow off site provision or a commute sum. Whilst these flexibilities are welcomed, we would suggest that there may be circumstances where a reduction in overall provision is necessary on the basis of viability. As such we propose the policy is amended to read:

*2. Where residential developments are required to provide affordable housing in accordance with criterion 1, these should:*

- a) Provide a mix of affordable housing tenures, with a target for 35% or more of all dwellings to be defined as affordable housing (except in central Dartford where the target is 20%).*
- b) Ensure that design layouts and facilities are not segregated, with no barriers to access or differences in appearance between different tenures; and*

c) *Make provision on-site.*

3. *In exceptional circumstances where it can be justified that the costs of developing a site mean it is not viable or practical to provide on-site affordable housing the Council will consider:*

a) *off-site provision on an alternative site in the Borough;*

b) *a commuted sum; and/or*

c) *a reduction in the level of affordable housing to be provided.*

## **Policy M8: Housing Mix**

Requirement for all homes to be built to part M4(2) is not justified.

### *Accessible and adaptable homes*

22. The HBF and its members recognise that some homes will need to be built to higher accessibility standards to meet the demand for such homes. Indeed, many of our members will adapt homes to meet these requirements on request when someone is buying a new home. However, the HBF does not consider it necessary for all new homes to be built to part M4(2) of the Building Regulations in order to meet needs moving forward.
23. Whilst it would appear likely that the Government from the Government's recent consultation on part M of the building regulations will adopt part M4(2) as the mandatory standard until this point the adoption of these standards must be, as established through footnote 46 to paragraph 127 of the NPPF and paragraphs 56-005 to 56-007 of PPG, evidenced and address an identified need. The Council's evidence is set out in the Dartford and Ebbsfleet Housing Needs Assessment (DEHNA) and we are concerned that the Council's approach to assessing the level of need for accessible and adaptable homes is flawed.
24. Firstly, we note that the Council use the CORE LA lettings evidence with regard to its estimates of needs. It is important to note that this relates solely to social housing. Therefore, it cannot be assumed that evidence from this source can be directly translated into the wider market. However, at paragraph 6.32 of the DEHNA the Council makes the assumption that the 17.3% of households on the CORE LA Lettings data requiring an adaptation to meet their mobility requirement can be directly translated across to need in the market as a whole. This is not the case as demand is likely to be higher amongst those in need of social housing compared to those in market housing.
25. Secondly, no assessment is made as to how many of those requiring adaptations to their home could have their current home adapted to meet their needs. This is a key consideration in the assessment with paragraph 56-007 stating that planning authorities should consider "*the accessibility and adaptability of existing housing stock*". The assumptions made in the DEHNA must consider how many homes are currently accessible or could be modified to meet their current owner's needs. Many of the modification that are required by people as they age can be made to

the existing stock and it must be recognised that new homes built to part M4(1) are significantly more accessible than older homes. 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 home built to the M4(2) standard.

26. Finally, the assumption is made in paragraph 6.35 that in order to ensure those who need a more accessible home can obtain one it is appropriate for all homes to be built to this standard. The HBF disagrees with this statement and considers it to be inconsistent with national policy which requires the provision of the optional technical standard to meet an identified need. The HBF suggests that at present the requirement for all homes to be built to part M4(2) is not justified.

### *Older people's housing*

27. The Council set out in part 3 of this policy that they will support the provision of specialist accommodation for specific groups. However, aside from this statement of support the Council have not outlined the level of need for specialist accommodation to support the needs of older people. It will be important that the Council includes in the local plan, whether in this policy or a standalone policy, the level of need for such accommodation in order to support decision makers and improve transparency. In particular it will help in the implementation of part 2a) of policy M9 which indicates support for development where there is a lack of five-year housing land supply.
28. Whilst we recognise that there is not a requirement in national policy for the Council to maintain a specific supply of accommodation for older people identifying the level of need and monitoring supply would aid decision makers in the application of part 2a) in relation to older people's accommodation and ensuring that positive decisions are made if there is a deficiency in supply. Such an approach would also ensure transparency and support effective monitoring and review of the Council's approach to older peoples housing.

### **Conclusion**

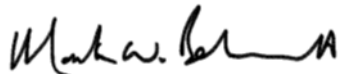
29. At present we do not consider the plan to be sound, as measured against the tests of soundness set out in paragraph 35 of the NPPF, in the following key areas:
  - The Council has not provided up to date statements of common ground with neighbouring authorities;
  - Unmet needs of London have not been taken into account in plan preparation;
  - Housing supply does not meet needs in full and is insufficiently flexible to ensure the Council has a five-year land supply across the plan period;
  - No evidence to show that the plan will deliver 10% of its housing on small sites of less than one hectare.
  - The affordable housing lacks the necessary flexibility to reflect the evidence on viability;



- Requirement for all new homes to be built to part M4(2) has not been justified.

30. We hope these representations are of assistance in taking the plan forward to the next stage of plan preparation and examination. I would also like to express my interest in attending any relevant hearing sessions at the Examination in Public. Should you require any further clarification on the issues raised in this representation please contact me.

Yours faithfully

A handwritten signature in black ink, appearing to read 'Mark Behrendt', with a stylized flourish at the end.

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## Appendix 1 – Rolling five-year housing land supply.

### Sedgefield - surplus not carried forward.

|                      | 17/18 | 18/19 | 19/20 | 20/21 | 21/22 | 22/23 | 23/24 | 24/25 | 25/26 | 26/27 | 27/28 | 28/29 | 29/30  | 30/31  | 31/32  | 32/33  | 33/34  | 34/35  | 35/36  | 36/37  |
|----------------------|-------|-------|-------|-------|-------|-------|-------|-------|-------|-------|-------|-------|--------|--------|--------|--------|--------|--------|--------|--------|
| Annual req.          | 790   | 790   | 790   | 790   | 790   | 790   | 790   | 790   | 790   | 790   | 790   | 790   | 790    | 790    | 790    | 790    | 790    | 790    | 790    | 790    |
| Cumulative           | 790   | 1,580 | 2,370 | 3,160 | 3,950 | 4,740 | 5,530 | 6,320 | 7,110 | 7,900 | 8,690 | 9,480 | 10,270 | 11,060 | 11,850 | 12,640 | 13,430 | 14,220 | 15,010 | 15,800 |
| Delviery             | 1031  | 1013  | 541   | 494   | 785   | 1121  | 1168  | 1036  | 433   | 464   | 574   | 673   | 831    | 874    | 815    | 878    | 1004   | 870    | 607    | 362    |
| Cumulative           | 1,031 | 2,044 | 2,585 | 3,079 | 3,864 | 4,985 | 6,153 | 7,189 | 7,622 | 8,086 | 8,660 | 9,333 | 10,164 | 11,038 | 11,853 | 12,731 | 13,735 | 14,605 | 15,212 | 15,574 |
| Surplus/<br>deficit  | 0     | 0     | 0     | -81   | -86   | 0     | 0     | 0     | 0     | 0     | -30   | -147  | -106   | -22    | 0      | 0      | 0      | 0      | 0      | -226   |
| 5-year req.          | 3,950 | 3,950 | 3,950 | 3,950 | 3,950 | 3,950 | 3,950 | 3,950 | 3,950 | 3,950 | 3,950 | 3,950 | 3,950  | 3,950  | 3,950  | 3,950  |        |        |        |        |
| add deficit          | 3,950 | 3,950 | 3,950 | 3,950 | 4,031 | 4,036 | 3,950 | 3,950 | 3,950 | 3,950 | 3,950 | 3,980 | 4,097  | 4,056  | 3,972  | 3,950  |        |        |        |        |
| Buffer               | 198   | 198   | 198   | 198   | 202   | 202   | 198   | 198   | 198   | 198   | 198   | 199   | 205    | 203    | 199    | 198    |        |        |        |        |
| Total annual<br>req. | 4,148 | 4,148 | 4,148 | 4,148 | 4,233 | 4,238 | 4,148 | 4,148 | 4,148 | 4,148 | 4,148 | 4,179 | 4,302  | 4,259  | 4,171  | 4,148  |        |        |        |        |
| 5-year supply        | 3,864 | 3,954 | 4,109 | 4,604 | 4,543 | 4,222 | 3,675 | 3,180 | 2,975 | 3,416 | 3,767 | 4,071 | 4,402  | 4,441  | 4,174  | 3,721  |        |        |        |        |
| Surplus/<br>deficit  | -284  | -194  | -39   | 457   | 310   | -16   | -473  | -968  | -1173 | -732  | -381  | -108  | 100    | 182    | 3      | -427   |        |        |        |        |
| 5YHLS                | 4.66  | 4.77  | 4.95  | 5.55  | 5.37  | 4.98  | 4.43  | 3.83  | 3.59  | 4.12  | 4.54  | 4.87  | 5.12   | 5.21   | 5.00   | 4.49   |        |        |        |        |



Sedgefield - surplus carried forward.

|                      | 17/18 | 18/19 | 19/20 | 20/21 | 21/22 | 22/23 | 23/24 | 24/25 | 25/26 | 26/27 | 27/28 | 28/29 | 29/30  | 30/31  | 31/32  | 32/33  | 33/34  | 34/35  | 35/36  | 36/37  |
|----------------------|-------|-------|-------|-------|-------|-------|-------|-------|-------|-------|-------|-------|--------|--------|--------|--------|--------|--------|--------|--------|
| Annual req.          | 790   | 790   | 790   | 790   | 790   | 790   | 790   | 790   | 790   | 790   | 790   | 790   | 790    | 790    | 790    | 790    | 790    | 790    | 790    | 790    |
| Cumulative           | 790   | 1,580 | 2,370 | 3,160 | 3,950 | 4,740 | 5,530 | 6,320 | 7,110 | 7,900 | 8,690 | 9,480 | 10,270 | 11,060 | 11,850 | 12,640 | 13,430 | 14,220 | 15,010 | 15,800 |
| Delviery             | 1,031 | 1,013 | 541   | 494   | 785   | 1,121 | 1,168 | 1,036 | 433   | 464   | 574   | 673   | 831    | 874    | 815    | 878    | 1,004  | 870    | 607    | 362    |
| Cumulative           | 1,031 | 2,044 | 2,585 | 3,079 | 3,864 | 4,985 | 6,153 | 7,189 | 7,622 | 8,086 | 8,660 | 9,333 | 10,164 | 11,038 | 11,853 | 12,731 | 13,735 | 14,605 | 15,212 | 15,574 |
| Surplus/<br>deficit  | 0     | 464   | 215   | -81   | -86   | 245   | 623   | 869   | 512   | 186   | -30   | -147  | -106   | -22    | 3      | 91     | 305    | 385    | 202    | -226   |
| 5-year req.          | 3,950 | 3,950 | 3,950 | 3,950 | 3,950 | 3,950 | 3,950 | 3,950 | 3,950 | 3,950 | 3,950 | 3,950 | 3,950  | 3,950  | 3,950  | 3,950  |        |        |        |        |
| add deficit          | 3,950 | 3,950 | 3,486 | 3,735 | 4,031 | 4,036 | 3,705 | 3,327 | 3,081 | 3,438 | 3,764 | 3,980 | 4,097  | 4,056  | 3,972  | 3,947  |        |        |        |        |
| Buffer               | 198   | 198   | 174   | 187   | 202   | 202   | 185   | 166   | 154   | 172   | 188   | 199   | 205    | 203    | 199    | 197    |        |        |        |        |
| Total<br>annual req. | 4,148 | 4,148 | 3,660 | 3,922 | 4,233 | 4,238 | 3,890 | 3,493 | 3,235 | 3,610 | 3,952 | 4,179 | 4,302  | 4,259  | 4,171  | 4,144  |        |        |        |        |
| 5-year<br>supply     | 3,864 | 3,954 | 4,109 | 4,604 | 4,543 | 4,222 | 3,675 | 3,180 | 2,975 | 3,416 | 3,767 | 4,071 | 4,402  | 4,441  | 4,174  | 3,721  |        |        |        |        |
| Surplus/<br>deficit  | -284  | -194  | 449   | 682   | 310   | -16   | -215  | -313  | -260  | -194  | -185  | -108  | 100    | 182    | 3      | -423   |        |        |        |        |
| 5YHLS                | 4.66  | 4.77  | 5.61  | 5.87  | 5.37  | 4.98  | 4.72  | 4.55  | 4.60  | 4.73  | 4.77  | 4.87  | 5.12   | 5.21   | 5.00   | 4.49   |        |        |        |        |