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10/12/2021

Dear Sir/ Madam

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

1. Thank you for consulting the Home Builders Federation (HBF) on the Maidstone 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.

### **Strategic and non-strategic policies**

2. Before commenting on specific policies, the HBF would recommend that in taking the plan forward the Council must be clearer in setting out the which policies are strategic, which are not strategic and what is supporting text within the local plan. For example, the local plan includes policy LPRSP10: Housing which appears to set out the minimum housing requirement for the local plan, but this is outlined in the main text whereas sub sections of this policy are set out in text boxes. It is therefore unclear as to whether the Council consider LPRS10 to be a strategic policy or just a thematic heading. Given that paragraph 20 of the NPPF requires plan to explicitly state which policies are strategic policies, and those that are not, it will be important that the Council addresses this issue prior to submission.

### **Policy LPRSS1 – Maidstone Borough Spatial Strategy**

Policy is unsound as it is inconsistent with national policy and has not been fully justified.

#### *Plan Period*

3. Paragraph 22 of the NPPF requires strategic policies in local plans to look ahead over a minimum timeframe of 15 years from the point at which the plan is adopted. If the plan is to be submitted and examined in 2023 then the earliest point at which the Council will be able to adopt the plan is likely to be in mid-2024. As such the



plan will only look ahead for 14 years. The Council should therefore extend the plan period by at least a single year in order to be consistent with national policy.

### *Housing needs*

4. The HBF would concur with the Council's calculation of the local housing needs assessment using the standard method as being 1,157 dwellings per annum. Whilst this is set out in the supporting text, we would suggest for the sake of clarity that the minimum housing requirement it is set out in LPRSS1. However, as set out above, the Council will need also to extend the plan period by at least a year in order to be consistent with national policy. Therefore, the HBF would recommend that policy LPRSS1 or LPRSP10 (if it is considered to be a strategic policy) be amended to state that over a plan period of 2022/23 to 2037/38 the Council will deliver at least 18,512 dwellings.
5. But, as the Council note in the duty to co-operate statement, they must not only look to meet their own needs in full but also consider the unmet needs of neighbouring areas. With regard to neighbouring authorities there would appear, from the duty to co-operate statement and the statements of common ground, to be no unmet needs. However, as with all authorities in the South East regard also needs to be had as to the relative influence of London and the unmet needs that were identified during the examination of the London Plan.
6. Maidstone's excellent rail links to the capital has seen increasing levels of positive net in-migration from London in recent years as well as maintaining strong commuting links. For example, between 2012 and 2019 annual net migration from the capital increased from 498 to 1,270<sup>1</sup> people per annum, with the 2011 census indicating that 24% of the 31,000 people living in Maidstone but working elsewhere worked in London<sup>2</sup>. This clearly indicates that Maidstone is part of a wider London housing market and could offer a viable alternative for many of those households who are unable to meet their housing needs in London. As such it is important that the Council must not only consider the unmet needs for housing in those Council areas bordering the Borough but also those present in London.
7. Over the next ten years there is projected to be a shortfall of 14,000 homes per annum in the capital that resulted from the over assessment of delivery from small sites and the subsequent amendments by the Panel examining the London Plan. Whilst the mayor intends to produce a revised London Plan before the termination date of the new London Plan with revised targets, the constraints on the capital will continue make it very difficult for the city's needs to be met in full and it will be important for areas that are easily accessible to London, such as Maidstone, to consider how it could increase its own housing supply to address some of these unmet needs.

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<sup>1</sup> Internal migration: detailed estimates by origin and destination local authorities (ONS)

<sup>2</sup> Census 2011

8. One of the key issues arising from the examination of the London Plan was the difficulty in reaching any form of agreement with regard to the potential redistribution of unmet housing needs from the capital given the lack of regional co-ordination. The Mayor of London was looking for willing partners but without any strategic planning bodies at a higher spatial level these requests were ignored by the rest of the wider south east. The Mayor of London cannot force others to address the capital's unmet housing needs, it is therefore the responsibility of Councils in the wider south east, such as Maidstone, to give proper consideration as to how they may assist in addressing this strategic matter.
9. However, what is apparent from the Council's evidence base is that no consideration was given to this strategic issue. The Sustainability Appraisal for example indicates that no consideration was given to a higher housing requirement than that established through the standard method. This is clearly stated in paragraph 4.6 of the SA in which the Council acknowledge that they do not consider there to be a reasonable alternative to the minimum requirement established through the standard method. This is not the case if, as we set out above, paragraph 61 of the NPPF is considered properly. We would argue that the Council should have considered increasing supply in response to the identified unmet needs of London and that this is clearly a reasonable alternative to be assessed as part of plan preparation through the SA. Without any consideration of a higher housing requirement in the plan making process the soundness of LPRSS1 and the robustness of the process in arriving at the minimum requirement must be brought into question.

#### *Housing supply*

10. LPRSS1 establishes that the Council expect that through allocations, extant permissions, and windfall to deliver 17,746 homes between 2022 and 2037. Whilst this is in excess of the minimum requirement for the area over the proposed plan period it does not meet the minimum requirement for the area with a policy compliant plan period. The Council will therefore need to identify further sites in order to ensure needs are met in full. In addition, the level of delivery provides very little flexibility should either of the new settlements any of the larger sites, or indeed windfall expectations not come forward as planned. Therefore, in order to ensure that the plan is deliverable over its lifetime we would recommend that further land be identified and allocated to deliver at least a 20% buffer between needs and supply.
11. With regard to the evidence on housing supply the HBF would suggest that the expected number of homes to come forward is clearly set out in the housing trajectory. This was provided on request but should have been set out in the plan itself to ensure the expected level of transparency with regard to housing supply. In addition, it would be helpful that on submission the Council includes in its evidence a table indicating when each site that form the Council's housing supply is expected to come forward. At present it would appear that the Council will have a five-year housing land supply on adoption but without the necessary level of

detail as to the how this level of supply is to be delivered it is difficult to comment on the accuracy of the Council's five-year housing land supply and the overall deliverability of the trajectory at appendix 2. We therefore reserve the right to comment on such matters at the examination in public when we would expect this evidence to be available.

12. Finally, the Council will need to provide further justification as to the level of windfall being proposed in the local plan. In particular the Council will need to justify the increasing level of supply from larger windfall site over the plan period. Whilst there may be some larger windfall sites this is more likely to be a diminishing supply on the basis that such sites will have been identified and allocated in the local plan or SHLAA. Rather than increasing supply from such sites in the last five years of the plan we would recommend that a more cautious approach be taken and supply from such sites be reduced to 90 units per annum for the final five years of the plan.

### *Viability*

13. In order for a local plan to be considered sound paragraph 34 requires local authorities to ensure that the cumulative impact of the policies it contains does not undermine its deliverability. It is therefore essential that the viability assessment underpinning the local plan takes into account all the policy costs being imposed on development across the plan period. As such it will be necessary for the Council to consider the impact of the following costs have been underestimated in the viability assessment.
14. The approach taken to First Homes in the viability assessment has been to treat them as an affordable housing product with regard to costs and their risk profile. Whilst First Homes are an affordable housing product they are marketed and sold by the developer. As such the costs and risks related to the sale of such housing when considered in any viability assessment should reflect those for market housing and not affordable housing. In particular the return on such homes should be set at those for market housing and not the 6% return usually expected for affordable housing.
15. The Council are proposing a 20% net gain in biodiversity on all sites. The cost in the viability assessment increases the costs by 19% based on the impact assessment on biodiversity net gain produced by Defra. However, this assessment is based on the assumption that the additional 10% net gains can be delivered wholly on site. Firstly, it cannot be assumed that the additional 20% net gain could be delivered wholly on site. An additional 10% of net gain would not necessarily follow this scenario with more offsite delivery being required.
16. A higher degree of offsite mitigation is likely to be required in order to deliver a 20% net gain which will mean a far higher cost to the developer. If scenario C of the Government's impact assessment is taken as a broad indication as to costs facing a developer from offsite contributions, the proposed 20% net gain

requirements could see costs rise significantly per hectare. If all of the additional 10% net gain above the proposed legislation being suggested by the Council had to be delivered offsite, on the basis of the Government's estimates costs could potentially rise by circa £60,000 per hectare, a considerable additional burden and one that could impact on the viability and deliverability of some sites. However, even if delivery could be achieved on site a higher net gain requirement would require more land reducing the developable area of a site, reducing the gross development value and site viability, an issue that does not appear to have been considered in the Government's impact assessment.

17. The viability assessment includes a figure of £500 per electric vehicle charging point. However, the HBF would consider this assessment as to the cost to be too low. Whilst the HBF accept that electric vehicles will form a key part of the Government's strategy to reduce carbon emissions it is necessary for these to be properly considered with regard to their potential impact on the viability of new development. However, whilst the Viability Assessment assesses the cost of installing an electric vehicle charging point no allowance seems to have been made with regard to potential improvements to the electricity supply infrastructure that may be required to support the use these charging points.
18. The HBF and its Members also have serious concerns about the capacity of the existing electrical network in the UK. The supply from the power grid is already constrained in many areas across the country. Major network reinforcement will be required across the power network to facilitate the introduction of EVCPs and the move from gas to electric heating as proposed under the Future Homes Standard. These costs can be substantial and can drastically affect the viability of developments. If developers are funding the potential future reinforcement of the National Grid network at significant cost, this will have a significant impact on their businesses and potentially jeopardise future housing delivery. Following the Government's announcement that all new homes with a parking space will be required to have a EVCP fitted from 2022 the details of this announcement are still to be set out in detail. However, the Government's proposal from its consultation in EVCPs in 2019 was to automatically cap charges to developers for upgrading local electricity networks at figure of £3,600 per charge point so clearly the costs could be significant and should be included in the viability assessment.

#### **LPRSP10(B): Affordable housing**

The policy is unsound as it has not been justified and lack sufficient clarity.

19. This policy sets an affordable housing requirement of 40% on greenfield sites in high to mid value area and brownfield sites in higher value areas. On all other sites affordable housing is not expected to be delivered. Whilst the HBF broadly welcomes the approach taken in this policy it will be important, as set out above that the full cumulative cost of the policies in the local plan are considered before the plan and policies such as LPRSP10(B) are considered to be sound. The Council should also be clearer with regard to the wording in part c and how a

decision maker and applicant should respond. Terms such as “*not normally expected to ...*” are imprecise and could lead to decision makers requiring further evidence to show that a scheme should not provide affordable housing. Given that the viability study indicates that development on brownfield sites in mid to low value areas and greenfield site in lower value areas is unviable the Council should amend part c to read:

*“Development in the low value zone and brownfield development in the mid value zone will not normally be expected to deliver affordable housing., however where opportunities exist to provide affordable housing the council will seek to secure this.”*

20. Part 4 of the policy also sets out that all affordable homes will be built to part M4(2) of the building regulations. It is unnecessary to repeat this assertion given that policy LPRQ&D 6 requires all homes to be built to part M4(2). The Council should therefore delete part 4 from policy LPRSP10(B).

#### **LPRSP14A: Natural Environment**

The policy is unsound as it is inconsistent with national policy.

21. The requirement for a 20% net gain in biodiversity is not sound. No justification has been provided as to why Maidstone is any different to the rest of the country and should set a higher requirement for net biodiversity gains. If Government considers 10% sufficient to mitigate the impact of new development in future, then this should also be an appropriate level of net gain for Maidstone. It is important to recognise that the Environment Act does not set this as a minimum and at present there is no suggestion that in future policy will allow for a higher requirement to be set in local plans. As set out earlier the HBF also has concerns that the impact of a 20% requirement has not been fully considered. This level of net gain will have a more considerable cost impact than the one set out in the viability assessment and one that could impact on the deliverability of some sites. Therefore, we recommend that the policy is amended to ensure that it reflects the approach established in the Environment Act that requires a 10% net gain in biodiversity and includes a 2-year transitional period before it is implemented.

#### **LPRTRA4: Parking**

The policy is unsound as it is inconsistent with national policy.

22. Part 1 of this policy states that new residential development will be assessed against the requirements set out in supplementary documents. As the Council will be aware such documents are there to provide additional guidance as to how a policy should be implemented and should not set standards or requirements that could be used to refuse an application.

23. In order for the Council to require compliance with any standards they must be included in the local plan as they are policies against which an application could be refused, they are legally considered to provide more than just guidance to the applicant. The issue of what is policy is explored in detail in the High Court Judgement between William Davis Ltd, Bloor Homes Ltd, Jelson Homes Ltd, Davidson Homes Ltd & Barwood Homes Ltd and Charnwood Borough Council. In this case Justice Gilbert quashed the SPD on the grounds that it contained policies that should have been contained in the local plan because they could be considered to fall under regulation 5(1)(a)(i) and 5(1)(a)(iv) of the Town and Country Planning Regulations (2012).
24. As such, policies in the local plan cannot refer to standards set elsewhere or defer in future to subsequent revisions of standards that are set out in supplementary documents to the local plan. Such changes would need to be made through a focussed review of the local plan in order to allow the proper scrutiny of any changes being made.
25. Therefore, any reference to supplementary guidance in policy should state that applicants "have regard" to this guidance but must not state that they should accord with it. Alternatively, the standards could be provided in the local plan itself. In addition, where standards are included in the local plan the Council should also ensure that any requirement to accord with future guidance is also be removed.

#### **LPRHou9: Custom and Self Build Housing**

##### Part 2 of the policy is unjustified

26. The provision of self & custom build plots on sites adds to the complexity and logistics of developing these sites. It is difficult to co-ordinate the provision of self & custom build plots with the development of the wider site and as such the timescale for plots reverting to the developer to be built out should be relatively short and avoid them being left empty to the detriment of neighbouring dwellings or the whole development. Any differential between the lead-in times/build out rates of self & custom build plots and the wider site may lead to construction work outside of specified working hours, building materials stored outside of designated compound areas and unfinished plots next to completed/occupied dwellings resulting in customer dissatisfaction. Therefore, we would recommend a 6-month timescale after which unsold plots revert to the developer. This time period should be sufficient if there is demand for self-build plots in Maidstone.

#### **LPRQ&D1 Sustainable design**

27. This policy includes the requirement that development meets the higher technical standard for water efficiency of 110 litres per person per day. This is currently set out not only in this policy but also the policy on climate change, and the policy on technical standards. Rather than have multiple references the Council should

decide where it is most appropriate to refer to this policy and remove any other references to the standard in other policies.

### **LPRQ7D6: Technical Standards**

This policy is unsound as it is not justified.

28. As the Council will be aware paragraph 130 of the NPPF and the supporting guidance in PPG requires Councils to justify the use of the optional technical standards on accessibility, space and water efficiency to be justified on the basis of need and the overall impact on viability. Whilst the standards have been considered in the viability assessment, we could not find any evidence with regard to the need for space standards. Whilst the HBF shares the Council's objective of delivering well designed homes without the necessary evidence the Council cannot adopt the national described space standards. If the Council wishes to adopt these standards it must show that there is an endemic issue of homes consistently being built below these standards.
29. The second part of this policy requires all new homes to be built to the optional part M4(2) of the Building Regulations. Whilst the HBF recognises that there will be a need for some homes to be built to this standard the evidence is insufficient to state that all homes delivered through this local plan should be built to this optional standard. The evidence for this policy is set out in the Strategic Housing Market Assessment (SHMA). and its recommendation based on the growing numbers of individuals with mobility problems and dementia, however, this evidence makes no assessment as to whether those with a mobility problem or dementia need to move home to have their needs met or whether their existing home can be adapted to meet their needs. Given that PPG states in paragraph 56-007 that the accessibility of the existing stock should be taken account this issue should have been considered in the SHMA.
30. For example, The English Homes 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 only 10% of those households whose home required an adaptation were trying to move somewhere more suitable. So, whilst there are a growing number of individuals with long term health conditions and disabilities 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 home built to the M4(2) standard. 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.
31. Finally, whilst we do not dispute the need to introduce the higher water efficiency standard, as mentioned earlier, this policy requirement is also set out in the policy



on sustainable design. The Council must decide where best to reference this standard and delete all references in other policies.

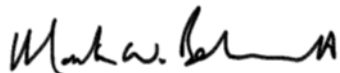
## **Conclusion**

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 for the following reasons:

- Clearer distinction needs to be made between strategic and non-strategic policies;
- The plan period is inconsistent with national policy;
- Minimum housing requirements has not considered unmet needs from all neighbouring areas;
- Windfall allowance has not be justified;
- Viability evidence supporting the plan does not take sufficient account of some policy costs;
- The affordable housing policy lacks the necessary clarity required by national policy;
- 20% requirement for Biodiversity Net Gain has not been justified;
- 24-month marketing period for self-build plots is too long; and
- Insufficient evidence presented to justify technical standard on space and accessibility.

As such I can confirm that I wish to participate in the relevant hearing sessions in order to full represent our concerns which reflect the views of discussions with our membership who account of 80% of the market housing built in England and Wales.

Yours faithfully



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