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14/11/2022

Dear Sir/ Madam

**Response by the Home Builders Federation to the consultation on the Oxford Local Plan 2040.**

1. Thank you for consulting the Home Builders Federation (HBF) on the options of for the Oxford Local Plan 2040. 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.

**S2: Approach to Greenfield sites.**

2. The HBF would support preferred option A. Local Plans must seek to maximise delivery on brownfield sites but where an area's development needs cannot be met on such sites, consideration must be given to development on appropriate greenfield sites. For cities such as Oxford which are surrounded by Green Belt this also requires a review of this designation and amendments to the boundary where appropriate as indicated in option A. Option B however is not sound. Whilst Councils are required to examine whether they can meet their development needs in the first instance on previously development land if those needs cannot be met in this way the National Planning Policy Framework (NPPF) does not suggest that there should be a delay in bringing forward greenfield sites. As the Council note there are limited opportunities for brownfield development in Oxford but a high level of need and waiting for these sites to be delivered before delivering greenfield sites will just delay the council providing much needed market and affordable housing.

**S4: Viability considerations**

3. The HBF would support a policy that sets out the circumstances where viability consideration will be taken into account and how any assessment will take place. However, it will still be important that the Council seeks to put forward policies in the local plan that will not lead to viability negotiations on a site-by-site basis. The NPPF and Planning Practice Guidance (PPG) are clear at paragraph 58 and paragraph 10-002 respectively that the assumption must be that development



meeting all policies in a local plan are viable and that negotiations on viability limited. As such it will be important for the Council to work with the development industry to ensure that policies are realistic and will not compromise the deliverability of the local plan.

4. A whole plan viability assessment has not yet been published. Whilst we will comment in more detail on the study in future, we would like to make some broad comments on viability in relation to the approach established in the NPPF and its supporting guidance to help inform the viability assessment. 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.
5. 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 iteration of the NPPF viability assessments have taken the approach that these cannot be quantified and were addressed through the site-by-site negotiation. However, as outlined above, this option is now significantly restricted by paragraph 58 of the NPPF. As such these abnormal costs must be factored into whole plan viability assessments. We recognise that the very nature of an abnormal costs means that it is impossible to quantify them accurately, 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.
6. Whilst we recognise that national policy expects abnormal costs to come off the land value, we are concerned that if abnormal costs are high then it can 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.
7. 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.

8. Thirdly, the councils must ensure that all the policy costs associated arising from the local plan are considered alongside the likely costs that will be imposed on development through local plans. It will be essential that the strategic policies and aspirations of the local plan leave sufficient headroom to deliver the policies in the local plan in order to take account of the uncertainties over some costs that will be faced by development in future. One example highlighted above is BNG where there is considerable uncertainty as to how much it will cost each site. However, increasing prices and labour costs will also impact on the delivery of the higher technical standards related to, for example, the Future Homes Standard.
9. 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. This is even more pertinent in Oxford where a significant proportion of development will come forward on PDL where existing use values will be significantly higher than on greenfield sites.

#### **S5: Presumption in favour of sustainable development**

10. The Council note that a policy setting out the presumption in favour of sustainable development does not add anything beyond what is already set out in the NPPF. Such a policy is therefore not consistent with paragraph 16 of the NPPF which state that policies in local plans should avoid unnecessary duplication. The Council should therefore consider whether a reference to the presumption in favour of sustainable development as set out in the NPPF is sufficient rather than repetition of the policy or attempting to rephrase national policy which runs the risk of inconsistencies.

#### **H1: Housing requirement for the Plan Period.**

11. Oxford City will need to maximise delivery on brownfield land but any assessment of delivery on such sites, as the Council will be keenly aware, need to take into account paragraph 124 of NPPF and in particular the need to take account of an areas character. This is likely to limit capacity of many sites in Oxford and as such the Council should be cautious as to how much development can be delivered on PDL sites in its land supply assessments and as a consequence how many homes must be delivered elsewhere. Therefore, whilst the Council will need to maximise delivery it is likely that the local plan will inevitably set a capacity constrained housing requirement as set out in Option A.

#### **H2: Housing need for the Plan Period**

12. The HBF supports Option B. As the Council note the NPPF and PPG both outline that the standard method is the minimum number of homes required to meet the

needs of an area and that there will be circumstances where housing needs will exceed past trends and the requirement to consider these circumstances. Given the city is the focus for growth that is of national importance, and a lack of appropriate housing will be a barrier to that growth, we would agree with the Council's assessment at paragraph 2.5 that the circumstances exist to justify an alternative method of calculating housing need. The Oxfordshire Growth Deal and the development of the Oxford-Cambridge Arc recognise the importance of this area to national priorities, and it will be essential that the housing requirement taken forward across the county supports the economic potential of the area.

13. In addition, the housing needs of Oxford and the wider County will need to take account of the affordable housing needs of the city. Whilst there is no requirement to meet affordable housing needs if the need is as significant as stated previously this will also be a constraint on economic growth. In particular it has the potential to be a barrier to younger people remaining in the city and driving forward the growth being supported by the Oxfordshire Growth Deal.
14. However, the decision not to move forward with the Joint Strategic Spatial Plan raises serious concerns as whether sufficient market and affordable homes will be brought forward to support the economic growth of the area and in particular the role of Oxford at the heart of that growth. Therefore, whilst we welcome the decision to commission additional work on housing needs, we are concerned that some authorities in Oxfordshire will limit their support for the established growth agenda. Given that the amount of development land in Oxford itself is constrained it will be essential that the City challenges its neighbours, through the duty to co-operate and the consultation and examination of their local plans, to both take account of these wider housing needs and that sufficient land is allocated to meet these needs.

### **H3: Affordable Housing - Overall requirement**

15. Without an updated viability assessment, it is not possible to comment on whether any of the proposed options are deliverable and justified. The Council will need to reconsider the viability of the current policy to include higher development costs since the adoption of the current local plan and any new policies that are introduced in this iteration of the local plan and through national policy. However, given the increasing build costs faced by developers, higher technical standards and legislative requirements such as the delivery of 10% Biodiversity Net Gain there will be no scope to increase the affordable housing requirement. It will also be important that policies in the local plan are set at a level that does not inevitably lead to site by site negotiations. So, whilst the ability for developers to reduce affordable housing requirements on the basis of viability should be included in the local plan the aim should be to set policies where such negotiations are the exception rather than the rule.
16. In relation the delivery of First Homes as this is a requirement of national policy the Council will need to provide robust justification as to why it should not require

their delivery at all if it were to take forward option B. Such homes will meet the housing needs of young people which are a key section of the population that must be supported in Oxford. Whilst we recognise there is a strong need for social rented and intermediate tenures this does not reduce the potential need for First Homes and consideration needs to be given as to how both First Homes and other intermediate tenures can be delivered.

#### **H4: Affordable Housing: Financial Contributions for new student housing**

17. If the contributions are being required from residential development, it is necessary for a requirement to be placed on student housing development. As the Council note there is a risk to the market being skewed towards student housing if similar costs are not placed on such development reducing the ability of residential developers to compete for available sites.

#### **H6: Mix of Housing Sizes (No. Bedrooms)**

18. The HBF does not consider it appropriate to require developments to achieve a specific mix that is set out in policy as this lacks the necessary flexibility to respond to changing circumstances and viability matters. The Council should set out in policy a more general requirement provides a range of homes, both in terms of size, type and tenure that support the creation and maintenance of balanced communities. In establishing the mix of homes applicants and decision makers can therefore have regard to the most up to date evidence such as the housing needs assessment, monitoring data on the homes delivered, and any specific needs in the local housing market within which a site is located without having to slavishly follow what is essentially a snap shot in time.

#### **H14: Elderly Persons' accommodation**

19. Whilst the HBF consider it important to ensure flexibility in decision making to deliver specialist housing to meet the needs of older people and other groups it is also vital that local plans look to allocate specific sites to meet these needs rather than rely on windfall or larger residential schemes to meet these needs. Only through allocations can the Council seek to ensure the delivery of specialist accommodation to meet needs. We would suggest that the Council engage directly with developers who build such properties to try and identify suitable sites. If no such sites come forward that are suitable the Council will need to ensure that the policy is supportive of such development.
20. Therefore, we would broadly support option A. However, we would suggest a more positive approach would be to include the amount of older people's housing needed within policy alongside a commitment to meet these needs. 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 this policy and ensure it is more effective and likely to meet needs over the plan period.

Such an approach would also ensure effective monitoring in relation meeting the needs of older people and encourage positive decision making if there is a deficiency in supply.

### **H15: Self-Build and custom house building**

21. Before seeking to require developments to provide a proportion of the homes delivered as self-build plots the Council will need to examine other opportunities for meeting the needs of those who want to self-build. Under the Self Build & Custom Housebuilding Act 2015 and 2021 NPPF (para 62), it is the Councils responsibility to ensure that sufficient permissions are given to meet demand. Further detail is provided in paragraph 57-014 of PPG with regard to the Council's duties and whilst this recognises that it should take account of self-build registers when preparing planning policies, it also outlines that consideration needs to be given to the disposal of their own assets in order to meet the need for self-build plots or whether self-build could support the regeneration of brownfield sites. A need for self-build plots should not automatically lead to a policy requiring their provision on larger sites. PPG also notes at paragraph 57-025 that local authorities should be encouraging developers and land owners to consider providing plots for self-build and custom house building but makes no reference to requiring their provision. The Government clearly sees the role of the local authority as working to identify opportunities with developers rather than offloading this responsibility on to the development industry.
22. The Council will also need to ensure that it has a robust understanding of the demand for self-build homes in the area. Too often Councils rely solely on self-build registers that have never been reviewed or the ability of those on the list to build their own home tested. Without a robust evidence base Councils can overestimate the demand for such plots leaving unsold plots. Whilst policies can, and should, be included that allow unsold plots to revert to the developer this can take time and mean that, on some sites, much needed homes are delivered much later than expected. The Council will also need to have a robust understanding of the supply of sites coming forward for self-build. In some areas sufficient plots come forward on windfall sites and as such a policy that is supportive of self-build development may be the most appropriate way forward.
23. Finally, the Council will need to consider whether it is feasible that all sites deliver self-build plots. The Council note that much residential development in the city involves flats and as such impossible to deliver self-build plots in such scenarios without significantly reducing the level of delivery. We would, therefore, suggest that flatted development is excluded from the policy.
24. Even where the development is for houses the delivery of self-build plots can still create difficulties. Often there are multiple contractors and large machinery operating on-site, the development of single plots by individuals operating alongside this construction activity raises both practical and health & safety concerns. 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 and occupied dwellings resulting in consumer dissatisfaction. Whilst some sites may be able to locate self-build plots in a manner that reduces these potential risks in other this will be impossible with developers unable to co-ordinate the provision of self & custom build plots with the development of the wider site.

25. As such the HBF considers that the most appropriate policy is option C which provides positive and supportive approach to decision making whilst not placing unnecessary burdens for meeting the demands of self-builders on the house building industry.

### **G2: Provision of new GI features**

26. The Council's preferred option would use an Urban Greening Factor (UGF) to demonstrate a net gain in green infrastructure on all sites. Alongside this they would also require a minimum percentage of open space on larger sites and establish bespoke guidance on greening within allocations policy. What is not clear from the consultation document is the level of urban greening that would be required through the use of the Urban Greening Factor, whether this would area specific, nor how it would relate to the 10% Biodiversity Net Gain (BNG) required by the Environment Act. There would appear to be the potential for significant overlap with BNG that will need to be explored to ensure that the Council is not creating unnecessary administrative burdens on all applicants. Also, without knowing the level of "greening" that may be required on a site it is also impossible to know how this might impact on the viability of development, especially the higher density developments that are likely to be a key source of new homes in Oxford. Therefore, without further detail it is not possible to outline a preference at this stage.

### **G3: Urban Greening Factor**

27. As set out above without further detail on how the UGF might be applied and its impact it is difficult to comment on the approach being put forward by the Council. However, if the Council were to take forward the use of the urban greening factor, we would suggest that it is not a requirement on all sites. For example, small sites or sites near existing open spaces might be encouraged but not required to use the urban greening factor to inform the design. It would also seem inappropriate to require its use where specific provision has been agreed as part of a site allocation.

### **G4: Delivering mandatory net gain in biodiversity.**

28. The HBF would support Option C. There is no need for a local policy given that this is a legislative requirement with extensive supporting regulations and

guidance. A local policy also runs the risk of becoming out of date as new regulations and guidance are published by Government.

29. If a policy is considered to be necessary than this should not seek a requirement above the minimum. The HBF does not consider that requiring BNG above 10% meets the tests set out in paragraph 57 of the NPPF and in particular that is not necessary to make the development acceptable in planning terms. As the Government note on page 9 of their response to the consultation on net gain, they considered 10% to deliver the right balance between “*ambition, achieving environmental outcomes, and deliverability and cost to developers*”. Given Paragraph 174d) of the NPPF states that planning policies should “*minimise impacts on and provide net gains for biodiversity*” if a development delivers the 10% minimum requirement by law it will ensure that paragraphs 174(d) of the NPPF is addressed as it will ensure a net gain. As such any level above this is not necessary to make a development acceptable in planning terms and cannot be made a requirement in the local plan.
30. It should be for the developer to decide whether they go beyond this figure not the Council. This is a position the Government also supports stating on page 9 of their response to the consultation on net gain that the 10% should not be a cap on the aspirations of developers who want to go further “*voluntarily*”. It is important to remember that that it is impossible to know what the cost of delivering net gain is until the base level of biodiversity on a site is known and consequently what is required to achieve a 10% net gain. On some sites this may be achievable one site with no reduction in developable area, for others it may require a large proportion of it to be addressed offsite or a significant reduction in the developable area – a far more expensive option that could render a site unviable without a reduction in other policy requirements.

### **R1: Net Zero Building in Operation**

31. The HBF would support option E which is consistent with Government’s approach and appreciates the need for the phased introduction of net zero ready homes. The HBF recognises the need for new development to reduce its carbon emissions and to help the industry achieve the Government’s already challenging targets set out in the Future Homes Standard established the Future Homes Hub ([www.futurehomes.org.uk/](http://www.futurehomes.org.uk/)). The Future Homes Hub will allow the house building industry to work with partners in other sectors to develop the necessary supply chains and skills required to meet the Future Homes Standard.
32. The Government have set out a clear roadmap to low carbon homes that will alongside the decarbonisation of the national grid ensure that the Government can meet its commitments to net zero by 2050. The way forward be taken by the Government recognises that the improvements in energy efficiency of new homes should be a transition which ensures that new homes continue to come forward to meet housing needs whilst still be sufficiently challenging to significantly reduce the carbon emissions of new homes from 2025.



33. The Council also notes the additional complexity options A and B would place on the planning process in Oxford. This complexity should not only be a concern for the development industry but also to the Council who will need to find additional resources to ensure that they have the skills in place to assess applications against this policy and to monitor its delivery given that it goes beyond the remit of building regulations. Without the skills and resources to assess schemes against the requirement and monitor their delivery the policy cannot be considered to be either effective or deliverable. Given the funding crisis faced by local government we would therefore question whether this will be the case and as such the effectiveness of this policy.
34. Rather than seek to place significant burdens on the delivery of new homes the Council should seek to support development to come forward in line with building regulations which will from 2025 see new homes that are carbon zero ready and ensure that the country as a whole achieve net zero within the required timeframes.

## **R2: Embodied Carbon**

35. The HBF would suggest that the Council do not have a policy relating to embodied carbon. In particular the HBF does not consider a requirement for major development to undertake a measurement of the embodied carbon during construction to be appropriate and goes beyond what is required to make a development acceptable in planning terms. It also has the potential to slow delivery if approval is required to use a product with a higher degree of embodied carbon. Many housebuilders are already taking actions to reduce the carbon footprint but any requirements with regards to the use of different material should be achieved through clear and enforceable national standards guidelines and not local plans. If a policy on embodied carbon is considered necessary, it should seek to encourage the use of materials and construction methods that have a lower carbon footprint in their production but should not place any further burden on applicants with regard to measuring the amount of embodied carbon in a development.

## **DH4: public art**

36. The HBF recognises the importance of good design in relation to the public spaces on any development. However, whilst public art can enhance such spaces it is not necessary in relation to good design. As such we would suggest that Council does not require its provision but sets out in supporting text or guidance the role public art could play in the design of public spaces.

## **DH6: Bicycle Parking Design Standard**

37. Whilst cycle parking is an important in new development, we would not advocate the Council going beyond current standards. Whilst it appears that the Council are

proposing to maintain existing standards this is not clear. Any increase from what currently very high requirements is not justified.

#### **DH7: Motor Vehicle Parking**

38. The HBF recognises that in Oxford there is a need to support car free development in certain locations. However, there must be flexibility. The Council must recognise that in some areas car parking provision on site can be delivered and should be allowed. As such whilst the HBF recognises the Council should seek car free development in certain locations we would suggest a criteria-based approach as to where car free development may be appropriate and where it would be permissible to provide parking for cars.

#### **DH: 10 Outdoor amenity space**

39. The HBF would support option B as this will allow the necessary flexibility to provide outdoor amenity space whilst ensuring the most efficient use of a site.

#### **DH11: Accessible and adaptable homes**

40. The Government have indicated<sup>1</sup> that they will adopt part M4(2) of the building regulations as the mandatory standard for all new homes. As such any policy will no longer need to refer to this standard. However, the Government have stated that they will maintain the optional standard with regard to Part M4(3) and that Council's will need to justify the number of homes it will require to be built to this standard.

#### **DH12 – Health Impact Assessments**

41. The HBF do not consider it necessary for the Council to require Health Impact Assessment (HIA) on any development. In preparing the local plan the Council should ensure that the policies it contains will support healthy development and as such any development that is consistent with the policies in the plan will ensure the health and well-being of its residents. The HBF would therefore recommend option C is taken forward.


#### **Conclusions**

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

Yours faithfully

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<sup>1</sup> <https://www.gov.uk/government/consultations/raising-accessibility-standards-for-new-homes/outcome/raising-accessibility-standards-for-new-homes-summary-of-consultation-responses-and-government-response>

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

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