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05/12/2022

Dear Sir/ Madam

**Response by the Home Builders Federation to the consultation on the Torbay Local Plan Review.**

1. Thank you for consulting the Home Builders Federation (HBF) on the options for the local plan review. 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.

*Do you agree with the growth strategy set out in Policy SS1? Is there anything you would like to add?*

2. The Council are proposing to provide at least 5,400 homes over the plan period, an annual average delivery rate of 300 units. This is a capacity driven figure that is some 287 dpa below the minimum required by the Standard method. Paragraph 11 of the NPPF is clear that needs should be met in full unless the application of policies in the Framework provide strong reason for not meeting needs or the adverse impacts of meeting development needs in full would significantly and demonstrable outweigh the benefits. However, the Council's consultation paper provides limited justification for not meeting needs and merely cites environmental constraints and a shortage of suitable land. If the Council are not going to meet needs in full it will need to provide substantial evidence as to why it cannot, referring back to the tests set out in paragraph 11 of the Framework.
3. If, after extensive and detailed consideration of the land available for development, the Council consider that it is not possible to meet needs it will need to ensure that any unmet needs are delivered elsewhere. However, in seeking to achieve this aim the HBF have noted that too many authorities take a passive approach on this matter and fail to challenge their neighbours on their ability to meet deliver housing to support other areas. It is not sufficient for the Council to accept statements that other authorities cannot help without challenging these assumptions not only through the duty to co-operate but as part of the examination of local plans. A failure to challenge other authorities on this matter will inevitably lead to housing needs not being met and a failure to boost housing supply sufficiently in this part of the country.



4. SS1 also outlines that development will make full and appropriate use of the opportunities for low carbon and renewable energy technologies. The HBF recognise the need for new homes to deliver improvements in energy efficiency and reduce their carbon emissions but consider the most effective way of achieving this is through nationally consistent standards set out in Building Regulations. Given that the Government have already set out a roadmap to zero carbon ready homes through the delivery of the Future Homes Standard the HBF considers it unnecessary to seek additional improvements in Local Plans.
5. The Council state that evidence will be required setting out how development mitigates and adapts to climate change with the supporting text suggesting the need for an energy statement. The HBF would not support the requirement to provide a separate statement on such matters. These issues can be adequately addressed in the planning statement without recourse for additional statements which just create unnecessary work for the applicant.

*Are there demographic trends, market signals or other evidence of need that would point to a different level of need than the Standard Method?*

6. The HBF do not consider there to be any evidence to suggest that there are exceptional circumstances facing Torbay that require the use of an alternative approach to assessing housing needs.

*Do you agree with the proposed strategy of constrained development in the south of Torbay? Should development in the setting of the AONB be resisted?*

7. The HBF does not comment on specific sites or locations for new development. However, it is important to note in relation to the south of Torbay and the AONB should not be considered as an absolute constraint on development. The HBF recognises the NPPF places great weight on conserving and enhancing the landscapes in the AONB but recognises in paragraph 177 that there can be exceptional circumstances for supporting development in these areas where it can be demonstrated it is in the public interest. Given the significant shortfall in meeting housing needs in this area and the constraints on development we would suggest that allocations in the AONB would be in the public interest and should be allocated.

#### **SH4 Affordable Housing**

*Do you agree with the proposals in Policy SH4?*

8. Without an up-to-date viability study the HBF cannot comment on whether the affordable housing requirement is justified. In considering this policy it will 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.

9. As outlined above 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.
10. 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.
11. 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.
12. 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.

13. 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.
14. 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 Torbay where a significant proportion of development will come forward on PDL where existing use values will be significantly higher than on green field sites.
15. The policy proposals would also appear to be inconsistent with national policy on First Homes. The Council suggest in the supporting text that a third of dwellings for affordable homes ownership may be First Homes where as national policy, as set out in the Written Ministerial Statement<sup>1</sup>, requires 25% of affordable housing provided to be for First Homes. This is significantly more than is being suggested by the Council. Who will need to provide evidence as to why it is seeking to depart from national policy.

*Would you support an approach where affordable housing is only sought on the number of homes above the threshold (10 in most cases, 1 in the AONB), but with a higher headline affordable housing rate (e.g. 40%)?*

16. The Council will need to carefully consider its approach to affordable housing and in particular the level at which development can viably deliver affordable housing. Whilst the approach in this question may be beneficial to smaller developers the impact on larger developments could be significant given that the threshold is only ten units. Given the uncertainties of such an approach we would suggest that this approach is not taken forward.

### **SH5 Self-Build housing in Future Growth Areas**

*Do you agree with the proposals in Policy SH5?*

17. 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 &

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<sup>1</sup> <https://questions-statements.parliament.uk/written-statements/detail/2021-05-24/hlws48>

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.

18. 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.
19. It is also important to recognise that there are difficulties in providing site for self-builders on major development sites. 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.

### **SH8 Housing or people in need of care**

20. With regard to criterion 1 the Council will need to have regard to proposed changes in building regulations that will require all homes to be built to part M4(2) of the Building Regulations. This will remove the need to reference this in the local plan but also introduce an extra cost for developer in Torbay that will need to be included in the viability assessment.

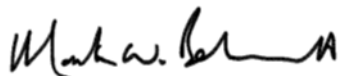
21. In terms of meeting the needs of older people the HBF consider it vital that local plans look to allocate specific sites to meet these needs rather than rely on windfall or larger residential schemes to meet these needs. Only through allocations can the Council seek to ensure the delivery of specialist 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. As such we would suggest that the local plan looks to set out in policy:

- a target for the delivery of homes for older people and maintains a supply of land to meet that target. 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 ensuring needs are met 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.
- support and encouragement for older persons accommodation on brownfield and other land in established urban and suburban environments and which is not allocated (i.e. windfall sites) given the level of need and that older people are most likely to prefer to continue to reside in established areas with which they are familiar.

### **Conclusions**

22. 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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