

Sent by email to: ldf@maidstone.gov.uk

12/06/2023

Dear Sir/ Madam

Response by the Home Builders Federation to the consultation on the preferred approaches to the Maidstone Design and Sustainability DPD

1. Thank you for consulting the Home Builders Federation (HBF) on the proposed Design and Sustainability DPD. 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.

ON4: Biodiversity Net Gain

2. The policy sets out in part 1.f) that development will need to deliver a 20% net gain in biodiversity unless this is demonstrably infeasible. As we have set out in our representation to the local plan review and its examination in public the HBF does not consider this to be sound. If the inspector agrees with our position, then the Council will need to amend this policy accordingly. As the HBF have consistently stated to Maidstone Borough Council, housebuilders recognise the need to ensure that they deliver the net gains in biodiversity necessary to offset the harm arising from their development. However, to go beyond 10% means that new development is in effect offsetting impacts on biodiversity that are not related to the that development. As with nutrient neutrality housebuilders are again paying for the environmental harm arising from other activities both in the past and present.
3. If the Council are permitted to include a higher BNG requirement by the inspector examining the local plan, then we would suggest that the policy is amended to make it

clear that where this policy makes a development unviable the requirement to go beyond 10% will be removed. Whilst we recognise that strictly speaking viability would be a consideration in making a development infeasible the NPPF does make distinction between feasibility and viability in paragraph 157 of the NPPF. Therefore, to avoid any uncertainty for the decision maker we would recommend the policy is amended to read:

“However, unless demonstrably infeasible or unviable the Council seeks a higher level of biodiversity net gain.”

4. The HBF also has concerns regarding the application of the mitigation hierarchy in section 3. It is accepted that development will need to use the mitigation hierarchy, however the policy states that only in exceptional circumstances will alternative methods to onsite mitigation and compensation be acceptable. This goes beyond what is required from the application of the mitigation hierarchy. Whilst the purchase of offsite credits will come after avoidance and on-site measures have been considered, where these are not possible there is no suggestion in national policy that such circumstances will be exceptional. It may be that the Council are suggesting that the need for offsite delivery may not be commonplace, a position we would disagree with if the 20% BNG requirement is applied, but this does not need to be reflected in the policy. Such an approach has the potential to create additional and unnecessary considerations as to whether the circumstances faced by the applicant are sufficiently exceptional to warrant offsite delivery. In order for the policy to provide the necessary clarity for the decision maker as required by paragraph 16 of the NPPF, we would suggest that the part 3c is amended to read:

d) Where it can be clearly shown that biodiversity net gain cannot be achieved on-site alternative measures will need to be considered to deliver biodiversity gain. These might include:

SN1: Sustainable Design and Construction

5. The HBF recognise and support the need for residential development to reduce its carbon emissions. However, in line with Government policy we consider that the most effective way of achieving this is through building regulations. Only through a nationally consistent set of standards can the development industry and its supply chains

effectively deliver these improved standards in way that maintains customer satisfaction and continues to deliver the homes we need.

6. However, this policy requires new development to meet either a 3- or 3.5-star rating using the Homes Quality Mark as a means of moving towards zero carbon development. In particular the Council will require development to achieve a minimum score of 50 within this rating with regard to energy efficiency which would, based on the HQM one standard require residential developments to achieve zero net regulated CO₂ emissions. Given that the Government has already set out a clear road map through the Future Homes Standard to ensure homes are zero carbon ready homes from 2025, not long after the proposed adoption of this plan, the HBF does not consider it necessary for an alternative standard and compliance framework to be included in the local plan.
7. Firstly, the Council must consider section 5 of Planning and Energy Act 2008 which states that energy policies in local plans “... *must not be inconsistent with relevant national policy*”. Secondly consideration must be given to current Government policy which was first established in the Written Ministerial Statement and then reiterated in paragraph 6-012 of PPG. These both set out that Council’s should not go beyond a 20% improvement on the 2013 building regulations (an improvement equivalent to the long-abolished level 4 of the Code for Sustainable Homes. Given that this has now been exceeded by Building Regulations it is evident that the Government’s intention is to use building regulations as the main focus for change on this matter, which is further reinforced by paragraph 154b of the NPPF states in relation to greenhouse gas emissions that “... *any local requirements for the sustainability of buildings should reflect the Government’s policy for national technical standards*”.
8. This would suggest that whilst the Government have accepted some uplifts to technical standard can be made through local plans, they are seeking to deliver major changes to energy efficiency standards through building regulations and not through local plans. Certainly, it cannot be argued that they are expecting Council’s to set standards in excess of the Future Homes Standard. As such the Council must follow the Government’s position, that improvements to technical standards moving forward will be addressed through building regulations and remove the requirement to meet alternative standards such as the Homes Quality Mark.

9. It is important to recognise that the development of the Future Homes Standard has included and been supported by the house building industry, energy and water providers, bodies such as RSPB and three Government departments. The framework developed will ensure that the transition to zero carbon homes is feasible whilst maintaining house building levels that can address the current housing crisis facing the country. To then place additional requirements with regard to such matters is unnecessary and unjustified. It is also unclear as to how the HQM standard will relate to the Future Homes Standard and whether there are sufficient resources in the Council or independent assessors to monitor the delivery of these standards. Without an adequate means of assessing and monitoring the delivery of this policy it cannot be considered to be effective. The HBF therefore recommends part c of this policy which requires development to meet specific HQM ratings is deleted as it is inconsistent with national policy.

10. Whilst the HBF does not consider the approach to be sound if the Council do include this policy the costs to the developer will need to be fully accounted for in the viability assessment. Evidence as to the costs of the current standards and number of other potential specifications that deliver beyond current regulations has been considered by the Future Homes Hub in its report Ready for Zero published in February 2023 (<https://www.futurehomes.org.uk/>). Whilst there is no direct comparison to the approach being proposed by the Council specification 4 outlined in the report delivers near zero regulated emissions and as such provides a reasonable comparison to the Council's requirements which would be required to achieve net zero regulated emissions. To achieve this standard on a typical end of terrace house would cost over £21,000 more than delivering Part L 2021 and £16,000 more than the Future Homes Standard. These costs are significantly higher than £10,000 allowance used in the viability study when considering a policy that requires a 100% reduction in operation carbon.

11. The council will also need to consider the increased thickness of walls required to meet higher energy efficiency standards. This is considered in the Future Homes Hub report with specification 4 referred to above having walls up to 130mm thicker due to the need for larger cavities. This impact of this increase in cavity is shown in figure 71 of Ready for Zero with a row of 30 detached homes built with 100mm cavities being reduced by half a home if a 200mm cavity is used. Whilst the impact on overall delivery may be small it may well impact on the mix of homes that a scheme can deliver and which will need to be considered in the viability assessment of this DPD.

SB2: Minimising Greenhouse Gas emissions in New Development

12. This policy requires major development to be net zero with regard to their carbon emissions. Where this cannot be achieved on site the Council will require these to be offset in the form of a cash contributions to the Council's carbon offset fund or an alternative fund as agreed by the Council if their own fund is not in place. As set out above the HBF consider requirements that go beyond the minimum energy efficiency standards set out in building regulations to be unsound. Similarly, we do not consider requirements to offset carbon emissions to be supported by national policy. At no point does the NPPF suggest that offsetting should be used to ensure new homes are zero carbon. As we note above new homes will be zero carbon ready from 2025 and will be zero carbon once the national grid is decarbonised. As such the emissions from these homes will reduce progressively over time making it almost impossible for the Council or others to accurately assess how much carbon should be offset for each home built. As set out earlier house builders recognise the need to reduce carbon emissions arising from new homes, but these must be fair and related to what is being built.
13. If the Council do decide to require all new homes to offset their carbon emissions the Council will need to show that this, in combination with all the other policy costs imposed on new development does not render it unviable and the local plan undeliverable. The Council will need to have detailed costings as to the cost of any offsetting from reliable funds that actually achieve their stated aims.

Conclusion

14. The HBF is supportive of the Government's approach to ensuring that new development addresses its impact on biodiversity and carbon emissions. These are significant impositions on all residential developers who are having to change their approach to the design and build of new homes as well as creating new supply chains and labour markets to deliver the proposed standards. As such we do not consider it appropriate for Council's to go beyond these standards and we remain concerned that this will impact on the delivery of new homes across the Country.
15. If the Council include policies that go beyond building regulations, then these will need to be accurately costed in the viability assessment. At present the costs of achieving the proposed policy have not been fully considered and the viability evidence will need to be

updated. We hope you find our comments helpful and if you would like to discuss these further please contact me.

Yours faithfully

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

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