

Sent by EMAIL ONLY to Sandwell_LocalPlan@sandwell.gov.uk

13/12/2023

Dear Sir/ Madam

Response by the Home Builders Federation to the draft Sandwell Local Plan consultation (Reg 18)

1. Please find below the Home Builders Federation (HBF) response to the consultation on the draft Sandwell 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.

Legal Compliance

2. In response to the Sandwell Local Plan Issues and Options consultation earlier this year HBF underlined the importance of ensuring that any 'rolled forward' policies in the draft Black Country Plan remain appropriate and are fully supported by the evidence base.
3. HBF is pleased that our earlier comments have been taken on board. It is important that any of the "previously seen" policies in the draft Black Country Plan, which are now being proposed to be rolled forward and "adapted" in the Sandwell Plan, and the evidence supporting them, are subject to full public consultation. HBF remain of the view that the issue of the housing need for Sandwell, the housing requirement for Sandwell, the potential unmet need of Sandwell and Green Belt designations, are key issues that impact on the fundamental Strategic Policies that will be an essential part of good plan-making in Sandwell. HBF is pleased that some additional information has now been made available as part of this consultation. However, it will remain important that the evidence base continues to be updated, and made available, as the plan-making process continues.

Duty to Cooperate

4. HBF note that following the collapse of Black Country Plan, Sandwell has had to undertake its own calculations for the housing need and requirement and



must robustly test how much of this can be met within Sandwell and how much (if any) is an unmet need. The Council will then need to work with neighbouring authorities to identify how that unmet need will be redistributed and prepare a Statement of Common Ground on this issue. The Council should also prepare a Duty to Cooperate Statement.

5. Currently there is not enough information available for HBF to come to a view as to whether or not Sandwell has met, and is meeting, the Duty to Cooperate. The Council will need to evidence its ongoing work with the other neighbouring authorities within the HMA. This will need to be evidenced with more than words of good intentions and be supported with a clear Plan of how all the housing needs of Sandwell will be met. We hope this evidence will be forthcoming, and in light of the known issue around housing numbers and unmet need, it is essential that does.
6. HBF's main concerns around Duty to Cooperate relate to ensuring the required amount of housing is delivered in reality. This is particularly important because the current Plan indicates a significant amount of unmet need. The issue of fully meeting housing needs within Sandwell remains. Our more detailed comments on this issue can be found in response to Policy SDS1.
7. HBF suggest that the Council prepare a signed Statement of Common Ground between the Council with each of the neighbouring authorities setting out if and how they will contribute to meeting Sandwell's unmet needs. Such statements will be essential as the Plan progresses. HBF notes the Council's stated intention to be proactive and pro-growth. However, the issue of potential unmet need requires clearly evidenced and ongoing cooperation. This will be essential to show that the Duty to Cooperate has been met.

Vision for Sandwell

8. HBF support the need for the Vision for Sandwell to include reference to the need for new homes to meet housing need, as included within Ambition 7 but suggest this should be amended to be more explicit about the requirement to meet the development needs of the area. HBF would suggest that both the Vision and Objective Six should be more explicit about the need to plan for both open market and affordable housing to meet housing needs and support the Council's growth aspirations.

Policy SDS1- Development Strategy

9. The Plan proposes at least 11,167 net new homes and at least 1,206ha of employment land (of which 29ha is currently vacant). It is noted that paragraph 2.6 explains that "There is still, despite the number of housing sites that have been identified and allocated, a shortfall in the numbers of houses that need to be built to meet identified needs. Housing need is calculated using the Government's standard method based on household growth projections.

- Sandwell needs to identify land for 29,773 homes by 2041.
- The supply of suitable residential land based on the most recent evidence stands at 11,167 homes.
- There is an unmet need for 18,606 homes.
- The SLP provides for around one third of the housing need on the land that is available.

10. As Council is planning only to meet one third of their proposed housing number, this means two thirds are not being planned for. As HBF believe the housing requirement should be higher to start with, the actual percentage of unmet need would be even higher. Even, setting the appropriate housing number issue is aside for now, HBF is very concerned about this proposed shortfall. Failure to meet the housing needs of Sandwell will inhibit growth and do nothing to address the current housing crisis, with implications for the economy and population of wider region. It will be important for the Council to clearly show how the unmet need will be met, and what they will do to ensure that it is. However, the Council needs to first establish the appropriate housing requirement for Sandwell before considering if and how this could be met.

11. Paragraph 2.14 explains that “Employment land need is based on economic forecasts in the EDNA up to 2041.

- Sandwell is subject to a demand for 185ha of employment land.
- The supply of land available and suitable for employment use is 42ha (after completions between 2020 – 2022 are considered). This includes windfall supply, generated through intensification / recycling, and includes a vacant land supply of 29ha.
- Based on the amount of land required to grow the economy, there is a shortfall of around 143ha.
- In addition, the plan allocates 1,177ha of occupied employment as strategic, local or other employment land.

12. HBF notes that the Plan therefore proposes not only significant unmet housing need but also a significant unmet employment need. This would further constrain the ambitions for Growth in Sandwell, and the wider region. HBF suggest these circumstances warrant a full Green Belt review and the allocation of sites to meet the housing and employment requirements of the Borough even if these are within the current Green Belt.

13. With regards the housing requirement itself, HBF strongly support the need for more housing in the Sandwell Local Plan for a variety of reasons including addressing the current housing crisis, meeting housing need, providing affordable housing and supporting employment growth. HBF would request that the Council considers the annual LHN as only the minimum starting point and fully considers all of the issues that may result in a need for a higher housing requirement, including the need to provide a range and choice of sites, the need for flexibility, viability considerations and whether higher levels

of open-market housing are required in order to secure increased delivery of affordable housing.

14. Paragraph 22 of the NPPF requires that strategic policies should look ahead over a minimum 15-year period from adoption. HBF note that the current plan period is to 2041 but would still question if the plan period is long enough to cover this requirement. This Reg 18 consultation closes at the end of 2023 and then the representations need to be considered and analysed, a submission plan prepared and consulted, examination, main modifications consultation, inspectors report and adoption by the Council.
15. HBF suggest that the plan-making process may take some time, especially if additional Green Belt release is needed, and suggest that the plan period could be extended now, especially as this would require an update to the evidence base as is important for the evidence base to be consistent with the Plan Period. Extending the plan period would also require an increase to the housing requirement to cover the additional years, and consequential additional housing supply.
16. The Government has made it clear that it still supports the national target of 300,000 new homes per year. The standard method housing requirement has always been the minimum starting point for setting the housing requirement, and HBF support more housing than the standard method housing requirement in order to support economic growth, provide a range and type of sites and to support small and medium house builders.
17. HBF suggest that each of these reasons on its own could justify an increase in the housing requirement for Sandwell and the Council should consider planning for an additional amount of housing to address each reason in turn. However, as previously mentioned it is important that the housing requirement is established, before any consideration is given to any issues around housing land supply, or lack thereof.
18. The plan-led system requires Council to proactively plan to meet the needs of their community. This means that there is a need to provide a range and choice of sites, a need for flexibility and viability considerations to be taken into account, and a need for the Council to consider whether higher levels of open-market housing are required in order to secure the delivery of affordable housing and/or support economic growth. HBF can not see how planning to meet only one third of the housing need for the area represents a positively prepared plan for the future of the area for the next fifteen years and beyond.
19. Once the housing requirement has been set, the next phase is to consider housing land supply. It is important to both minimise the amount of any unmet needs that cannot be accommodated within the Borough and clearly set out how any unmet need will be addressed elsewhere. HBF recognise the Council's view as to the constrained nature of the Borough and the amount of current Green Belt designation, but would also highlight the size of

the shortfall in Housing and Employment land being proposed in this plan. It is important that the housing needs of Sandwell are met in full.

20. Although HBF is pleased to see the Council commit to ongoing working with neighbouring authorities to try and address this matter under the Duty to Cooperate (or its replacement) the fact remains that the Local Plan's policies should ensure the availability of a sufficient supply of deliverable and developable land to deliver Sandwell's housing requirement. If it is not possible to do this within the boundary then Green Belt release may be needed.
21. Criteria 3 of the policy sets out that "Appendices B and C show how the housing and employment land ambitions for Sandwell will be met. Those development needs that cannot be accommodated within the borough will be exported to sustainable locations in neighbouring local authority areas, following consultation." HBF would question the appropriateness of this approach, but if it is to be pursued then this should be set out as an integral part of the policy and not deferred to Appendix B and C. Surely Housing Allocations should be made as an integral part of the Plan and not in an Appendix.
22. HBF believe that Sandwell's inability to meet its housing (and employment) needs requires revisiting the Spatial Strategy and results in the 'exceptional circumstances' that would require the need for a Green Belt review as set out in para 140 of the NPPF.
23. HBF notes that the issue of fully meeting housing needs within Sandwell remains, despite the ending of the work on Black Country Plan. Sandwell therefore needs to undertake its own calculations for the housing need and requirement, robustly test how much of this can be met within Sandwell and how much (if any) is an unmet need. The Council then need to work with neighbouring authorities to identify how that unmet need will be redistributed and prepare a Statement of Common Ground on this issue. This issue is both a soundness and a Duty to Cooperate issue. At this stage HBF do not believe the Council has done enough to try and meet all its needs, or explored every and all option to do so.

Policy SDS6- Green Belt

24. HBF strongly disagree with the conclusion in para 3.84 which says:

"It is the Council's view that there are no exceptional circumstances in Sandwell that would justify amending current boundaries and releasing any areas of green belt for new development. While there is an identified shortfall of land suitable for housing and economic development, this of itself does not outweigh the need to maintain the openness and permanence of the green belt within Sandwell, especially given the densely developed and urban character of most of the rest of the borough.

HBF would argue that the current housing crisis and the inability of Sandwell meet its own needs (the Plan is looking to plan for only a third of the identified housing need) provide just such exceptional circumstances to necessitate a Green Belt review, which must include the consideration of both employment and housing sites.

25. NPPF (para 20) is clear that “Strategic policies should set out an overall strategy for the pattern, scale and design quality of places, and make sufficient provision housing (including affordable housing), employment, retail, leisure and other commercial development”. Para 11 of the NPPF states that “all plans should promote a sustainable pattern of development that seeks to: meet the development needs of their area; align growth and infrastructure; improve the environment; mitigate climate change (including by making effective use of land in urban areas) and adapt to its effects”.
26. HBF cannot see how a plan that provides for only a third of its housing requirement standard method baseline (and HBF argue the housing requirement itself should be higher) can meet the requirements to be positively prepared and set out a clear long term vision for the area which is the purpose of plan-making. NPPF para 60 clearly states that “to support the government’s objective of significantly boosting the supply of homes, it is important that a sufficient amount and variety of land can come forward where it is needed, that the needs of groups with specific housing requirements are addressed and that land with permission is developed without unnecessary delay.”
27. HBF believes the Council’s inability to meet their own housing need in the midst of a housing consider is a factor that constitutes the exception circumstances that justify Green Belt release.
28. HBF support ambitious growth aspirations in Sandwell. HBF highlight the need to consider the interaction between employment and housing. An increase in the number of jobs can it itself generate a requirement for additional housing, and failure to provide housing can have negative impacts on the economic and social wellbeing of the area. The Plan must recognise and reflect this reality.
29. The Plan need to ensure there is a sufficiency of Housing Land Supply (HLS) to meet the housing requirement, ensure the maintenance of a 5 Year Housing Land Supply (5YHLS) and achieve Housing Delivery Test (HDT) performance measurements. HBF cannot see how achieving these aims is possible without Green Belt release. It is noted that this may in turn also effect the spatial strategy for the Local Plan.
30. HBF also suggest the Council should give explicit consideration to whether BNG development is acceptable within the Green Belt and/or if Green Belt

boundaries need to be revised accommodate schemes that deliver off-site BNG, and possibly even on-site biodiversity gains.

31. Policy SNE2- Protection and Enhancement of Wildlife Habitats

32. HBF has been involved in a significant amount of work, being led by the Future Homes Hub, on BNG preparedness for some time and note that it is somewhat unfortunate that the timing of the release of the draft Planning Practice guidance from DLUHC and the Draft DEFRA BNG Guidance has seen this information released midway through your consultation period.
33. HBF note that there is a new information for the Council to work though and consider the implications of, in order to make the necessary changes to the Biodiversity Net Gain policy, so that it complies with the latest policy and guidance as it finalised.
34. The BNG PPG has been published in draft form to allow for “familiarisation” and as such some details may change between now and the implementation date in January 2024. Similarly, HBF understand the DEFRA Guidance is still being refined before the implementation date, and indeed may be further refined once mandatory BNG is working in practice, to reflect any early lessons learnt. Further additional guidance on phased developments is also expected.
35. There are clearly some areas of the Sandwell Local Plan BNG policy and guidance that will need revising and updating, particularly because the (draft) PPG is clear that there is no need for Local Plan policies to repeat national guidance. For example, HBF would suggest criteria two and eight are not necessary as they are merely repeating national policy.
36. It will be important for the Council to fully consider the PPG and DEFRA guidance once it has been formally published, which HBF notes will be in January 2024, after the close of this consultation period. Although no significant changes to the approach to BNG are expected, further clarity may be needed on some of the finer details, and some amendments and additional advice and guidance are anticipated.
37. It is the HBF’s opinion that the Council should not deviate from the Government’s requirement for biodiversity net gain as set out in the Environment Act. There are significant additional costs associated with biodiversity gain, which should be fully accounted for in the Council’s viability assessment. It is important that BNG does not prevent, delay or reduce housing delivery.
38. Any requirements to go beyond 10% BNG needs to be clearly demonstrated with evidence including considering the implications of the policy approach as part of the whole plan viability appraisal. In particular, HBF would question how the viability of more than 10% BNG can be established when the market

for off-site credits, and therefore the costs of delivering the 10% mandatory BNG system are still emerging.

39. HBF note that work undertaken by DEFRA to inform the national percentage BNG requirement found that a 20% net gain requirement would add c.19% to the net gain costs, over and above the minimum requirement of 10%. The report concluded that:

“While this suggests that varying the level of net gain between 5% and 20% has very limited impact on the outcome, there is a trade-off between cost implications for developers and the likelihood of net gain being delivered at a national level (e.g. less costly/likely at 5% net gain compared to 10%, and vice versa for 20%). Our chosen policy approach, which sets out that 10% is the right level to demonstrate net gain, considers this trade-off among other issues.”

40. HBF also notes that the proposed policy wording and supporting text in the Local Plan will need to reflect both that the Environment Act which requires 10% Biodiversity Net Gain, and the emerging policy, guidance and best practice on how Mandatory Biodiversity Net Gain will be implemented. There is an important policy distinction to be made between the national mandatory requirements and any optional further requests from LPAs to go further and faster. In particular the 10% national target is non-negotiable from a viability perspective, but policies seeking over 10% can be challenged on viability grounds. This distinction needs to be recognised within the Local Plan.
41. HBF suggest particular care is needed in terminology to ensure the Sandwell policy reflects the national policy and guidance. For example, on-site and off-site biodiversity is referred to as units, and the statutory national credit system of last resort is referred to as credit. It is important for the wording of the policy to accurately reflect the legalisation and guidance.
42. HBF question the wording of criteria six, as it should be for the BNG plan to set out what happens if monitoring shows any BNG measure are ineffective. For large and complex sites where the development is phased, the guidance is clear that the 10% must be delivered at the end of the development, and this may not result in 10% BNG on each phase.
43. It is also important to note that Local Nature Recovery Strategies are new initiative, and one has yet to be prepared that covers Sandwell. As the LNRS emerges it will be important for this Local Plan to be kept under review and further public consultation on the interaction between the two documents and/or changes to Local Plan policy to reflect the LNRS may be needed.

Policy SNE3 – Provision, Retention and Protection of Trees, Woodlands and Hedgerows

44. HBF would question how the Council arrived at the requirement for 3 replacement trees for everyone lost and what (if any) assumptions have been

relation to the size and standard of trees. HBF considers that a three for one replacement policy could impact on the land uptake for any development and may have implications for the density of developments, which in turn has the potential to have an impact on the viability of developments.

45. HBF suggest further flexibility is needed in the policy, for example hedgerow removal may be an essential to gain access to a site, but BNG policies which require 10% net gain from the pre-development baseline so any loss would already have to be compensated. HBF suggest the Council should give more thought to how the suite of environmental policies are intended to work together so that developers are completely clear what is expected of them, and to ensure that the policies do not serve to make development undeliverable. The interrelationships between the BNG policy and other environmental policies needs to be fully considered and explained.

Policy SCC1 – Increasing efficiency and resilience

46. The HBF supports the Government's intention to set standards for energy efficiency through the Building Regulations. The key to success is standardisation and avoidance of individual Council's specifying their own policy approach to energy efficiency, which undermines economies of scale for product manufacturers, suppliers and developers. The Councils do not need to set local energy efficiency standards in a Local Plan policy because of the higher levels of energy efficiency standards for new homes set out in the 2021 Part L Interim Uplift and proposals for the 2025 Future Homes Standard, which are currently out for consultation.
47. HBF also draws the Council's attention to the recent Ministerial Statement on this issue which says "the Government does not expect plan-makers to set local energy efficiency standards for buildings that go beyond current or planned buildings regulations. The proliferation of multiple, local standards by local authority area can add further costs to building new homes by adding complexity and undermining economies of scale." See <https://questions-statements.parliament.uk/written-statements/detail/2023-12-13/HCWS123>

Policy SCC2 – Energy Infrastructure

48. HBF is concerned about mandatory requirements to connect to district heating networks. HBF considers that it is important that this is not seen as a requirement and is instead implemented on a flexible basis. Heat networks are one aspect of the path towards decarbonising heat, however, currently the predominant technology for district-sized communal heating networks is gas combined heat and power (CHP) plants. Over 90% of district networks are gas fired. As 2050 approaches, meeting the Government's climate target of reducing greenhouse gas emissions to net zero will require a transition from gas-fired networks to renewable or low carbon alternatives such as large heat pumps, hydrogen or waste-heat recovery but at the moment one of the

major reasons why heat network projects do not install such technologies is because of the up-front capital cost. The Council should be aware that for the foreseeable future it will remain uneconomic for most heat networks to install low-carbon technologies. This may mean that it is more sustainable and more appropriate for developments to utilise other forms of energy provision, and this may need to be considered.

49. Government consultation on Heat Network Zoning also identifies exemptions to proposals for requirements for connections to a heat network these include where a connection may lead to sub-optimal outcomes, or distance from the network connection points and impacts on consumers bills and affordability.
50. Furthermore, some heat network consumers do not have comparable levels of satisfaction as consumers on gas and electricity networks, and they pay a higher price. Currently, there are no sector specific protections for heat network consumers, unlike for people on other utilities such as gas, electricity or water. A consumer living in a building serviced by a heat network does not have the same opportunities to switch supplier as they would for most gas and electricity supplies.
51. The Council's proposed policy approach is unnecessary seeks to go beyond the 2021 Part L Interim Uplift and the Future Homes Standard without justification. It is the Government's intention to set standards for energy efficiency through the Building Regulations. The key to success is standardisation and avoidance of individual Council's specifying their own policy approach to energy efficiency, which undermines economies of scale for product manufacturers, suppliers and developers.
52. The Council should be aware that the long awaited consultation on the Future Homes standard was published on Dec 13th 2023 and consultation closes in 6 March 2024. The consultation documents can be found online at <https://www.gov.uk/government/consultations/the-future-homes-and-buildings-standards-2023-consultation>

Policy SCC6 – Renewable and Low Carbon Energy and BREEAM Standards

53. HBF is concerned about any policies which mandate on-site renewable energy generation. HBF considers that it is important that this is not seen as a requirement and is instead implemented on a flexible basis. HBF recognises that there may be potential for renewable energy generation on-site, however, it may be more sustainable and efficient to use larger scale sources rather than small-scale, it is also noted this policy also takes no account of the fact that over time energy supply from the national grid will be decarbonised.

Policy SHW1– Health Impact Assessments

54. HBF is unclear why the Health Impact Assessment is seeking to assess if a development “will provide a range of housing types and tenures that meet the needs of all sectors of the population including for older people and those with disabilities requiring varying degrees of care; extended families; low-income households; and those seeking to self-build as set out in Policies SHO3, SHO4 and SHO5”. This matter is already adequately addressed in the specific housing policies and should not need to be repeated in a HIA.

Policy SHO1- Delivering Sustainable Housing Growth

55. In relation to criteria one, HBF’s detailed comments in relation to the amount of housing needed in Sandwell can be found in our response to policy SD1: Development Strategy. In summary, HBF request that the standard method LHN should be the minimum starting point for establishing the housing requirement and the Council should then fully considers all of the issues that may result in a need for a higher housing requirement, including the need to provide a range and choice of sites, the need for flexibility, viability considerations and whether higher levels of open-market housing are required in order to secure increased delivery of affordable housing. HBF suggests that these considerations should result in a higher housing requirement for Sandwell which set be set out in the Local Plan. Only then should consideration around deliverability and housing land supply come into play, the housing requirement should be established first.

56. In relation to criteria two, HBF note that the Council is looking to phase the plan and delivery of the housing requirement. For the plan to be effective and justified, a clear explanation of this approach and the reasoning behind for it is needed. As HBF is of the view that the overall housing requirement for Sandwell should be higher, it follows that our view is that the numbers in each phase should be higher too.

57. HBF supports the principal of discounting the housing land supply assumptions to take account of non-implementation rates. We note that site with planning permission include a lapse rate of 5% other commitments are SHLAA are discounted by 10% and occupied employment land discounted by 15%, but these figures should be clearly evidenced. HBF also notes that no allowance is made for non-delivery of windfall sites and we believe one is needed. HBF would question if the discount rates should in fact be higher especially for sites that are currently occupied in employment use. The anticipated loss of current employment sites to housing further underlines the need for housing and employment to be considered together, and for the potential implications of not meeting with the housing and employment need of the borough to present the exceptional circumstances required to justify Green Belt release.

58. Para 7.4 of the Plan states that “A balanced range of sites has been provided, in terms of size, location and market attractiveness, which will help to

maximise housing delivery over the Plan period. Across the borough, 10% of identified supply in the Plan and in the most recent Brownfield Register is on sites no larger than 1ha, which is in accordance with the requirement set out in the NPPF at paragraph 069.”

59. The NPPF requires Local Plans to identify land to accommodate at least 10% of the housing requirement on sites no larger than one hectare, unless there are strong reasons why this cannot be achieved. 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 without 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 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.
60. HBF would therefore wish to see the 10% small sites allowance delivered through allocations. Indeed, we would advocate that a higher percentage of small sites are allocated if possible. Such sites are important for encouraging the growth in SME housebuilders who will tend to develop these sites but rarely see the benefits that arise from the allocation of sites in a local plan. 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%.
61. HBF also note that support for small and medium builders need not be limited to only small sites of less than 1Ha. SMEs also deliver on other types of non-strategic sites (for example up to 100 units). The inclusion of additional non-strategic allocations would expand the range of choice in the market, and be of a scale that can come forward and making a contribution to housing numbers earlier in the plan period.
62. In relation to criteria three, HBF notes that NPPF (para 71) only permits an allowance for windfall sites if there is compelling evidence that such sites have consistently become available and will continue to be a reliable source of supply. HBF are also of the view that any buffer provided by windfall sites should be in addition to the buffer added to the housing need figures derived from the Standard Method to provide choice and competition in the land market. However, by including windfalls within the Plan’s housing requirement supply, any opportunity for windfalls to provide some additional housing numbers and flexibility is removed. Windfalls do not provide the same choice and flexibility in the market as additional allocations.

63. Criteria 3 indicates that regular monitoring will be undertaken annually of housing delivery, but this does not tally with the Monitoring Framework at the end of the Plan. It should also be possible to see from Housing Trajectory how much reliance is being made on windfalls, or from when. To be both justified and effective the Housing Trajectory should include break down the housing numbers into different sources of supply. HBF are of the view that any allowance for windfall should not be included until the fourth year of a housing trajectory, given the likelihood that dwellings being completed within the next three years will already be known about (as they are likely to need to have already received planning permission to be completed within that timeframe).
64. HBF also question the need for Criteria 6 about BNG to be repeated here within the policy (and in other policies elsewhere in the Plan) when this matter has already been addressed elsewhere within the Plan, and the Plan should be read as a whole. To repeat this only this policy requirement here seems repetitious and confusing. HBF comments on BNG can be found in response to Policy SNE2 which is the appropriate place for them to be considered. HBF does not believe it there is any need to repeat the requirements of policy SNE2 here.

65. Policy SHO2- Windfall Developments

66. As outlined above HBF are concerned about the Councils reliance on windfall in place of allocating housing sites. HBF also question whether it is appropriate to treat council owned land differently in policy terms from any other land. Consideration of who the applicant or landowner is, is not normally considered a to be a planning matter. The allocation of sites and the granting of permission for windfall housing should be considered on their planning merits and the contribution they can make to sustainable development, not who is the owner of the land.
67. HBF contend there is need for greenfield development in Sandwell to address the housing crisis and meet the housing requirement, some of these greenfield sites may need to be on Green Belt land. If monitoring showed underperformance of housing delivery additional housing will need to be brought forward which could include allowing additional green field sites. The policy should be amended to account for this possibility.
68. It should be noted that HBF also support the need for additional greenfield allocations to meet the housing requirement.

Policy SHO3- Housing Density, Type and Accessibility

69. This policy requires a density of 100 dwellings per hectare for areas of 'very high-density' housing areas, 45 dwellings in 'high accessible areas' and 40+ for 'moderate area'. Although the Table Six uses 100+, 45+ and 40+, so there is a need for consistency between the two.

70. Is it unclear from the policy wording if this policy only applies to allocated sites, or all development over 10 units. It is also unclear how a developer would know which target applied to their development and which standard to apply on a site not allocated in the Plan. The Plan needs to better explain and justify its approach.
71. HBF would also question how realistic such high densities are, noting that the setting of residential density standards should be undertaken in accordance with the NPPF (para 125). HBF would also question how this policy links into other policies in the Plan including the policies that seek to protect family housing, resist HMOs, limit tall buildings, prevent intensification, resist windfalls, and require a range and mix of housing. All of these policies may prevent densification. Indeed, even the amount of land now required for on-site BNG delivery may impact on the density that is delivered.
72. HBF suggest that density needs to be considered on a site by site basis to ensure schemes are viable, deliverable and appropriate for the site, and policy needs to include some flexibility if needed to enable it to respond to site specific circumstances.
73. HBF would question of the density proposed are realistic deliverable and viable as the deliverability of high-density residential development in Sandwell will be dependent upon the viability of brownfield sites and the demand for high density city centre living post Covid-19. It is important that delivery of the housing requirement does not rely overly ambitious intensification of dwellings.
74. HBF also question why there is need for a specific mention of 4+ bedroom houses in Criteria 6 of the policy as the wording of the policy as this presupposes no need for four bed houses in the evidence which may not be the case. The plan should also be read as a whole and the matter of responding to housing need in terms of size and type of units is already covered elsewhere in the Plan.

Policy SHO4- Affordable Housing

75. HBF welcomes the recognition that the delivery of affordable housing in Sandwell may raise issues of viability. Viability must be an integral part of the plan-making process, and the findings of the viability appraisal should have helped inform and test policy development. HBF are particularly concerned about the disconnect between the Nov 2023 viability study and the policies in the Sandwell Local Plan.
76. Para ES17 of the Aspinall Verdi, Nov 2023, Viability Report says “Based on our residential market research, we recommend that the policy should be differentiated by housing market zone and greenfield/brownfield land. This reflects the range of values across Sandwell and the different risks/costs associated with greenfield and brownfield development. This approach optimises the ability of SMBC to deliver affordable housing and fund infrastructure (through land value capture) with-out undermining delivery.

ES 18 The table below sets out our recommendations for the affordable housing targets, derived from the viability analysis herein. These targets assume no grant. These are in line with Sandwell's affordable housing policy.

New Value Zones	Greenfield	Brownfield
Affordable Housing (baseline 25%)		Affordable Housing (baseline 25%)
High Value Zone	25%	25%
Medium Value Zone	15%	10%
Lower Value Zone	10%	0%”

77. Policy SH04 however seeks 25% affordable housing where viable and does not differentiate between greenfield and brownfield sites. The policy therefore does not reflect the evidence and the evidence does not reflect the policy.

78. By way of another example, para ES19 of the study says:

“In the Lower Value zones where the affordable housing threshold for viability is below 10% the Council could rely on the NPPF paragraph 64 (February 2019) which requires that, ‘planning policies... should expect at least 10% of the homes to be available for affordable home ownership’ (subject to exemptions for: a) Build to Rent homes (see below); b) specialist accommodation for specific needs (such as purpose-built accommodation for the elderly or students); c) custom self[1]build; or d) is exclusively for affordable housing, an entry-level exception site or a rural exception site).

We suggest SMBC could therefore keep the affordable housing target at 10% in-line with national policy and consider other proactive interventions in the market to deliver the housing. SMBC will need to be more proactive to deliver housing and regeneration in these areas. In this respect consideration could be given to, inter alia:

- facilitating development on Authority owned land e.g., with deferred land payments and/or overage;
- direct development of housing by SMBC (for lower profit margins);
- partnering with Registered Providers;
- establishing an Urban Development Company to act as master-developer and de-risk sites;
- delivery of brownfield/regeneration sites (e.g., in the strategic centres) through partnership and delivery funding schemes;
- use of grant funding for remediation of Brownfield land and soft-loans etc.

79. HBF do not recognise this interpretation of the NPPF or the approach to Viability in plan-making being suggested by the consultants. NPPF and PPG are clear that if whole plan viability testing shows a contribution for affordable housing is not viable, then Local Plan policy should not seek to impose one. The policies need amending to ensure they reflect the viability realities of delivering development in Sandwell. To meet the tests of soundness the plan

must be viable and deliverable. It is simply not possible to ignore evidence which shows the policies in the Plan would make development unviable.

80. HBF have further concerns about some of the other detail in the Viability Assessment as it has not considered a number of key costs and requirements. For example, HBF information suggests that complying with the current new part L is costing £3500 per plot. The Future Homes Standard Part L in 2025 is anticipated to cost up to £7500+ per plot. There will also be the addition of the Building Safety Levy that is coming in pay for cladding. This will be a per plot basis around the UK, and initial values are around £1500- £2500 per plot. These costs appear to have not been considered in the viability appraisal.
81. Other factors that need to be taken into account include increasing the costs of materials and labour due to inflation and the costs of mandatory BNG, which are still emerging as the off-site market is yet to be established. Although the initial price of statutory credits is now known this national fallback option has been deliberately highly priced to discourage their use. Whilst this intention is understandable, at present the lack of functioning local markets for off-site credits causes viability problems because HBF members experience to date suggests that any scheme that needs to rely on statutory credits becomes unviable. HBF have numerous concerns about the whole plan viability study, including the omission of some key policy costs. For example, a realistic and evidenced allowance for mandatory BNG needs to be included within the viability assessment of the Local Plan.
82. The costs of BNG should have been considered as part of the planning obligations and should be specified as a single specific item, not rolled into any total policy costs. There are significant additional costs associated with biodiversity net gain, which should be fully accounted for in the Council's viability assessment, some of which are unknown at this time. It is important that BNG does not prevent, delay or reduce housing delivery. As this is an emerging policy area and the market for off-site provision, and statutory credits are not yet known, any figure used for BNG costs will need to be kept under review as BNG implementation progresses and a greater understanding of actual costs become available. The Whole Plan Viability Assessment should clearly set out how it considered the implications of mandatory BNG and how it arrived at the most up to date BNG costs information available to use.
83. At a very basic level viability can be improved by reducing costs or increasing values. Sometimes, therefore changing the type of affordable housing provided can help to improve viability of a specific site, and the plan should recognise this. In this situation there could be a change of the percentages of different types of affordable housing provided, but the headline figure of how much affordable housing is provided would remain the same. Flexibility in the policy is important to allow for these kind of considerations.

84. The geographical distribution of development may impact on the Plan's ability to deliver affordable housing where it is most needed. HBF notes that the level of open-market housing provided may also impact on the amount of affordable housing that can be developed.
85. It will be also be important to understand if there any geographically specific viability considerations, such as whether higher levels of open-market housing are required in particular areas in order to secure increased delivery of affordable housing in that location in a way that remains viable. Similarly, brownfield city centre sites tend to be most suited for apartments or retirement living. There will therefore be a need to include green fields allocations which are more likely to deliver family housing and a higher percentage of affordable housing, in order to provide flexibility in the housing land supply and ensure a range of housing types and tenures is provided. This adds further weigh to the need to consider Green Belt release(s).
86. The HBF does not comment on individual sites, other than to say the Plan should provide for a wide range of deliverable and developable sites across the area in order to provide competition and choice and a buffer to ensure that housing needs are met in full. The soundness of strategic and non-strategic site allocations, whether brownfield or greenfield, will be tested in due course at the Local Plan Examination.

87. Policy SHO4- Delivering Wheelchair Accessible and Self/custom build Housing

88. This policy seeks to require all new residential developments to meet M4(2) (Accessible and adaptable dwellings) of Building Regulations and development of 10 or more units to provide 15% which meet M4(3) (Wheelchair user dwellings) on schemes of more than 20 homes.
89. The requirements to meet Part M4(2) will be superseded by changes to residential Building Regulations. The Government response to 'Raising accessibility standards for new homes' states that the Government proposes to mandate the current M4(2) requirement in Building Regulations as a minimum for all new homes, with M4(1) applying in exceptional circumstances. This will be subject to a further consultation on the technical details and will be implemented in due course through the Building Regulations. The requirement to address this issue is planning policy is therefore unnecessary.
90. HBF are of the view that this matter should be left to Building Regulations, however if a policy were to be needed, the wording needs to differentiate between Part a) and part b) of M4(3) technical standards. M43a sets out standards for wheelchair adaptable housing, where M43b relates to wheelchair accessible housing which can only be required on affordable housing where the Council has nomination rights. Any such requirements would also need to be fully considered from a viability perspective.

91. The PPG states:

“What accessibility standards can local planning authorities require from new development?”

Where a local planning authority adopts a policy to provide enhanced accessibility or adaptability they should do so only by reference to Requirement M4(2) and/or M4(3) of the optional requirements in the Building Regulations and should not impose any additional information requirements (for instance provision of furnished layouts) or seek to determine compliance with these requirements, which is the role of the Building Control Body. They should clearly state in their Local Plan what proportion of new dwellings should comply with the requirements. There may be rare instances where an individual’s needs are not met by the wheelchair accessible optional requirement – see paragraph 011 below.

Local Plan policies should also take into account site specific factors such as vulnerability to flooding, site topography, and other circumstances which may make a specific site less suitable for M4(2) and M4(3) compliant dwellings, particularly where step free access cannot be achieved or is not viable. Where step-free access is not viable, neither of the Optional Requirements in Part M should be applied.”

Paragraph: 008 Reference ID: 56-008-20160519

Revision date: 19 05 2016

92. The PPG sets out some of the circumstances where it would be unreasonable to require M4(2) and M4(3) compliant dwellings. Such factors include flooding, typography and other circumstances. HBF suggest that flexibility is needed in the application of these standards to reflect site specific characteristics, and the policy wording should reflect this. HBF do not believe this policy is sound without this flexibility, as it fails to comply with national policy and is not effective or justified.
93. HBF also note that the Aspinall Verdi Viability Study 2023 says “We also propose a nuanced adjustment in SMBC’s M4(3) accessibility policy, emphasising a tailored approach that considers the unique characteristics of different value zones, thereby addressing cost mitigation. Specifically, we recommend that 15% of units situated in medium and higher value zones adhere to M4(3) accessibility standards, while no such obligation is imposed on units located in the lower value zones. This approach not only ensures the equitable allocation of resources but also aligns with the distinct requirements and priorities within each value zone.”
94. However, this recommendation appears not to have been actioned and incorporated into the policy. There should be no need for developers to have to go through the process and cost of a site-specific viability appraisal when the evidence at the plan-making stage has already shown it to be unviable.

95. In relation to Self-Build and Custom Build Plots, the policy requires sites of 100 or more dwellings, to provide at least 5% as serviced plots for self and custom build if there is evidence of demand. If after six months of a thorough a proportionate marketing exercise the plot remains unsold, the requirements falls away.
96. HBF does not consider that requiring major developments to provide for self-builders is appropriate. Instead, the HBF advocates for self and custom-build policies that encourage self and custom-build development by setting out where it will be supported in principle. The HBF considers that Councils can play a key role in facilitating the provision of land as set in the PPG. This could be done, for example, by using the Councils' own land for such purposes and/or allocating sites specifically for self and custom-build home builders- although this would need to be done through discussion and negotiation with landowners.
97. It is considered unlikely that the provision of self and custom build plots on new housing developments can be co-ordinated with the development of the wider site. At any one time, there are often multiple contractors and large machinery operating on-site from both a practical and health and safety perspective, it is difficult to envisage the development of single plots by individuals operating alongside this construction activity.
98. HBF agree that if demand for plots is not realised, it is important that plots should not be left empty to the detriment of neighbouring properties or the whole development. The timescale for reversion of these plots to the original housebuilder should be as short as possible from the commencement of development because the consequential delay in developing those plots presents further practical difficulties in terms of co-ordinating their development with construction activity on the wider site. There are even greater logistical problems created if the original housebuilder has completed the development and is forced to return to site to build out plots which have not been sold to self & custom builders. Therefore, if the current policy requirements are retained HBF would support the suggestion that any unsold plots remaining after the 6-month marketing period revert to the original developer.

Policy SHO6- Financial viability Assessments for Housing

99. As the whole plan viability methodology uses typologies, this means there may be individual sites that are not viable, for example if the costs or vales of a specific site fall outside the parameters used of a typology that was tested. Some site will be on the very margins of viability and other sites may already be unviable even without a change of circumstances. HBF therefore support the recognition of the potential ned for flexibility in relation to site specific viability issues.

Policy SID1 - Promotion of Fibre to the Premises and 5G Networks

100. There is no need for the first section of this policy on Fibre to the Premises broadband because this matter has been addressed through the Part R update to building Regulations that came in last year on 26 December 2022, which ensures development provides gigabit ready physical infrastructure.

Policy SDM1 – Design Quality

101. HBF are supportive of the use of ‘Building for a Healthy Life’ as best practice guidance but suggest its use should remain voluntary rather than becoming a mandatory policy requirement. Building for a Healthy Life is not really a ‘standard’ to be achieved, but rather a toolkit for considering design and thinking about the qualities of successful places.

Policy SDM2 – Development and Design Standards

Nationally Described Space Standard

102. HBF does not support the introduction of the optional Nationally Described Space Standards through policies in individual Local Plans. If the Council wanted to do this, they will need robust justifiable evidence to introduce the NDSS, as any policy which seeks to apply the optional nationally described space standards (NDSS) to all dwellings should only be done in accordance with the NPPF¹, which states that “policies may also make use of the NDSS where the need for an internal space standard can be justified”.

103. The NPPF² requires that all policies should be underpinned by relevant and up to date evidence, which should be adequate, proportionate and focussed tightly on supporting and justifying the policies concerned. The PPG identifies the type of evidence required to introduce such a policy. It states that ‘where a need for internal space standards is identified, local planning authorities should provide justification for requiring internal space policies. Local planning authorities should take account of the following areas:

- Need – evidence should be provided on the size and type of dwellings currently being built in the area, to ensure the impacts of adopting space standards can be properly assessed, for example, to consider any potential impact on meeting demand for starter homes.
- Viability – the impact of adopting the space standard should be considered as part of a plan’s viability assessment with account taken of the impact of potentially larger dwellings on land supply. Local planning authorities will also need to consider impacts on affordability where a space standard is to be adopted.

¹ para 130f & Footnote 49

² Para 31

- Timing – there may need to be a reasonable transitional period following adoption of a new policy on space standards to enable developers to factor the cost of space standards into future land acquisitions’.

104. HBF also remind the Council that there is a direct relationship between unit size, cost per square metre (sqm), selling price per sqm and affordability. The Council’s policy approach should recognise that customers have different budgets and aspirations. An inflexible policy approach to NDSS for all new dwellings will impact on affordability and effect customer choice. Well-designed dwellings below NDSS can provided a good, functional home. Smaller dwellings play a valuable role in meeting specific needs for both open market and affordable home ownership housing.

105. An inflexible policy approach imposing NDSS on all housing removes the most affordable homes and denies lower income households from being able to afford homeownership. The introduction of the NDSS for all dwellings may mean customers purchasing larger homes in floorspace but with bedrooms less suited to their housing needs with the unintended consequences of potentially increasing overcrowding and reducing the quality of their living environment. The Council should focus on good design and usable space to ensure that dwellings are fit for purpose rather than focusing on NDSS.

106. HBF considers that if the Government had expected all properties to be built to NDSS that they would have made these standards mandatory not optional.

107. If the proposed requirement for NDSS is carried forward, then the Council should put forward proposals for transitional arrangements. The land deals underpinning residential sites may have been secured prior to any proposed introduction of the NDSS. These sites should be allowed to move through the planning system before any proposed policy requirements are enforced. The NDSS should not be applied to any reserved matters applications or any outline or detailed approval prior to a specified date.

108. The policy should be deleted.

Water efficiency in new dwellings

109. This policy also seeks to introduce a water efficiency standard of 110 litres/person/day. HBF note that Part G Building regulations already stipulates 125lpppd normal conditions and 110lpppd in water stressed areas. Therefore, HBF question whether there is a need for this to be referred to within the Local Plan as it is already required by other regulatory frameworks.

110. The policy should be deleted.

Delivery, Monitoring, and Implementation

111. HBF notes that we are in the midst of a Housing Crisis. Housing delivery is therefore a key challenge facing Sandwell Borough. To address the housing crisis the Council needs to allocate enough sites to meet the housing requirement and provide choice and flexibility in supply. This will require the allocation of a mix and range of sites in a variety of locations. The policies in the Plan with then near careful monitoring to ensure they are delivering the housing. The Sandwell Local Plan must ensure the delivery of new housing to meet both open market and affordable housing needs.
112. HBF note that the Issue and Options consultation document suggested that that Council was of the view that Sandwell was so constrained it may only be able to provide 9,492 against an identified need of 30,300 new dwellings between 2021 and 2041, less than a third of what is needed. The Reg 18 consultation version is now seeking providing 11,167 homes against a requirement of 29,773 homes by 2041. HBF is unclear of the reasoning and justification for this change.
113. The issue of housing is critically important and needs urgently addressing through the plan-making process. HBF believes that the Council needs to explore any and all options to meet the housing need and requirement of Sandwell. This must include full consideration of the current Housing Crisis and if it results in the 'exceptional circumstances' that would require the need for a Green Belt review. A plan that seeks to meet only third of the need does not deliver is simply not good enough and does represent an effective use of the plan-led system.
114. HBF suggest more flexibility is needed within the plan, so that it is able to respond to any changing circumstances. HBF do not support the inclusion of policies within a Local Plan that merely triggers a review of the Local Plan if monitoring shows housing delivery is not occurring as expected. Such a policy does nothing to address the housing crisis or undersupply of homes. There are other more effective and immediate measures that could be introduced into policy that would enable the Council to address housing under deliver, much more quickly than would be possible through the production of another plan, or plan review.
115. It is important that houses are brought forward, and the matter addressed as soon as possible, if under delivery is observed. HBF would suggest, as a minimum, explicit reference should be made within the Plan's policy to the potential to bring forward supply earlier. However, as the housing need and requirement figures for the Plan are minimum (not maximum) figures the Council could also specifically identify reserve sites, particular sites that could/would be brought forward sooner to address any under delivery whatever the reason for that under performance. This could be a shortfall in market housing permissions granted and/or completions, affordable housing

permissions granted and/or completions and any failure against the Housing Delivery Test or local plan monitoring. More is needed on how and when monitoring will be undertaken and more is needed on what action(S) will be taken when if monitoring shows under delivery of housing.

116. There remains a need to address issues that are wider-than-local matters in a joined-up manner under the Duty to Cooperate. The HBF notes that Sandwell was closely involved in the production of the Black Country Plan (BCP), alongside the other three Black Country councils, but that work on the joint BCP officially ceased in October 2022. The HBF notes that the BCP website says "it is with regret that we are unable to reach agreement on the approach to planning for future development needs within the framework of the Black Country Plan". The statement on the website continues that "Local Plans for the four Black Country Councils will now provide the framework for the long-term planning of the Black Country. The Black Country Plan 2039 work programme will end, and we will now transition to a process focused on Local Plans. The issues of housing and employment land need will now be addressed through individual Local Plans for each of the authorities. The Councils will cooperate with each other and with other key bodies as they prepare their Local Plans." This suggests compliance with the Duty to Cooperate may be a key challenge for meeting the legal requirements of plan-making in Sandwell.
117. HBF suggest that there is a need for housing monitoring to be undertaken across the wider region. If other areas are providing housing to meet Sandwell's need, Sandwell will need to be monitoring this delivery to ensure its needs are being met. However, HBF firmly believe Sandwell should be doing more to address its own needs, including Green Belt release.
118. The HBF would encourage the Council to fully consider the housing needs of the Borough and robustly consider the need for additional housing in the housing requirement before then considering how much of the housing requirement can be met within the Borough, and how much may be unmet. It is important for the housing requirement to reflect the housing needs and growth aspirations of the Borough and not be restricted by capacity considerations, which should be considered after the housing requirement has been set.
119. HBF suggest that the monitoring framework at the end of the Plan needs to be expanded. The Council will need to monitor the delivery of housing and publish progress against a published Housing Trajectory. Housing monitoring should be undertaken on a site-by-site basis. Therefore, the detailed housing trajectory including for specific sites should be inserted included within the Plan.
120. HBF note that as we are in the midst of a housing crisis, it is very important that the Council ensures that the Local Plan delivers all the housing that is being planned for. Sandwell should also monitor the delivery of any

unmet need by neighbouring authorities and actively participate in local plan consultations and examinations to ensure the need for other authorities to meet their need is robustly supported in neighbouring Local Plans.

121. Future Engagement

122. I trust that the Council will find these comments useful as it continues to progress its Local Plan. I would be happy to discuss these issues in greater detail or assist in facilitating discussions with the wider house building industry.

123. The HBF would like to be kept informed of all forthcoming consultations upon the Local Plan and associated documents. Please use the contact details provided below for future correspondence.

Yours faithfully

A handwritten signature in blue ink that reads "R. H. Danemann". The signature is written in a cursive, slightly slanted style.

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