

Sent by email to: planningpolicy@wealden.gov.uk

09/05/2024

Dear Sir/ Madam

Wealden Draft Local Plan

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

Duty to co-operate.

2. The level of unmet needs arising in East Sussex is considerable and at the time of writing the collective unmet needs in the neighbouring areas of Lewes BC (271 to 468 dpa), Eastbourne DC (420 dpa) and Horsham DC (134 dpa) there are shortfalls against housing needs assessed using standard method of over 825 dwellings per annum (dpa). Looking toward neighbouring HMAs there is a further shortfall in the North West Sussex HMA with Crawley identifying an unmet need of 469 homes each over its plan period and a shortfall of 1,068 homes per annum in Brighton and Hove when planned supply is considered against need as assessed using the standard method. In total these amount to a shortfall of over 2,700 homes each year across the plan period against what is needed to address the chronic under supply of homes across these neighbouring areas within East and West Sussex.
3. Given the scale of unmet needs across the sub region the Council, and its neighbours, must take a different approach in how they co-operate and plan for housing. It is evident that the co-operation taken to this point has not been effective in addressing this cross-boundary issue and to continue in the same vein cannot be considered to be maximising the effectiveness of this local plan or to be a constructive approach to the duty to co-operate.

At present the co-operation between the authorities in the area appears to be one of correspondence and meetings between individual LPAs all of whom state that they cannot meet housing needs or support other to meet their needs, without any real collective attempt to identify a solution to the problem of the shortfalls in housing supply. It is not sufficient to merely respond to requests to/from neighbouring authorities with regard to housing needs as indicated in paragraph 4.1 of the Duty to Co-operate Topic Paper. Whilst the HBF recognises that the duty to co-operate is not a duty to agree it still requires the Council to actively consider how it could seek to address the unmet needs of neighbouring areas when these have been identified and not passively state these needs cannot be met. The Council must take a more proactive approach to co-operation and actively plan to deliver additional homes that could reduce the level of unmet housing needs across East and West Sussex.

4. If the Council fails to engage with this issue properly and continues with an approach to the duty co-operate that has previously failed to illicit any solutions to the issue of unmet housing needs, the only conclusion that can be reached is that the has failed again in its duty to co-operate. If the Council is to show that it has co-operated effectively it must take a different, more strategic approach that brings authorities together to plan positively rather than leaving each authority to fend for themselves. The recognise the difficulties facing Wealden in planning for more homes and the council may argue that a more positive and collaborative approach to the duty to co-operate will not illicit any solutions, but that should not prevent it from trying. If the Council are to ensure that they have engaged constructively and actively as required by the duty to co-operate they cannot simply repeat an approach that has failed in the past not just in Wealden but across the South East.

Plan period.

5. The plan period is proposed to run from October 2023 to March 2040. It is not clear why the council have chosen for the plan period to be 16 and half years. Given that all other plans are based on whole years this could cause confusion for those reading the plan. For the sake of clarity, the HBF would suggest that the plan period starts from March 2023.
6. The HBF would also recommend that the plan period is extended by at least one year. Paragraph 22 of the NPPF requires strategic policies in local plans to look ahead for a minimum of 15 years from adoption. The LDS outlines that the plan is expected to be adopted in by the end of Q1 in 2026/27. This would mean that the plan would run for slightly less than 14 years from adoption if this timetable is met. However, this relies on the period

between submission, at the end of June 2025 and adoption at the end of May 2026 of less than 12 months. From the HBF's experience of EIPS this would be rare with the period between submission and adoption take well over 12 months to complete. Therefore, to ensure that the plan is consistent with national policy the HBF would suggest that the plan period is extended to 2042.

SS2: Provision of Homes

7. As set above the HBF do not consider the plan period over which housing needs are assessed to be consistent with national policy and should be extended to 2042. This means that regarding housing needs the starting point for preparing this plan is 22,800 homes. In addition to these needs the Council must take into account the unmet needs of neighbouring areas when considering how many homes to plan for. As set out above these are significant and require a strategic approach not currently being taken forward by the authorities in this area. However, it is essential that the scale of these unmet needs is a key part of decision making by the Council and as such they must be acknowledge and the impacts on affordability, affordable housing delivery etc reflected in its evidence and the Sustainability Appraisal.
8. In seeking to meet the need for housing in Wealden the Council have identified a potential supply of 15,729 homes between October 2023 and March 2040, an average annual over this period of 953 homes. This is around 250 homes per annum, and circa 4,000 homes overall, below the minimum required to meet housing needs over this period. However, over a policy compliant plan period the shortfall will be even more significant. Such substantial shortfalls will add to the growing issue of housing under supply across the sub region and exacerbate the negative impacts this has on many people in the area.
9. The Local Housing Need (LHN) in Wealden is also capped and as such does not represent the actual level of housing need. As PPG notes in 2a-007 the cap reduces the number generated by the standard method but not the level of housing need itself. PPG goes on to note that consideration can still be given to whether a higher level of need could realistically be delivered in order ensure authorities won't have to undertake an early review of relevant policies in the plan. For Wealden, this would mean considering whether it can deliver 1,312 dpa as well as the 1,200 dpa capped LHN.

10. The reason given by the Council for not meeting housing needs are the constraints faced by the Council. These are set out in paragraph 4.40 of the Draft Local Plan and include:
- Potential highways impacts, particularly around the A22 and A26 corridor, which will likely constrain growth in the south and north of the District respectively, particularly around Hailsham and Uckfield and the surrounding areas, accounting for cumulative impacts;
 - Flood risk, particularly to the southeast of the District and around urban areas that surround Eastbourne;
 - Landscape considerations in relation to the High Weald National Landscape and the setting of the South Downs National Park;
 - Biodiversity designations and habitats across the District.
11. With regard to the constraints set out by the Council the HBF's principal concern is with the decision to restrict development on the basis of the highways evidence prepared to support the local plan. The principal document referenced in the draft local plan is the Shared Transport Evidence Base (STEB) that was published in December 2022. This assesses an initial growth option for the district which includes 16,000 new homes and 170,000 sqm of employment retail and other commercial floorspace. Given that the minimum required to meet housing needs in full over the council's proposed plan period was over 19,000 homes and the considerable scale of the unmet needs arising in neighbouring areas, in particular Eastbourne, it is concerning that the initial assessment did not consider a higher level of housing delivery at this initial stage. Instead, it states in paragraph 3.1 of the STEB that further growth distributions and scales of development will be tested in future stages of plan preparation.
12. It is therefore not clear how the Council can consider highway and transport to be a constraint on higher levels of delivery given that these do not appear to have been tested by the Council. The additional homes may not have a significantly greater impact than the level being proposed by the council or there may be further mitigation measures that could address any additional impacts. Prior to alighting on its preferred approach for the provision of homes in the Draft Local Plan the Council should have tested additional growth distributions that as a minimum met housing needs. The Council have stated that they will revisit this evidence following this consultation and this will need to assess the impact on highways from meeting needs.

13. The Council should also examine the potential to increase the modal shift to more sustainable modes of transport. At present the modelling assumes a 10% modal shift from car use to more sustainable modes of transport. The NPPF is clear that Local Plans should seek to deliver more opportunities to promote more sustainable modes of transport and the HBF consider that Wealden should be more ambitious with this regard and consider further development could support a higher shift towards other modes of transport and public transport in particular. Given that the public transport use is low (around 3% of all trips) and the Council acknowledges the poor level of service in many areas it would appear that improvements to public transport even in areas with relatively good services could deliver a significant reduction in the number of journeys by car if public transport was improved through this local plan.

Housing trajectory

14. Paragraph 75 of the NPPF states that strategic policies should include a trajectory illustrating the expected rate of housing delivery over the plan period, and that consideration should be given as to whether it is appropriate to set out the anticipated rate of development at specific sites. This iteration of the plan has not included a trajectory and clearly this will need to be addressed on publication of the local plan. In support of the trajectory, the HBF would also recommend that the Council publish the expected trajectories of each allocated site and committed development that contribute to the overall supply.
15. It is disappointing that this evidence was not published, as promised in paragraph 3.43 and 4.39 of the Draft Local Plan, to allow interested parties the opportunity to comment on the detailed assumptions being made by the council with regard to delivery trajectories. This can help the Council identify where it is being overly ambitious with regard to the overall trajectory and the trajectory of specific sites prior to the submission version of the local plan. Also, without this information it is more difficult to comment on the overall effectiveness of the plan and policy SS2.

Distribution of Growth

16. The HBF are concerned that the supply of homes does not provide sufficient housing in the more rural communities in the north of the district. At present just 696 homes of the 5,616 homes allocated for development are in this part of the district with 477 of those homes coming forward at Frant close to Tunbridge Wells. Whilst the HBF recognise that the High Weald AONB will limit the level of development and that the focus of development should

not be in the settlements within the AONB, the HBF do not consider supply to respond sufficiently to needs of communities in the north of the district and be consistent with paragraph 82 of the NPPF. In taking the plan forward the Council should reconsider the capacity for further development in the northern part of the district examine whether additional sites could be allocated in these areas to deliver a fairer spatial distribution of new homes across Wealden.

10% on small sites

17. The Council will need to be able to show that it has identified at least 10% of its housing requirement on sites of less than 1 hectare in order to be consistent with paragraph 69 of the NPPF. In meeting this requirement the Council will need to ensure that these are identified with as an allocation in the local plan or in the Brownfield Register and does not include small site windfalls within the 10% requirement. Whilst it will be important to promote more small sites to come forward over the plan period as windfall, as mentioned in part d of paragraph 70 of the NPPF, this is distinct from the 10% requirement set out in part a of paragraph 70 of the NPPF. Further clarification that the 10% should not include windfall development is in the glossary where windfall is defined as "*Sites not specifically identified in the development plan*". (our emphasis)
18. It is important to recognise that the allocation of small sites is a priority for the Government and stems from the Government's desire to support small house builders by ensuring that they benefit from having their sites identified for development either through the local plan or brownfield register. The effect of an allocation is to take some of the risk out of that development and provide greater certainty that those sites come forward. This in turn will allow the SME sector to grow, deliver homes that will increase the diversity of the new homes that are available as well as bring those homes forward earlier in the plan period.
19. Council should also recognise that allocating small sites and supporting SME house builders not only ensures a stronger supply in the short term but also improves the diversity of choice within local housing markets, support local and regional supply chains and are often pivotal in bring forward innovation and supporting jobs growth locally, with 1 in 5 of the SME work force comprising of apprentices. A failure to allocate small sites will contribute to the continued decline in small and medium sized house builders. Recent research by the HBF has found that there are 85% fewer small house builders today than there was 20 years ago and that of a survey of SME house builders 93% said that planning was a major

barrier to SME growth. Whilst this decline is due to a range of factors more allocations of small sites would ease the burden on many SME developers and provide more certainty that their scheme will be permitted, allowing them to secure the necessary finance that is often unavailable to SMEs until permission is granted.

20. Therefore, in order for the plan to be consistent with national policy the Council should not just seek to maximise delivery from the small sites that do come forward but to actively promote these through allocations in the local plan.

CC1: Net Zero Development Standards

21. This policy will require development to embed the energy hierarchy and achieving building performance standards that are significantly higher than current or future building regulations that are based on the amount of energy used by a building and the level of embodied carbon in the materials used in constructing each home.

Operational energy use

22. With regard to energy use the council will require the total energy use intensity of the building to less than or equal to 35 kwh/m²/year and a space heating standard of 15 kwh/m²/year. The HBF do not support the use of these standards and consider them to be inconsistent with national policy and unjustified.
23. The HBF and its members recognise the need for new homes to reduce carbon emissions in order to meet the national target of net zero by 2050. In order to deliver this the HBF is supportive of the position set out in the Written Ministerial Statement on local energy efficiency standards published on the 13th of December 2023 which gives a clear indication that the Government's preferred strategy is for Council's to refrain from setting additional policies in local plans and wait for the roll out of the Future Homes Standard from 2023. Whilst the HBF agree that there is a need to act to reduce carbon emissions the Council must recognise that the changes proposed in the Future Homes Standard will ensure the Government's ambitions of achieving net zero by 2050 are delivered without impacting on the supply of new homes.
24. In paragraph 5.14 the Council raise the concern as to whether the current 2022 Building Regulations are enough to meet the Government's net zero ambitions by 2050 and the

uncertainty on how carbon reduction will be enacted via the Future Homes Standard (FHS). However, this firstly fails to recognise that the 2022 Building Regulations are transitional arrangements that deliver improved standards ahead of the more significant changes being introduced in the Future Homes Standard. When seeking to deliver fundamental changes to building standards the Government recognise that a stepped approach allows the housebuilding industry and its suppliers to ensure that there is sufficient capacity in supply chains and skills in the labour force needed to deliver the FHS and guarantee that that these standards are deliverable at the point at which they are introduced. Secondly the Future Homes Standard will ensure that there is certainty rather than uncertainty in how carbon reduction will be delivered. It is the ad-hoc introduction of alternative standards by different local authorities which creates uncertainty and additional complexity.

25. This concern is highlighted in this WMS which notes that “*Compared to varied local standards nationally applied standards provide much-needed clarity and consistency for businesses, large and small, to invest and prepare to build net-zero ready homes*” and that local standards can “*add further costs to building new homes by adding complexity and undermining economies of scale*”. The approach taken by Government has been properly considered and tested to ensure that it is deliverable whereas Wealden appear to have done little work to consider the actual impact of CC1 on the delivery of homes across Wealden.

26. Despite these concerns the WMS does outline that with where such policies are included in local plans, they must be a well-reasoned and a robustly costed justification for their inclusion. However, where the evidence to support such policies is not robust the Government is clear that they should be rejected at examination. The WMS outlines that in order for such policies to be adopted the Council must be able to show:
 - That development remains viable, and the impact on housing supply and affordability is considered in accordance with the National Planning Policy Framework.
 - The additional requirement is expressed as a percentage uplift of a dwelling’s Target Emissions Rate (TER) calculated using a specified version of the Standard Assessment Procedure (SAP).

27. Taking the second bullet point first, the approach proposed by the Council based on energy use is inconsistent with the approach set out in the WMS and as such is unsound. This inconsistency is noted by the council in paragraph 5.24 of the local plan and notes that the

Council will consider whether they need to reframe the way the policy is worded. The HBF consider that if the policy is not amended with the requirements expressed a percentage of Total Emissions Rates as suggested by the WMS, then the policy would be unsound. By expressing the requirements in this way allows any policy to be easily and readily considered by developer and decision maker alike using the Standard Assessment Procedure (SAP). As this is currently used across the industry for assessing a buildings performance it provides a simple and effective approach to assessing performance and whether a development meets the policy requirements set out in the local plan.

28. Turning to the first bullet point, the Council will need to ensure the costs and deliverability of this policy are fully and robustly tested. The Council's Viability Assessment (VA) states at paragraph 1.7 that the Council has applied a 5% uplift in build costs to cover operational emissions. However, it must be noted that the Council's policy does not refer to operational emissions but to operation energy use which raises concern that the cost of this issue has not been properly considered in the VA. It is also noted that in paragraph 4.18 that this uplift is made in relation to the additional costs compared to those required to meet the 2013 building regulations which are taken from modelling provided to support the Cornwall Climate Emergency DPD.

29. Since the publication of the evidence presented in the VA the HBF would like to draw the Council's attention to further work that has been undertaken by the Future Homes Hub (FHH) on the cost of delivering zero carbon homes. The FHH has considered a variety of standards in order to support and inform the implementation of the Future Homes Standard, the findings of which are set out in '*Ready for Zero*'. This study tests a number of archetypes against a range of specifications from the current standards set out in the 2021 Building Regulations through to standards that will achieve similar standards to those proposed by the Council. The various specifications and costs considered are summarised in Figure 8 of '*Ready for Zero*' report and indicates that in order to deliver energy use standards similar to those required by CC1 (specifications CS3, CS4 and CS5 in the FHH report) would, for a three bedroomed end of terrace house, be around a 15% to 20% increase in per unit build costs compared to the 2021 Building Regulations. Whilst the specifications and assessment methodology may not be directly comparable to those being proposed by the Council it provides an indication as to the costs of achieving similar specifications with regard to energy use and space heating demand being suggested by the Council in relation to residential development.

30. In addition, the Council will need to consider the impact of these policies on both delivery rates and when the proposed site allocations will commence. The approach being proposed by the Council will add significant additional complexity to bringing forward new development within Wealden. This will delay the delivery of new homes in the early years of the plan as the labour force is retrained and the supply lines required to meet these standards are developed. It has been recognised by the FHH that to deliver higher standards will require phased transitional arrangements would be needed to steadily build up the skills and ensure quality. The FHH also notes in its report Ready for Zero that even if a short transition period between current standards and those similar to the Council are proposing that this would "... *create a high risk of quality problems, inflated costs and, potentially, stalled build programmes*". As such consideration will need to be given as to the delivery rates of development in the early years of the plan period with fewer homes potentially coming forward in this period as these much higher standards will take time to embed. Without comprehensive evidence as to how these standards will impact on the delivery of development in Wealden the policy should be deleted.

Embodied carbon.

31. Part 3c. of this policy sets out requirements as to the level of embodied carbon to be achieved in all development at 500kgCO²e/m², which reduces to 300kgCO²e/m² from 2030. Whilst it is recognised the importance of limiting embodied carbon as part of the development process, we could find no evidence presented by the Council that this is achievable or any consideration as to how this might impact on the delivery of development. Whilst the council have included a cost in the viability assessment this is an arbitrary 10% on build costs without any evidence as to whether this actually reflect the costs to the developer. In particular no consideration appears to be given as to whether this is deliverable in flatted development which in general requirements more concrete and steel increasing the level of embodied carbon in these buildings. Without any robust evidence the policy should be deleted.

32. There are also considerable difficulties and uncertainties in this area with inevitable trade-offs between reducing embodied carbon versus place making design and requirements for renewable energy generation such as photovoltaics. Therefore, if the Council have the evidence to show that the policy is deliverable the Council will need to ensure that all these other policies are consistent with delivering the levels of embodied carbon being proposed. The HBF would recommend that if the policy is taken forward that it is sufficiently flexible

and provide detail as to how the applicant and decision maker should react in those situations where the policy cannot be achieved.

Performance gap

33. Part 11 requires proposals for new buildings to be tested to ensure that buildings perform as predicted. This is unsound and adds further complexity by requiring alternative assessment methodologies. The Government have stated that testing should be undertaken using the specified version of SAP and therefore to require alternative testing is not considered to be consistent with the ministerial statement.

CC3 – Sustainable design and construction

34. Paragraph 5.54 requires the use of the Homes Quality Mark (HQM), or an alternative where agreed, to show compliance with this policy. This is unsound. The Council should not require certificates to assess whether a development achieve the requirements of this policy. Whilst these assessment process can provide a helpful basis for developer and decision maker that they have complied with this policy they should not be a requirement adding cost to what is already an expensive process. The Developer should be able to submit the required sustainability statement as part of the application setting out how they will meet the requirements of this policy without recourse to specific quality assurance assessments. The HBF therefore recommend that paragraphs 5.53, 5.54 and 5.55 are deleted.

CC4: Carbon sequestration

35. Whilst the HBF recognises the need to protect carbon stores and support carbon sequestration. However, the policy or supporting text makes no reference to BNG and positive benefit this will have on carbon sequestration through the creation of new habitats across the district. Indeed, the delivery of BNG, whether at 10% or higher, would mean that part 2b) would be addressed by all development. This should be made clear in the either the policy or supporting text to ensure that decision makers are aware of the links between these two policies and the positive contribution development is already making on this issue.
36. The Council have stated that they are undertaking a Climate Change and Adaptation Study as part of the evidence base to support the local plan. The Council state that this will provide

information on the most appropriate methods for carbon sequestration makers however as part 3 states that development on identified carbon stores will need to maximise opportunities for carbon sequestration it is not clear whether the council will identify these or whether there will be further assessments required by the developer and what such an assessment will entail.

CC6: Water efficiency

37. Given that parts 2 and 3 set out how development is expected to minimise its impact on and make efficient use of water resources why part 1 is necessary. The wording could be used by decision makers to unnecessarily refuse development that meet the standards set out in parts 2 and 3 but do not meet a higher standard perceived to be necessary by decision makers. However, the HBF recognise that the council may want to set out where applicant should demonstrate it meets part 2 and 3 and would suggest the following amendment to part 1 CC6: *“Applicants will be required to demonstrate, through the Sustainability Statement or the Design and Access Statement that:”*. This provides a clear indication to applicant and decision maker as to where compliance with the policy should be demonstrated and what needs to be demonstrated.

NE2: Biodiversity Net Gain.

38. The HBF consider the requirement for new development to deliver a 20% net gain to be unjustified. The latest guidance published by Government on the 14th of February and highlight the statement that:

“plan-makers should not seek a higher percentage than the statutory objective of 10% biodiversity net gain, either on an area-wide basis or for specific allocations for development unless justified. To justify such policies, they will need to be evidenced including as to local need for a higher percentage, local opportunities for a higher percentage and any impacts on viability for development. Consideration will also need to be given to how the policy will be implemented”.

It is important to note that the Government’s position is that local plan should not seek a higher requirement. This is different to a permissive policy allowing local plans to seek a higher level of BNG where justified and the HBF would argue that it should be considered a high bar with regard to the evidence required to justify such a policy. There must be very

robust evidence that the area is significantly worse than the country as whole with regard to the negative impacts on biodiversity from development and that the viability evidence will need to have considered in detail the actual costs facing development rather than assumed costs based generalised national data if the 20% BNG requirement is to be justified.

39. The HBF does not disagree that the UK has seen a significant loss in biodiversity not just in recent past but previous centuries and as such recognise the importance of ensuring that the outcome of new development in future is that there is a net gain in biodiversity. At present the Council have stated that Wealden is a biodiversity rich environment but have not stated why this then requires BNG to be set at 20%. It will be necessary for the council to show why 20% is required in Wealden and why biodiversity is more under threat in Wealden as a result of residential development than elsewhere in the country and why it requires a higher level of BNG to offset these concerns. Without this evidence the 20% requirement must be reduced to the statutory 10%
40. The Council have considered the 20% BNG requirement in the Viability Assessment (VA) which considers the cost uplift in meeting a 20% requirement is relatively modest the difference in delivering a 10% requirement to a 20% requirement having little difference in terms of viability. In some circumstances this will be the case. It is inevitable that some sites will be able to easily deliver 20%, especially where the baseline level of biodiversity is low. However, others with higher baseline levels of biodiversity will be unable to deliver even the statutory minimum on site and will require the purchase of offsite credits in order to meet the higher percentage. Alternatively, the developable area will need to be reduced significantly impact on the viability of the site and/or its development capacity. The problem with assessing BNG through the local plan viability VA is that the costs on site will rarely reflect any general assumptions made due to variation in the biodiversity of every site.
41. For example, it is often assumed that PDL sites will have a relatively low baseline level of biodiversity. However, such sites can sometimes fall into the category of a biodiversity rich habitats classified as Open Mosaic Habitat (OMH) where species can be rarer than those found on farmed countryside. These are considered to be areas of high distinctiveness and would result in the loss of 6 units/ha rather than 2units/ha for bare ground. Such habitats are also difficult to create and as such require 1ha of OMH to be replaced with 1.9ha of the same habitat of the same quality. However, until the baseline assessment is undertaken it is not known what habitats occur and the difficulty of meeting the required level of BNG.

42. These are considerations that cannot easily be factored into development typologies and plan wide viability assessments which are by their very nature make generalised assumptions about the costs of BNG. The Council's Viability Assessment uses the costs used in the 2019 Impact Assessment (IA). Whilst in the absence of other costs these have been used across the country for assessing viability. However, it must be noted that the IA is an examination of the broad costs to the development industry based on a range of assumptions that will not necessarily reflect the type and location of development coming forward in Wealden and the costs of delivering BNG. In addition, the cost of creating and maintaining one hectare of habitat on site is based on 2017 study by Natural Trust, RSPB, and the Wildlife Trust in relation to farms and not residential development. In particular the on site management costs may well be higher compared to the study and the Council will need to provide evidence to what these costs are rather than rely on those set out in the IA.
43. Furthermore, the IA makes no consideration as to the potential reduction in the developable area in order to deliver at least 50% of net gains on site. This is the assumption made in the central estimate and which is used in the Council's VA. In some cases, this may have limited impact whereas on some sites it will impact significantly on the number of homes delivered. These assumptions will need to be tested with regard to allocated sites to understand the degree to which BNG can be delivered on site whilst still delivering expected levels of development. For the typology testing we would suggest that the council should undertake sensitivity testing to consider the impacts of having to deliver more BNG offsite.
44. Finally in using the cost estimate in the IA the Council are underestimating the cost of offsite delivery to meet net gains. The IA applies a cost of £11,000 per offsite credit. This is much lower than current prices in the market which are in the region of:
- £30-50,000 per Grassland unit.
 - £30-50,000 per Hedgerow unit.
 - £30-50,000 per scrubland unit.
 - £30-50,000 per individual tree.
45. These costs could also be higher still if there are insufficient credits locally. If credits are bought elsewhere then the spatial risk multiplier in the BNG Metric will increase the number of credits that are required. It will therefore be necessary for the Council to set out whether there will be sufficient credits to deliver net gains offsite within Wealden. If not, then the costs in the VA will need to be increased. It should also be noted that a 20% BNG requirement will in many cases require more offsite delivery if a developer is to maintain

viable levels of housing delivery on site. This will mean that it is likely that more than 50% of the BNG required on site will be delivered off site and that this will place additional demand for credits within Wealden, potentially increasing the price per unit.

46. However, the council does not appear to have undertaken any work either generally or in relation to the sites allocated in the local plan as to the cost of delivering BNG on site in Wealden nor the level of credits that might be needed to meet the 20% BNG requirement in NE2. Whilst it will be difficult to assess the impact in relation to general typologies it will be necessary for the Council to undertake a more detailed assessment as to the impact of BNG on allocated sites. Without any understanding as to the impact of BNG on the level of development that can be achieved on allocated sites, or the potential level of credits required to ensure they can deliver a 20% net gain the policy is not justified. With regard to typologies, we would suggest that more local evidence is required as to the likely impact. If this evidence is not available, then the Council must revert to the 10% required by the Environment Act 2021.
47. As set out earlier the Government have stated that plan makers should not seek to require a higher level of BNG unless justified. It is therefore for the council to robustly justify why it is both needed and that it has fully considered the impact of a 20% requirement on development viability. It is clear to the HBF that the Council have not achieved what must be seen as a high bar and as such the 20% requirement must be removed from the plan.
48. If it is considered sound to maintain the 20% requirement the policy must recognise that whilst the statutory 10% is fixed the additional 10% can be reduced where this impacts on the viability of development. Given the concerns raised above with regard to the difficulties of assessing the cost of BNG and a Local Plan Viability Assessment the Council must be clear that it will reduce the 20% to the statutory minimum in order to support the delivery of new development.

Policy NE4: Ancient Woodland Veteran Trees

49. As the Council will be aware national planning policy and guidance set out the framework for how Ancient Woodland should be considered within the planning system. The HBF consider policy NE4 tries to go beyond this by introducing a range of additional protections such as enhanced minimum buffers and stating that these buffers are 'sacrosanct' and clear of any development as well as range of other uses. The supporting text at para 6.96 takes

a similarly narrow view on what could comprise 'exceptional circumstances' when compared to para 180c) of the NPPF. As such the HBF we consider the policy as currently drafted to be unjustified and inconsistent with national policy.

NE13: Water infrastructure

50. Part 7 states that development must demonstrate that there is adequate existing water supply infrastructure (foul and surface drainage as well as drinking water provision) to serve the development over its lifetime. Where provision is inadequate / not available, proposals must set out how the appropriate infrastructure improvements will be completed prior to the development's occupation. The HBF does not consider this approach to water supply infrastructure to be sound.
51. The HBF agree that it is important that the necessary infrastructure is in place to support development and that this is a key part of the local plan. This may require development to be phased in order to come forward in line with infrastructure that is required to support development. However, the HBF is increasingly concerned that Councils are including development management policies, such as NE13, in their local plans that seek to prevent development coming forward unless they can show there will be sufficient water and waste water infrastructure in place at the point of application.
52. Policies in local plans relating to applicants having to show that there is sufficient capacity with regard to water supply and wastewater services are unnecessary and unlawful because they are an attempt to get applicants to do things for which they are not legally responsible. Instead, it is the responsibility of water companies, working with local authorities and the Environment Agency, to plan for the future demand for water services relating to the development requirements proposed in local plans, not applicants.
53. As the Council are no doubt aware water companies are subject to statutory duties under S37 and 94 of the Water Industry Act 1991 (WIA 1991). Section 37 of the Act imposes a statutory duty on all water companies to provide and maintain adequate infrastructure and potable water supplies. This section states:

"S37 General duty to maintain water supply system etc.

(1) It shall be the duty of every water undertaker to develop and maintain an efficient and economical system of water supply within its area and to ensure that all such arrangements have been made -

(a) for providing supplies of water to premises in that area and for making such supplies available to persons who demand them; and

(b) for maintaining, improving, and extending the water undertaker's water mains and other pipes, as are necessary for securing that the undertaker is and continues to be able to meet its obligations under this Part.

(2) The duty of a water undertaker under this section shall be enforceable under section 18 above—

(a) by the Secretary of State; or

(b) with the consent of or in accordance with a general authorisation given by the Secretary of State, by the Director.”

54. Consequently, it is for the water company to plan for and then provide a sufficient supply of water whilst also considering its other obligations relating to wider environmental impacts such as those raised by Natural England. It is not for the developer to either anticipate those or to have to remedy this. Simply put the issue of water supply when considering planning applications is not a land use planning matter but one to be resolved by the water company in conjunction with the relevant statutory agencies.
55. If the water company is unable to supply water to meet expected levels of development, this must be disclosed in the WRMP. If unforeseen events occur after the WRMP is adopted, meaning that the water company is now unable to provide the water services required, then the local authority must reflect those problems in its local plan. HBF recognises that this could represent a significant barrier to the delivery of the local plan. It might even mean that the development requirements cannot be delivered, either in part or in their entirety.
56. If water services cannot be guaranteed, then the development requirements in the local plan cannot be delivered. Consequently, the local plan is unsound. The plan cannot be made sound in relation to matters of water through policies in that plan stipulating actions that applicants must take as they cannot provide the water services.
57. Housebuilders cannot resolve the problems relating to water services through policy measures or conditions. Water companies, local authorities the Environment Agency cannot ignore their statutory responsibilities in terms of planning for water by deflecting this onto housebuilders. Therefore, this paragraph in CL4 should be deleted as it is not consistent with the legal framework governing the supply of water and wastewater service to new development.

HO1: Housing type and mix

58. This policy includes an indicative housing mix for all sites of 10 or more dwellings with the focus the mix of affordable dwellings being one bedroomed unit. However, we are concerned that on smaller sites in the district our members find that this is not what Registered Providers (RP) are saying is needed making it difficult to sell homes to RPs. As ever with housing needs assessments these are very much a snap shot in time and the council must not be overly rigid in their application of this policy. The Council have recognised this to a certain extent in paragraph 5, but further flexibility may be needed where RPs have indicated that there is no demand for a specific type of property that location.
59. The HBF also has concerns regarding the housing mix advocated for affordable home ownership, which includes those to be delivered as First Homes. This policy at present suggests that a proportion of three and four bedroomed homes under these tenures will be for First Homes and given the price cap on these could impact on the viability of development and the deliverability of First Homes overall.
60. The discount on First Homes is set at 30% and capped at £250,000 in Wealden. However, where justified a higher discount of 40% or 50% can be applied. However, because of the cost of housing in Wealden even a 50% discount on 3 or 4 bedroomed homes is unlikely to be lower than the price cap. This will make it difficult to achieve the mix of homes proposed by the council on some sites and the effects of delivering at this level of discount must be assessed in the viability appraisal to ensure it is achievable. Without any evidence to support the viability of this approach, said policy is totally unjustified.
61. The Viability Appraisal of March 2024 notes this issue to some extent stating *'First Homes improve scheme viability modestly in low value areas, but then worsen viability as values increase, due to the higher discounts required to keep housing costs within the overall £250,000 cap. When schemes are marginally viable, the imposition of First Homes will have a negative impact on the overall percentage of affordable housing that can be delivered.'* The potential impact of First Homes, based on the proposed mix in HO1, on viability therefore needs to be more thoroughly tested given the relatively high cost of housing across Wealden and particularly in the northern part of the district.

HO4: Small and Medium Sized Housing Sites

62. Whilst the HBF welcome this policy the Council it must not see this supportive policy as a reason for not meeting the policy for 10% of the Council's housing requirement to be met on identified sites of less than one hectare, as set out in paragraph 70a). As outlined early the need to identify small sites is a distinct policy from the need for local plans to provide support for the delivery of small and medium sized windfall sites. The support for small windfall sites is essential the allocation of small sites is the only way of ensuring the significant benefits arising from such sites in improving the choice of housing and supporting delivery in the plan period.

HO5: Self Build

63. The Council are proposing that sites of over 20 units will be encouraged to provide at least 5% of homes as plots for self-build or custom housebuilding. Whilst the HBF recognises that the Council has a duty to provide sufficient self-build plots to meet needs, the policy is excessive given that the self-build register currently has only 227 people on it. It will also be necessary to review the register to ensure it is a robust evidence base of demand. The Council must be confident that those on the list are still looking to self-build, have identified self-build opportunities through windfall or have the means to build their own home.

64. Furthermore, there does not appear to be any evidence to show that those on the register want to purchase plot within a mainstream housing development, with majority wanting to build detached houses in the more rural parts of the district. Given that the majority of self-builders will want a plot that is wholly sperate from a mainstream housing development and it is unlikely that many sites will be able to facilitate this type of demand, the policy cannot be considered to be effective of justified.

65. Such a blanket requirement for self-build homes also fails to recognise that the deliverability of self-build plots will vary from site to site. On some sites it will not be possible for the provision of self and custom build plots on new housing developments to 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. Therefore, if the policy is maintained it must be caveated at the start of part 2 with "*Where feasible ...*"

66. Instead, the approach to self-build should focus on identifying specific sites on which self-build can be delivered rather than including it as part of other sites delivering market and affordable housing. One alternative the council could take forward is a permissive approach to small edge of settlement sites for small self and custom house building development. Such an approach would be consistent with planning practice guidance on this matter which encourages councils to work with landowners rather than place requirements on them with regard to plots for self-build and custom house building. It would not only better meet the expectations of those looking to build their own home but also ensure the Council meets the government's expectation for delivery on small sites set out in paragraph 69 of the NPPF.
67. We note that it is proposed that the policy will include a mechanism that self-build plots should return to the developer to be built out after a marketing period of 12 months. This general approach is supported by the HBF but would suggest that six months is more appropriate. If there is the demand suggested by the council, then there the need for a lengthy marketing period is unjustified.
68. At present the HBF consider the policy to be unjustified and ineffective. The policy must be proportionate and relate to what is needed and not lead to a level of provision that is beyond identified needs.

HO8: Affordable Housing

69. This policy continues the Council current approach of requiring 35% affordable housing delivery on sites of 10 or more units, except within the AONB where this has been reduced to 6 or more units. With regard the viability of this policy the Council's VA notes in its conclusion that "*The results do not point to any particular level of affordable housing that most schemes can viably deliver, and we therefore recommend that the existing 35% target be retained and applied on a 'maximum reasonable proportion' basis taking site-specific circumstances into account*". The HBF would not disagree with this assessment based on the costs used by the Council however as set out above we are concerned that some of the costs included in the VA are lower than is likely to be faced by development. As such it will be necessary for further assessment to be undertaken to consider whether the 35% figure is deliverable.

70. The HBF welcomes the flexibility that has been included in the policy. However, given that the VA, as outlined above, indicates that there may well be a significant number of sites where affordable housing contributions will need to be negotiated, we would suggest that such circumstances will not be the exception but the norm. As such we would suggest the council amends this section of HO8 to refer to the circumstances where the affordable housing requirement may be amended. This better reflects the Council's position and provides a clear indication to the decision maker and applicant that a negotiated settlement will be a relatively regular occurrence in Wealden.
71. Further to these issues the HBF has a wider concern related to the demand for S106 units provided on site. As set out in our response to HO1 some of our SME members are finding it increasingly difficult to sell affordable housing required by local plans to RPs. This is not just in relation to Wealden but across the Country with RPs being unable to afford to take on more stock This issue needs to be explicitly reflected within HO8 with a policy that support a change of affordable tenure mix or a reversion to a market home should it not be possible to find a RP to purchase these units within a suitable period of time.

HO13: Internal Residential Space Standard for New Dwellings

72. The Council will need to provide further evidence that there is a need for minimum space standard within Wealden. The Council's justification at present is that due to the cost of new market housing there is a risk that the delivery of new homes in the district will be smaller than nationally described space standard. However, no evidence appears to have been provided to support this statement. The average house price in Wealden has been over 11 times median incomes since 2014 and if this leading to homes being below the national described space standards there would surely be evidence to support this claim. Unless the Council can provide the necessary evidence to support the adoption of space standards the policy should be deleted.

INF4: Utilities

73. Policy INF4 requires all development proposals to demonstrate that the infrastructure capacity for surface water disposal, water supply, wastewater treatment, gas, electricity, and oil will be sufficient to meet the forecast demands arising from the development over its lifetime and that appropriate connections can be made to the development created.

74. As we set out in relation to NE13 about water infrastructure the supply of utilities to support development is not a matter for development management. It is for the council working with the relevant providers to ensure there will be sufficient utilities as part of the plan making process to meet development needs. If found sound, then the decision maker can assume that there is sufficient capacity, and no additional evidence is needed to support an application. As such policy INF4 should not require applicants for planning permission to demonstrate that there is sufficient capacity with regard to provision of utilities such as water and power.

Future engagement

75. I trust that the Council will find these comments useful. I would be happy to discuss these issues in greater detail or assist in facilitating discussions with the wider house building industry if that would help. The HBF would like to be kept informed of the progress and adoption of the Local Plan. Please use the contact details provided below for future correspondence.

Yours faithfully



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