



Sent by email to: draftlocalplan@rother.gov.uk

22/07/2024

Dear Sir/ Madam

Rother Local Plan

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

Vision

2. The vision sets out an appropriate aspiration, but it is not backed up by the policies in the local plan which fails to meet housing needs which in turn will have significant consequences for the local community. The opening statement for example is that the district will be a more affordable place to live with the needs of all the local community being met. However, the Council is not proposing to meet its housing needs and without an increase in supply the affordability of housing will not improve. As the Council will be aware the median house price is 12.84 times the median salary in Rother. It is also worth recognising that the situation will not be improved by improved housing delivery elsewhere with its neighbouring authorities in in East Sussex also proposing to fall short of meeting housing needs by circa 27,500 homes over the next 15 years. Such widespread shortfalls will mean house prices rising and affordability worsening. Building fewer homes will also mean building fewer affordable homes in an area where the need for such homes is high.

3. So, whilst the Council note that by 2040 bold solutions will have successfully addressed the housing crisis it is difficult to see how this will be the case given the restrictions that are being placed on housing supply. The HBF would also note that the other aspirations in the vision to address the climate and biodiversity emergences are also consistent with meeting housing needs in full. More homes that are built to the standard being proposed in the Future Homes Standard will mean more people living in homes that emit less carbon. More housing will deliver significant improvements in biodiversity with all development being required by law to deliver a 10% net gain. In brief building more homes to meet needs will be more likely to deliver against the Council's proposed vision. So, whilst HBF do not disagree with the vision it is essential that the policies in the plan actually support what that vision says.

Duty to co-operate

4. The HBF is concerned that there is a widespread failure to co-operate effectively across East Sussex when it comes to addressing unmet housing needs which, as set out above, currently stands at some 27,500 homes. Whilst limited evidence has been provided the council note in the Development Strategy Topic paper that agreements and memorandums of understanding have been reached and these are being implemented. However, the problem is that none of these agreements and MOUs appear to have reached any agreement as to how the chronic shortfalls in housing delivery that is expected across the county will be addressed. At present it appears that these will just be ignored. As such HBF do not consider the approach taken by the council and its neighbours to have maximised the effectiveness of plan making.
5. For co-operation to be effective, and for solutions to be found, Councils need to actively try and address the issue at hand. At present there appears to be an acceptance that housing needs will not be met and that the act of writing to other authorities is sufficient for the duty to be met. In effect consideration of unmet housing needs has become a tick box exercise. The HBF would question whether this co-operation meets the test set out in 33A(2)(a) of the PCPA which requires the LPA to engage constructively. For engagement to be constructive it needs to move beyond writing to each other and actively engage in identifying solutions. If no solution is forthcoming from any constructive engagement, with no authority willing to take action to help another with regard to housing needs, the Council need to consider the shortfall in housing across this area and feed this back into the Council's decision-making process.

Commented [JA1]: And the SA

GTC1 – Net Zero Building

6. Whilst the HBF would agree with the Council that there is a need to act to reduce carbon emissions we would disagree that this needs to be undertaken through the local plan given that there is already a national approach, the Future Homes Standard (FHS), being taken forward to achieve the same goal. Delivering these improvements through building regulations has a distinct advantage over delivering a variety of different approaches across the county, in that it provides a single approach that all developers understand and can be rolled out at scale. This allows supply chains and skills to be improved prior to implementation and ensure that improvements to building standards are actually deliverable from the point at which they are introduced.
7. However, if the Council chooses to go beyond current or future standards it must be done in a way that is consistent with national policy and robustly assesses its consequences and gives consideration as to how the requirements of the proposed amendments to DM31 are consistent with the written ministerial statement (WMS) published on the 13th of December 2023. Before considering the content of the WMS itself it is important to note the High Court judgement from the 2nd of July 2024 ([2024]EWHC 1693 Admin). This judgement was on the challenge to the WMS made by Rights Community Action on three grounds, including that the WMS restricted exercise by local authorities of powers conferred on them.
8. The judgment made by Justice Lieven was that the claim failed on all three grounds. In coming to these judgements Justice Lieven importantly notes the intention of the Government at the time with respect to section 1(1)c of the Planning and Energy Act 2008, which allowed Local Authorities to set standards above those in building regulations. Paragraph 65 states:

“With respect to the current section 1(1)(c) specifically, the Minister confirmed councils “can go further and faster than building regulations, but within the national framework”. The Minister also addressed the overall intention of clause 1(2) in the following terms:

“The intention was for local authorities, in setting energy efficiency standards, to choose only those standards that have been set out or referred to in regulations made by the Secretary of State, or which are set out or endorsed in national policies or guidance issued by the

Secretary of State. That approach was taken with a view to avoiding the fragmentation of building standards, which could lead to different standards applying in different areas of the country. Although supportive of the hon. Gentleman's Bill, that was not an outcome that we wanted to achieve."

9. It is clear that the intention of the original legislation was to ensure that energy efficiency standards within local plans was to be set within the scope of building regulation to avoid a multiplicity of standards coming forward. The judgment goes on to note in paragraph 66 that the WMS does not stray from this purpose.
10. It is therefore clear that that not only is the WMS compliant with legislation but also the intention of Planning and Environment Act 2008 was to ensure that any policies seeking improved standards on those set out in Building Regulations must be set within the framework of those regulations. Local plan policies which seek to apply an alternative standard would not only be inconsistent with the WMS but also with the intentions of the legislation.
11. Moving to the WMS itself, the housing minister 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*". After noting these concerns, the 2023 WMS goes on to state that any standard that goes beyond building regulations should be rejected at examination if the LPA does not have a well-reasoned and robustly costed rationale that ensures:
 - 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).
12. HBF do not consider the approach set out in GTC1 to be consistent with the WMS nor that the implications of such a policy have been properly assessed in the supporting evidence base. Our detailed points are set out below.

Operational energy

13. The policy relates to energy use in operation – which includes not only to the regulated energy resulting from fixed building services and fixtures but also to unregulated energy from appliances and equipment which cannot be controlled by the developer. The policy requires development proposals to take a fabric first approach to minimising energy demand with the proposed policy requiring all new development to demonstrate Total Energy use Intensity (TEUI) of 35kwh/m2/year, space heating demand of 15 kWh/m2/year and to achieve 4-star Home Quality Mark. To demonstrate compliance a BRE HQM post construction assessment will be required.
14. Taking the second bullet point of the WMS 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. It should be noted that the Government have considered whether it was appropriate to use a delivered energy metric such as the one being proposed in the policy position paper and have concluded that these do not offer any additional benefits to those being taken forward by Government. Therefore, if the Council are to require standards above those set out in building regulations they must be expressed as a percentage of the target emission rate and not as an energy use target.
15. Turning to the first bullet point, the Council will need to ensure the costs and deliverability of this policy are fully and robustly tested. In preparing its viability assessment HBF suggest the Council consider costs published by the Future Homes Hub (FHH) as part of their work to support and inform the implementation of the Future Homes Standard. The costs for similar standards to those being proposed can be found in the FHH report "*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.
16. The various specifications and costs considered are summarised in Figure 8 of Ready for Zero and indicates that in order to deliver standards above the FHS on a three bedroomed end of terrace house (specifications CS3, CS4 and CS5 in the FHH report) would be around £17,000 to £22,000 more per unit compared to the 2021 Building Regs. Whilst the specifications and assessment methodology may not be directly comparable to those being proposed by the Council there is a significant difference in the costs set out above and those

in the Council's evidence. In addition, it does not take into account of the fact that the cost of meeting these standards bungalows, semi-detached and detached homes will be significantly higher. For example, under current building regulations a detached house has a space heating demand of 46 kWh/m²/yr. and as such to achieve a 15kWh/m²/year, will be significantly more than for a mid-terrace house which under current building regulations achieves a space heating standard of 22 kWh/m²/year.

17. With regard to deliverability of zero carbon homes HBF would not disagree with the Council's evidence which suggests that the proposed standards are technically feasible. However, HBF are concerned as to the impact these requirements will have on the rates at which sites can deliver new homes on all types of sites. Given that the standards proposed are higher than those proposed by Government in the Future Homes Standard and will require higher levels of fabric efficiency, which in turn will require new skills and materials that may not be readily available, HBF are concerned this could slow delivery in the short to medium term as supply chains are developed. It has been recognised by the FHH that to deliver higher standards will require phased transitional arrangements to enable a steady build-up of 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 take time to embed.
18. The HBF would also consider the requirements to achieve HQM level 4 to be inconsistent with national policy. It is clear that the PEA 2008 and the WMS require any technical standard with regard to energy efficiency to be framed in relation to TER and Building Regulations. As such to require HQM level 4, which goes beyond these standards is inconsistent with national policy. Similarly, the need to demonstrate compliance through HQM is unnecessary given that if a standard is set on the basis of building regulations this can be assessed through that process. There will be no need for any additional assessment.
19. Therefore, in addition to the approach being inconsistent with national policy and as such fundamentally unsound the current evidence basis does not even consider the actual cost of these standards on the viability of development nor their impact on the deliverability of new homes. As such the council must reconsider its approach.

Embodied carbon

20. The Council are requiring embodied carbon standards based on the LETI C rating for embodied carbon emissions. HBF do not consider this to be consistent with national policy for the Council to set specific standard in relation to embodied carbon which equates to 600 kgCO₂/m² upfront embodied carbon and 970 kgCO₂/m² total embodied carbon. From 2030 this is proposed to be reduced to 300kgCO₂/m² upfront embodied carbon and 450 kgCO₂/m² total embodied carbon.
21. The Council's evidence suggests that this level of reduction in embodied carbon is feasible and viable. However, what is set out on this issue in the Climate Change Study is a presentation of best practice from the likes of LETI with no examples of how this can be achieved and the potential impact of this will have on the deliverability of new homes across Rother. HBF also note that without a viability assessment it is not possible to state whether this policy is deliverable nor what impact it will have on the other policies in the local plan. There are 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.
22. Therefore, if the Council have the evidence to show that the policy is deliverable the Council will need to ensure that all other policies in the local plan 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 provides details as to how the applicant and decision maker should react in those situations where the policy cannot be achieved.
23. As with reducing carbon emissions from operational energy use HBF considers that the best approach to setting such standards is at a national level to avoid different approaches and standard being set in different areas. The housebuilding industry is working with the Future Homes Hub to develop a roadmap to reducing embodied carbon and whilst Council's may want to go further faster, HBF have concerns that this will impact on the deliverability of development with a disproportionate impact on SME developers.

GTC7: Local Nature Recovery Areas

24. The policy states that all development must meet the objectives of the East Sussex (including Brighton and Hove) Local Nature Recovery Strategy (LNRS). It is inappropriate to require development to meet objectives in a document that is not a development plan document. Whilst the council can suggest that development have regard to the LNRS it is not consistent with national policy to require them to meet these objectives. It would also be perverse to require development to adhere to a set of objectives that the council itself only has a duty to have regard to in its decision-making processes. The HBF recommends this amended to state development will have regard to the objectives set out in the LNRS.

GTC8: Biodiversity Net Gain

25. The Council are proposing to require all development to deliver a 20% net gain in biodiversity. HBF are of the opinion that the Council should seek to ensure that the 10% BNG is deliverable first rather than seek to place additional burdens on development and that the Council should have close regard to the latest guidance published by Government on the 14th of February advises 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”.

26. It is important to note from this statement that the national policy position is that local plans 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 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 on generalised national data if the 20% BNG requirement is to be justified.

27. The HBF does not disagree that the UK has seen a significant loss in biodiversity not just in the 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 improving biodiversity is a priority for the Council but the HBF could find no evidence presented justifying a 20% net gain in biodiversity. It will be necessary for the council to show why 20% is required in Rother and why biodiversity is more under threat in Rother as a result of residential development than elsewhere in the country, and consequently why it requires a higher level of BNG to offset these concerns. At present there is no evidence to show that this is the case and as such the 20% requirement must be reduced to the statutory 10%.
28. There is also no evidence as to whether this level of BNG is viable when considered against the other policies in the local plan nor how it will impact on the delivery of housing and in particular affordable housing. In some circumstances 20% may be relatively simple to achieve, 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. However, the council must recognise when considering the BNG that until an assessment as to the baseline biodiversity of site is undertaken the ability to meet BNG on site without affecting its capacity and the actual cost of delivering BNG is not known
29. Without a viability study it is not possible to comment on the costs used in relation to BNG. The majority of such studies use the generalised costs assumptions in the Governments 2019 Impact Assessment (IA) on BNG. Whilst in the absence of other costs these have been used across the country for assessing viability, 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 Rother 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 on what these costs are rather than rely on those set out in the IA.

30. Furthermore, the IA makes no consideration as to the potential reduction in the developable area. The central estimate, most often used in viability studies bases the cost of delivering 50% of the required net gain on site. However, at a 20% net gain it is likely that a significantly higher proportion of the required net gain will be delivered off site through the purchase of credits and that the purchase of the credits will be much higher than the £11,000 used in the IA. Our members are seeing the current price of credits falling within the region of £30,000 to £50,000 for many habitats with credits for water habitats being significantly higher.
31. It is also important to note that the cost of offsetting will be higher still if there are insufficient credits locally as the spatial risk multiplier in the BNG Metric will increase the number of credits that are required to be delivered if credits are bought outside of the local area or National Character Area. The Council should therefore seek to ensure that there is sufficient land available in Rother to ensure the offsetting can be delivered locally. These sites should be able to deliver the type of habitat required by development and must be allocated in the local plan. If this is not possible then the cost of delivering BNG will be higher.
32. However, the council does not appear to have undertaken any work either generally or in relation to the sites proposed to be allocated in the local plan as to the cost of delivering 20% BNG on site nor the level of credits that might be needed to meet this requirement. 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.
33. As set out earlier the Government have stated that plan makers should not seek to require a higher level of BNG unless justified. In many cases development will deliver beyond 10% in order to ensure the statutory minimum is delivered. In addition, development will deliver other biodiversity improvements, such as swift bricks, which are not recognised in the biodiversity metric which uses habitats as a proxy for biodiversity. In considering its approach such improvement should be recognised rather than seek requirements beyond that set out in the Environment Act.
34. However, 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 Study the Council

must be clear that it will reduce the 20% to the statutory minimum in order to support the delivery of new development.

Development Strategy and Principles

35. The Council has concluded that the proposed spatial development strategy is a combination of the options put forward by the council in the Development Strategy Background Paper. The strategy on page 112 of the draft Local Plan states that this is a landscape-led spatial strategy that will deliver between 258 to 364 dwelling per annum (dpa) over the plan period. This is between 369 and 475 homes each year below what the minimum required by the standard method. The failure to meet needs in full also means that affordable housing delivery will be substantially below what is needed, and the Council will fail to meet its needs for more specialist accommodation.
36. HBF consider it essential that the Council recognises the significant impact that not meeting housing needs will have on its population and starts to take a more positive approach to meeting their needs. This will require the Council to consider a strategy that would meet needs in full and compare this against the chosen strategy. Whilst HBF recognise that there are a range of constraints in the Borough the NPPF is clear in paragraph 11 that these must provide strong reason for restricting growth and as part of these considerations the Council must also take full account of the social and economic impacts of not meeting needs not just the potential harm. At present HBF do not consider the council to have undertaken a balanced assessment with regard to the impacts of not meeting needs as part of the preparation of the plan so far, these concerns are set out in more detail below.

Sustainability Appraisal of the potential spatial development options

37. The Development Strategy Background Paper sets out 13 spatial development options for the Borough with the Council noting that these have all been individually assessed through the Sustainability Appraisal. What is notable is that not all of these options have indicated estimates as to how much development each would deliver. This makes it difficult to consider how appropriate these are, and of course to effectively appraise each option. With regard housing for example Figure 11 of the SA/SEA shows that against the housing objective each option scores a double or single positive. Given that even a combination of each of these options sees housing supply fall well short of meeting housing needs this assessment within the SA/SEA would appear to be fundamentally flawed and cannot be a

robust assessment as to the impacts not only with regard to housing but many of the other options. In order to assess the impact of a development option the council must have some idea as to the scale of development that would be expected.

38. From these 13 options the Council have then arrived at the proposed spatial development strategy. However, what is notable is that only one spatial development strategy has been considered from the 13 options. The justification for not considering other reasonable alternatives is that all potential sites have been considered within the SA, including those rejected through the HELAA that these assessments form the consideration of reasonable alternatives.
39. However, HBF would consider such an approach to be inappropriate as it fails to even consider the potential for the Council meeting its housing needs in full through an alternative strategy. Whilst this would require the Council to assess strategies potentially including some sites that have been rejected within the HELAA, it would have enabled the council to assess the overall harm arising from different spatial strategies and compared to the potential benefits of such strategies against the harm. In essence the Council have rejected potential strategies that may have had more of an impact in landscape terms but had significantly higher social and economic benefits which may have outweighed that harm. In essence the collective benefits of further development may outweigh the harm of these alternative strategies with regard to landscape or other issues, especially where the harm can be mitigated but the potential of such strategies has been ignored. The Council have also failed to assess the potential; impact of not meeting need in full on neighbouring areas and adding to the cumulative shortfall in East Sussex. The impact of not meeting needs will have wider consequences and these need to be clearly set out within the SA.
40. In only considering sites this wider assessment of different strategies has not been undertaken by the council and as such the SA has failed to properly assess reasonable alternatives with regard the spatial strategy and cannot be relied on by the council to support its plan making process. The Council must consider reasonable alternative strategies that meeting housing needs alongside the strategy set out in the draft local plan to consider whether they may offer a more sustainable approach to development in Rother.

Sustainability Appraisal of the Proposed Strategy

41. What is notable about the SA of the proposed strategy with regard to housing is the way the question is posed within the assessment framework. The SA objective (8) for housing in the assessment of the strategy policies in the Draft Local Plan asks whether the strategy provides more opportunities for everyone to be in a suitable home to meet their needs. Such the objective has been deliberately written to allow the council to show this as being a positive assessment within the SA with regard to this objective. This is disingenuous and means that the SA has no credibility. In assessing the sustainability of a strategy a policy, the Council should be asking whether it meets the identified need for market and affordable housing in Rother. It is notable that the Council's SA makes no reference, or at least we could find no reference, to housing needs and the shortfall in meeting those needs as a result of the proposed strategy. Alongside this no reference is made to fact that neighbouring authorities are also unable to meet their own housing needs leaving a substantial shortfall against identified needs over the next 15 years of around 27,500 homes. What is evident is that when considered against a more appropriate phrased objective the local plan will have significant negative consequences that need to be properly considered.
42. The scale of the shortfall in market and affordable housing would also impact on other objectives, such as those relating to health and wellbeing, with a higher chance of negative health outcomes due to a lack of affordable and good quality accommodation. The outcome in relation to climate change would also be different with more people living in less energy efficient homes that emit significantly more carbon. The Council may decide that the negative impacts arising from such a significant shortfall in housing are acceptable, but in arriving at that conclusion it must ensure that such issues are front and centre in its decision making and the documents that support it.

Proposed growth in settlements

43. The Council have undertaken a Settlement Study which sets out the overall sustainability of each settlement. What is notable from this this study is when the sustainability of each settlement compared with the proposed growth in figure 36 of the draft local plan is that some of the most sustainable settlements in Rother are taking very little growth. For example, Rye and Battle both considered to be two of the most sustainable communities yet respectively are considered able to take a maximum of just 200 and 485 new homes. These are both settlements with good access to essential services, contain a train station and a good bus service as well as offering good local employment opportunities. These

settlements should be seen as being able to take a far greater level of growth whilst also ensuring that there is minimal impact on the local landscape.

44. The HBF is not actively promoting these settlements over others, but does suggest that it is clear that more must be done to deliver development in Rother in a manner that meets housing needs in full whilst respecting the local landscape. These are not mutually exclusive objectives, and the benefits of meeting need may well, if considered properly, far outweigh the minimal harm arising from such a strategy. However, as highlighted above the council have failed to undertake a proper and balanced assessment of a strategy that met needs in full and as such the proposed growth strategy cannot be considered sound.

Site assessments

45. The Council will need to ensure that its assessment as to the constraints on sites excluded from the plan are consistent with national policy. In particular the council must not consider the strategic gap between Bexhill and Hastings to be a constraint on development on a par with the AONB or any other footnote 7 constraints. As the Council will be aware the NPPF does not mention strategic gaps and provides no guidance on their use. Whilst such local designations have been included in many local plans it is important to ensure that when preparing a new plan and considering new sites, strategic gaps are not used as a justification for not allocating a site or for the restriction of development as a whole within Rother.
46. It will also be vital that the council seeks to maximise development on each site it does allocate given the significant shortfall between housing needs and supply. The Council should look to ensure that all land within submitted sites that are considered suitable for development are allocated for development.

Plan period

47. The Council's Local Development Scheme notes that the Council expect to adopt the local plan in Q3 of 2026/27. This means that on adoption the local plan will look forward for less than 15 years which is inconsistent with paragraph 22 of the NPPF which requires local plan to look ahead for a minimum of 15 years from adoption. The Council must extend the plan period to at least 2041/42 assuming the plan is adopted as stated in the LDS. However, given the potential delays in plan making, the examination and adoption HBF would suggest

that the plan period be extended to 2042/43. Given the Council is still at regulation 18 stage there should still be sufficient scope to ensure that the evidence base is consistent with such a timescale.

48. HBF would also question whether it is necessary for the plan period to start from 2020. Given that the plan will be adopted in 2027, delivery during the first seven years would have little to do with the remaining plan period and as such it is unnecessary for the plan period to go back so far. With regard to development needs it is also the case that the standard method will be based on the period 2025 to 2035 with the affordability ratio relating to income and house prices in 2024. This would suggest that the most appropriate start date for the plan period would be 2023/24, the likely point at which the local housing needs assessment will have been undertaken.

Stepped trajectory

49. The Council suggest at paragraph 5.102 that the Council would require a considerable step change in housing delivery in order to deliver a significant uplift to compared to current and historic delivery rates. As such it is suggested that a stepped trajectory is needed and that higher levels of housing delivery will be planned for later in the plan period. HBF disagree with this suggestion. The latest five-year land supply assessment sees average delivery average at 543 dpa – between 307 dpa and 807 dpa – and as such a stepped trajectory is not justified. The Council should be planning to ensure housing needs are met consistently across the plan period rather than delaying the delivery of the new homes the area clearly needs.

INF1 Strategic infrastructure requirements

50. 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.
51. However, the HBF is increasingly concerned that Councils are including development management policies in local plans that seek to prevent development coming forward unless they can show there will be sufficient infrastructure in place at the point of application despite the infrastructure provider making no objection to that development or suggesting

additional infrastructure is required through the preparation of the local plan. In particular we are seeing this in relation to water and waste water infrastructure. Therefore, we are concerned that part A of the policy states that planning permission will only be granted where it can be demonstrated, through the submission of appropriate evidence, that there is, or will be, sufficient infrastructure capacity to meet all the necessary requirements arising from the development.

52. Policies in local plans relating to applicants having to show that there is sufficient capacity with regard infrastructure should not be for the developer to show at the application stage but for the council to address through plan making. If there is insufficient capacity in the infrastructure, then this is a point of soundness that must be addressed rather than deferring it to be considered on an application-by-application basis. In relation to utilities there is also a right to connect to those services. One example that appears to be the driver of such policies is the issue of water supply and wastewater service. 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.
53. The consequences of section 37 is that 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. If the water company is unable to supply water to meet expected levels of development, this must be disclosed in the Water Resource Management Plan (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.
54. 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.

55. Whilst this relates to water the principle that infrastructure capacity should be considered addressed at plan making is relevant to all types of infrastructure. The Council must work with providers to understand what additional infrastructure capacity is required and how that will be addressed over the plan period. It is not for the applicant to assess. HBF would recommend that the opening paragraph is removed as it is inconsistent with the proper approach to plan making and infrastructure delivery.

INF2: Digital Connectivity

56. This policy requires new development to deliver Fibre to the Premises (FTTP) and prepare a statement on how and when infrastructure will be provided. The Council are no doubt aware that Part R of the Building Regulations: Physical Infrastructure and network connections to new dwellings (2022 edition) require all new build dwellings to be installed with the gigabit-ready physical infrastructure connections subject to a cost cap of £2,000 per dwelling. These requirements mean that it is unnecessary for the Council to include policies in the local plan relating to new broadband or telecommunications infrastructure. As for the provision of FTTP to the development itself this is for the infrastructure providers to deliver and for the council to facilitate through the local plan as it is beyond the developers control to deliver these improvements.

HOU1 Mixed and balanced communities

57. The Council are proposing that at least 30% of market housing comes forward as one and two bedroomed units, but with an emphasis on two bedroomed homes. In addition, the majority of First Homes and homes for social or affordable rent are also one and two bedroomed homes with intermediate affordable dwellings being two of three bedroomed homes.

58. Whilst it is understandable that the Council is seeking to place an emphasis on smaller units given the evidence in the HEDNA, HBF are concerned that the policy then seeks to apply this to all sites rather than see this as a broad assessment for what is needed across the district. Some areas and sites will be more suited to delivering smaller homes at higher densities where as others will be more suited to the delivery of family homes. As such the 30% requirement with regard to one and two bedroomed homes should be seen as the starting point with regard of the mix to be delivered with the Council also taking into account

other evidence on local needs, the nature of the market and the nature of the supply that has been delivered and is expected to come forward in future. This will ensure that a wider range of evidence is taken into account when arriving at the most appropriate mix for a site rather than solely on a 'point in time' assessment such as the HEDNA. Therefore, HBF would suggest that the Council set an overall target for housing mix across the Borough that development should take into account alongside other relevant evidence on demand, needs, past delivery and viability.

Future engagement

59. 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 be helpful. 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



Mark Behrendt MRTPI
Planning Manager – Local Plans
Home Builders Federation
Email: mark.behrendt@hbf.co.uk
Tel: 07867415547