

Sent by email to: CPPlan@castlepoint.gov.uk

16/09/2024

Dear Sir/ Madam

Castle Point Local Plan

1. Thank you for consulting the Home Builders Federation (HBF) on the Castle Point 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.
2. At the end of July, the Government commenced a consultation on a number of amendments to the NPPF. The proposed revisions will make significant changes to the current document and there is a strong possibility that Castle Point, and many of its neighbours, will be required to prepare plans that are consistent with the changes being proposed, should they be adopted. Alongside the changes to the NPPF the Government have consulted on a new standard method. While our comments will be based on the current NPPF we will refer to the potential impact of the proposed changes within our representations.

Q41 - Housing Needs

3. The Council note on page 43 that the housing need for Castle Point Borough Council (CPBC) is 355 dwellings per annum which over the proposed plan period would require the council to identify land to deliver a minimum of 7,100 homes. However, the Council go on to state that having undertaken its own local housing needs assessment (LHNA) it considers need to be 255 dpa - 5,100 homes over the plan period and that its assessment of housing needs shows that there are exceptional circumstances to support the use of an alternative

approach to assessing housing needs. The HBF does not agree with the Council on this and consider their assessment of exceptional circumstances to be unsound.

4. The justification proposed by the Council for departing from the standard method is that there is a high level of unidentified population change during the last census which overestimated the amount of migration into Castle Point. This is set out in paragraph 22 of Appendix A of the LHNA which states in relation to exceptional circumstances that “... UPC was significant for the period 2001-2011, and that the ONS data has consistently over-estimated the population growth rate for the area. This over-estimate appears to have been driven by an over-estimate for net migration to Castle Point.” The same paragraph goes on to note that this overestimate runs to around 120 people per annum which would amount of an additional 50-60 household per annum in the 2014 base household projections.
5. The HBF do not agree that this amounts to exceptional circumstances and that other many other authorities face significantly higher levels of UPC and yet have proceeded to use the local housing needs assessment resulting from the standard method. This is an issue most recently considered by the inspector examining the North Norfolk Local Plan where the UPC for the same period was higher than in castle point at 2,800 people (280 per annum). At paragraph 10 of his post hearing note the inspector states:

“The existence of a UPC factor in the case of the North Norfolk projection is not disputed, the issue is whether this constitutes exceptional circumstances that justify a departure from the standard method which in any event is only intended to identify a minimum figure. All local authorities were affected by UPC to some extent, and 25 outside London were subject to a higher over-estimate of population growth than North Norfolk in percentage terms. Whilst UPC discrepancies have been taken into account in a small number of planning appeals when determining housing land supply, including in North Norfolk, no examples have been provided of this issue being put forward by Councils or accepted by Inspectors when examining development plans. National policy could have been updated to adopt the 2016 or 2018 based household projections for use in the standard method but instead PPG specifically precludes their use as set out above. The issue was the subject of a technical consultation when it was decided that later projections could not be used to justify lower housing need⁴. Despite the Council’s concerns about their

accuracy, however valid, the 2014 based projections are to be used to support the objective of boosting housing supply.”

6. In paragraph 11 he goes on to conclude that the discrepancy does not amount to exceptional circumstances and the discrepancy is not such an extreme outlier nor specific local factor that justified departure from the standard method. The HBF would concur with this conclusion and that it applies similarly to Castle Point. HBF do not disagree that there was UPC but disagree that the scenario is any way exceptional and supports a departure from the standard method and the objective set out in paragraph 60 of the NPPF to significantly boost the supply of housing.
7. However, as the Council are no doubt aware, the changes being proposed to the NPPF removes the consideration of exceptional circumstances in relation to the standard method with the minimum number of homes that must be planned for being derived solely from the standard method and that these needs should be met subject to the caveats set out in paragraph 11 of the NPPF. This will require CPBC to prepare a plan that seeks to meet a local housing needs assessment increase of 685 dpa. While the proposed changes to the NPPF and standard method are still to be adopted it would appear likely that Castle Point will need to plan for significantly more housing than previously. It is likely that these changes will be adopted relatively quickly and HBF therefore suggests that the Council seeks to plan for a much higher level of housing need in the next iteration of this local plan.
8. While HBF recognise that this will be challenging the council need to recognise that Castle Point is within a strategic part of the Thames Estuary where there is significant potential for economic growth that must not be stifled by a lack of housing. New homes are an essential part of infrastructure to ensure the full economic potential of the sub region is reached and the current approach taken by the Council seemingly disregards these wider strategic drivers for new housing. The Council must be proactive in working within the wider sub region to deliver the homes that are needed.

Q44 - Growth Options

9. On the basis of current level of housing need in Castle Point the Council should be moving forward with growth option 3. However, on the basis of the new NPPF and standard method the council will need to revisit its options and consider a strategy that seeks deliver a much higher number of new homes. This new strategy is likely to require additional amendments

to Green Belt boundaries given the limited supply of sites in the urban area and no indication that any of this supply will be addressed in neighbouring areas.

10. Considering a higher growth option and further green belt amendments should not require significant additional work given that the Council has already undertaken a review of the green belt which was considered to be a sound evidence base on which to support the proposed amendments in the local plan that the council chose not to adopt. Clearly when/if the amended NPPF is adopted some updating would be required to take account of the proposed introduction of Grey Belt but this should not be a significant additional piece of work and can clearly build on the existing assessment.
11. Turning to the exceptional circumstances required to amend Green Belt boundaries the HBF would consider the high level of housing need, both market and affordable housing, the worsening affordability of accommodation in Castle Point to support amendments to the Green Belt boundary, the limited supply of land in the urban area and the inability of neighbouring authorities that are able to help meet the council's housing needs. These were the issues considered by the inspector examining the previous local plan to be justification for amending Green Belt boundaries and this, in HBF's opinion, remains the case today.

Q45 - Urban capacity

12. The Council consider there to be capacity in the urban area to deliver circa 3,700 new homes between 2023 and 2043. This is derived from extant permissions, completions, windfall development with the majority of delivery expected to come from sites identified in the draft Urban Capacity Study (UCS) and those that have been submitted for development through the call for sites process. The outcome of the UCS is presented in the Borough Wide Development Options Technical Paper. This study was undertaken by the Council in order to identify potential sites for development that did not come forward through the call for sites or as an application.
13. While it is not unreasonable to consider what development potential there is in the urban area, indeed the need to consider urban capacity is a key in deciding whether there can be exceptional circumstances to amend green belt boundaries. However, this does not necessarily mean that the sites identified through such studies will come forward for development. While the Council have applied a 50% uncertainty due to the fact that the availability of these sites is unknown. If the availability is not known, then it cannot be

considered to form part of the potential land supply in the borough which in turn impacts on how much land is required for the council to meet needs in full.

14. The HBF recognise that the Council is still at regulation 18 but if it is to have sound assessment of its land supply in the urban area the council will need to provide the evidence to show not only that the sites identified in its land supply are available and that it can be viable delivered at the point envisioned by the Council. Without any of this evidence it is not possible for the council to conclude that the sites identified in UCS will deliver the circa 2,200 homes suggested by the council, and based on the list presented by the council, HBF would consider this to be an optimistic assessment.
15. By way of an example, Elmbridge Borough Council took a similar approach and included sites identified in their UCS and allocating these for development without any evidence that they were available. Over the course of the examination the Council's assessment that they could deliver 70% of the housing needs in the urban area fell below 50%. This in turn led to the Council agreeing that the hearings that their consideration of whether there are exceptional circumstances to amend green belt boundaries was fundamentally flawed due to it being based on an erroneous assessment of housing supply in the urban area.
16. In summary her council needs to revisit its assessment of housing supply within the urban area in order to provide a realistic assessment of what can be delivered. The approach set out in the Development Site Options Technical Paper at present lacks the necessary robustness to support decision making and cannot be considered sound.

Q46 – North West Thundersley

17. The HBF suggest that the Council is cautious with regard to the amount of homes NW Thundersley could deliver during the plan period. Whilst HBF would not object to its inclusion as an allocation the fact that the site remains in multiple ownership and would require a new bridge onto Canvey Island if it is to be considered deliverable. These issues will take time to address and mean that at best the site will not start delivering until late in the plan period and as such will not deliver as many homes as is being suggested by the Council.

Q52 - Housing mix

18. In taking this policy forward it will be important to ensure that there is sufficient flexibility in the policy. The LHNA is a point in time assessment to what is needed across the borough as a whole and must be treated as such. Over time these needs will change, and it must be recognised that the mix that should be provided will vary from site to site and area to area. Therefore, whilst applicants and decision maker should have regard to the mix set out in the LHNA the policy should not require adherence to the proposed mix.

Q82. What are your views on building new homes to a net zero standard in advance of national policy time frames?

19. HBF considers building regulations to be the most effective approach to ensure that the country as whole achieve net zero in the agreed timescales. The introduction of the Future Homes Standard will mean that all new homes built to this standard will be zero carbon ready meaning as the national grid decarbonises these homes will become net zero. 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.

20. 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.

21. 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.””

22. 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.
23. It is therefore evident 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.
24. Moving to the WMS itself, it 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).

25. Therefore, in addition to basing any policy on existing standards the Council will also need to ensure that its approach is not only viable but will not impact on the supply of homes in the borough. Without any detailed policy it is not possible to comment on viability. However, in terms of the deliverability of zero carbon homes, HBF are concerned that they will impact on the rates at which sites can deliver new homes on all types of sites. Higher standards 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.

Q85: Should the plan apply the optional requirement for increased water efficiency in new development?

26. HBF do not object to the lower standard of 110 l/p/d being adopted by the council given that CPBC is in an area of water stress, but it would be inconsistent with national policy and unjustified to require development to go below this figure.

Q97: Would you support seeking a higher than 10% Biodiversity Net Gain requirement?

27. HBF do not consider it justified or necessary for the Council to go beyond the 10% minimum Biodiversity Net Gain (BNG). There is still significant uncertainty as to how the 10% minimum will impact on viability both in terms of direct costs and, as mentioned above, the developable area of a site and in many areas where offsite credits will be delivered and how much these will cost. For example, many viability assessments for local plans base their costs on the Government's Impact Assessment undertaken in 2019. This included costs for

offsite delivery at around £11,000 per biodiversity credit. However, our members are experiencing much higher costs with units selling between £30,000 and £50,000. The expectation is that these costs will reduce but if Council's require a higher level of BNG demand for credits will increase limiting, or negating, any expected reduction in price. Rather than seek to push beyond what will for some development be a challenging target we would suggest that the council seeks to support the delivery of 10% BNG before seeking to go beyond this statutory minimum.

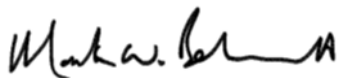
Q107. What do you feel about the provision of utilities to new developments?

28. Ensuring utilities capacity is a key part of plan making, and the Council will need to ensure that there is sufficient utility capacity infrastructure as part of plan preparation and must not be pushed on the developer., Applicants and decision makers alike must be able to assume that there is sufficient infrastructure capacity to support the level of development in the local plan with no need for further assessment by the developer.

Future engagement

29. 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 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