

Sent by EMAIL ONLY to ldf@ambervalley.gov.uk

1/5/2024

Dear Sir/ Madam

Response by the Home Builders Federation to the Amber Valley Reg 19 Local Plan consultation, April 2024

1. Please find below the Home Builders Federation (HBF) response to the Amber Valley Reg 19 Local Plan consultation, April 2024.
2. 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.
3. HBF have not commented on every policy only those of relevance to our members.

Policy SS1 Presumption in favour of Sustainable Development

The Policy is not considered to be sound as it is not justified or effective or in line with national policy.

4. HBF welcomes the Council's efforts to ensure that they have an up to Local Plan. Plan-making is a fundamental part of a Local Authority's role and is essential to support the delivery new homes and jobs. HBF agree that there are many factors that support the need for a new Local Plan for Amber Valley. HBF note that the Plan Period runs only to 20240. Para 22 of the NPPF requires that 'strategic policies should look ahead over a minimum 15-year period from adoption'.
5. Although we note that the Plan is now at Reg 19 submission stage, it can and does take time to proceed through the remaining stages of plan preparation-the examination process, main modification consultation, Inspector's report and adoption of the Local Plan. HBF therefore question whether the plan period need extending. Extending the plan period by one or two years and



rolling forward the housing requirement to these future years would seem a reasonable approach to address this issue.

Policy SS2 Spatial Strategy for Housing and Economic Growth

The Policy is not considered to be sound as it is not justified or effective or in line with national policy.

6. The Government has made it clear that it still supports the national target of 300,000 new homes per year. In the midst of a housing crisis and in light of the level of high housing need in HBF are pleased to see that the Council is following the requirements of the NPPF and setting their housing requirement using the standard method and planning to make a contribution towards meeting the housing needs of Derby City.
7. HBF strongly support the need for more housing in Amber Valley for a variety of reasons including addressing the current housing crisis, meeting housing need, providing affordable housing, to support small and medium house builders and to support employment growth. HBF would request that the Council considers the proposed housing requirement fully considers all of the issues that may result in a need for a higher housing requirement, including the need to provide a range and choice of sites, the need for flexibility, viability considerations and whether higher levels of open-market housing are required in order to secure increased delivery of affordable housing.
8. HBF would therefore support a higher housing requirement and additional housing allocations to ensure that Amber Valley can meet its own need in full in a way that is deliverable and make a greater contribution to meeting the needs of Derby. In HBF's view the unmet needs of Derby and the current housing crisis create the exceptional circumstances that justify a full Green Belt review as part of the Amber Valley Plan.
9. It is important for the Council to recognise the role that housebuilding plays in the local economy, both when the houses are under construction and when the houses are occupied as people's homes.

Policy SS3 Settlement Hierarchy

The Policy is not considered to be sound as it is not justified or effective or in line with national policy.

10. Although HBF do not comment on individual site allocations, we would expect that the spatial distribution of sites follows a logical hierarchy, provides an appropriate development pattern and supports sustainable development within all market areas. HBF considers that the Council's proposed approach to the distribution of housing should ensure the availability of a sufficient supply of deliverable and developable land to deliver the housing requirement.

11. However, the spatial strategy of the Plan should also recognise that there may be clusters of villages that provide a range of services for that area within reasonable travelling distance of each other, so villages may need to be grouped together. These areas might be able to sustainably support a substantial level of development but may not have all the services within one particular village.
12. The Local Plan should recognise that settlements that currently do not have services could expand to include those services if new development is allocated in those areas. The current range of village services should not be used as a basis for only locating development close to existing services, it could in fact also identify where services could be improved through new development. Allocating housing sites in rural areas can also provide opportunities for small sites which are particularly helpful for SME builders.
13. The NPPF also requires Local Plans to identify land to accommodate at least 10% of the housing requirement on sites no larger than one hectare, unless there are strong reasons why this cannot be achieved. HBF has undertaken extensive consultation with its small developer members. One of the chief obstacles for small developers is that funding is extremely difficult to secure without a full, detailed, and implementable planning permission. Securing an implementable planning permission is extremely difficult if small sites are not allocated. Without implementable consents lenders are uneasy about making finance available or the repayment fees and interest rates they set will be very high. Small developers, consequently, need to invest a lot of money and time up-front in the risky business of trying to secure an allocation and a planning permission, and this is money that many small developers do not have.
14. In order to be effective and justified the Plan's policies and evidence base should set out how the plan will deliver 10% of homes on sites of less than one hectare, as required by the NPPF. Indeed, HBF would advocate that a higher percentage of small sites are allocated if possible. Such sites are important for encouraging the growth in SME housebuilders who will tend to develop these sites but rarely see the benefits that arise from the allocation of sites in a local plan. Up until the 1980s, small developers once accounted for the construction of half of all homes built in this country resulting in greater variety of product, more competition, and faster build-out rates. Since then, the number of small companies has fallen by 80%.

Policy SS8 Green Belt

The Policy is not considered to be sound as it is not justified or effective or in line with national policy.

15. In HBF's view an increased housing requirement (for the reasons listed elsewhere), the unmet needs of Derby and the current housing crisis create

the exceptional circumstances that justify a full Green Belt review as part of the Amber Valley Plan.

Policy H4 Housing Types, Mix & Choice

The Policy is not considered to be sound as it is not justified or effective or in line with national policy.

16. Although HBF welcomes the flexibility offered by this policy to consider the most appropriate housing type and mix on a case by case basis, and that the Council have sought to differentiate between Part a) and part b) of M4(3) technical standards, changes are still needed to the wording of the policy to accurately reflect the provision of M4(3) a and M4(3) b. M4(3)a sets out standards for wheelchair adaptable housing, where M4(3)b relates to wheelchair accessible housing which can only be required on affordable housing where the Council has nomination rights. As such the Council should not be seeking 5% of homes to meet M4(3)b in market housing.
17. HBF is unclear if this matter has been accurately and fully considered in the Whole Plan Viability Assessment. There are cost implications resulting from any requirements for the provision of M43a and/or M43b requirements as both M4(3)a and M4(3)b impact on viability, with M4(3)b being considerably more expensive.
18. HBF also note that the requirements to meet Part M4(2) will be superseded by changes to residential Building Regulations. The Government response to 'Raising accessibility standards for new homes' states that the Government proposes to mandate the current M4(2) requirement in Building Regulations as a minimum for all new homes, with M4(1) applying in exceptional circumstances. This will be subject to a further consultation on the technical details and will be implemented in due course through the Building Regulations. There is therefore no need for this element of the proposed new policy.
19. The PPG states:

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

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

20. Local Plan policies should also take into account site specific factors such as vulnerability to flooding, site topography, and other circumstances which may make a specific site less suitable for M4(2) and M4(3) compliant dwellings, particularly where step free access cannot be achieved or is not viable. Where step-free access is not viable, neither of the Optional Requirements in Part M should be applied.”
21. The PPG sets out some of the circumstances where it would be unreasonable to require M4(2) and M4(3) compliant dwellings. Such factors include flooding, typography and other circumstances. HBF suggest that flexibility is needed in the application of these standards to reflect site specific characteristics, and the policy wording should reflect this. HBF do not believe this policy is sound without this flexibility, as it fails to comply with national policy and is not effective or justified.

Policy H5 Affordable Housing

The Policy is not considered to be sound as it is not justified or effective or in line with national policy.

22. There is the potential for confusion between policy H5 which sets out the affordable housing percentages and policy H6 which allows for discussions around viability on a case-by-case basis.
23. HBF would therefore request Policy H5 is amended to include the wording ‘subject to viability’ as this would resolve the issue.
24. HBF would also question whether the Council has adequately demonstrated that the policies in the Plan are viable when taken as a whole. For example, the costs of mandatory BNG must also be considered as part of the whole plan viability assessment and should be specified as a single specific item, not combined into a generic s106 costs item. There are significant additional costs associated with biodiversity net gain, which should be fully accounted for in the Council’s viability assessment, some of which are unknown at this time. It is important that BNG does not prevent, delay or reduce housing delivery. This underlines the importance of flexibility in any policies on affordable housing, especially as mandatory BNG is non-negotiable.
25. Similarly, HBF information suggests that complying with the current new part L is costing £3500 per plot. The Future Homes Standard Part L in 2025 is anticipated to cost up to £7500+ per plot. There will also be the addition of the Building Safety Levy that is coming in pay for cladding. This will be a per plot basis around the UK, and initial values are around £1500- £2500 per plot.
26. Other factors that need to be taken into account include increasing costs of materials and labour due to inflation and the fact that the cost of living crisis has also impacted the housing market making borrowing more expensive for

potential future purchasers. HBF these factors are likely to also have mid to longer term impacts.

Policy H6 Viability

The Policy is not considered to be sound as it is not justified or effective or in line with national policy.

27. HBF note that overage clauses may not be appropriate in all cases particular single-phased development.

Policy H7 Self-Build & Custom Build Dwellings

The Policy is not considered to be sound as it is not justified or effective or in line with national policy.

28. HBF advocates for self and custom-build policies that encourage self and custom-build development by setting out where it will be supported in principle. HBF considers that Councils can play a key role in facilitating the provision of land as set in the PPG. This could be done, for example, by using the Councils' own land for such purposes and/or allocating sites specifically for self and custom-build home builders- although this would need to be done through discussion and negotiation with landowners.
29. HBF consider it is unlikely that the provision of self and custom build plots on new housing developments can be co-ordinated with the development of the wider site. At any one time, there are often multiple contractors and large machinery operating on-site from both a practical and health and safety perspective, it is difficult to envisage the development of single plots by individuals operating alongside this construction activity. HBF also question is there is a mismatch between the kind of plots and locations that self-builders are looking for, and the kind of plots that would result from this policy.
30. HBF welcomes the Council's realistic policy approach to ensure that where self and custom build plots are provided, they are delivered and do not remain unsold. HBF agree that it is important that plots should not be left empty to the detriment of neighbouring properties or the whole development. The timescale for reversion of these plots to the original housebuilder should be as short as possible from the commencement of development because the consequential delay in developing those plots presents further practical difficulties in terms of co-ordinating their development with construction activity on the wider site. There are even greater logistical problems created if the original housebuilder has completed the development and is forced to return to site to build out plots which have not been sold to self and custom builders. HBF therefore strongly support a self-build policy that does make it clear that unsold plots remaining after a certain period would revert back to the original developer. HBF suggest the wording of the policy should say this should be a maximum of six months, rather than 'at least six months'.

Policy EN1 Climate Change

The Policy is not considered to be sound as it is not justified or effective or in line with national policy.

31. The policy seeks to require development to ensure an estimated water consumption of no more than 110 litres/person/day. HBF do not believe such a policy is needed in the Local Plan because current Part G Building Regulations require 125 litres per day, and house builders are frequently delivering 115-110 litres per day which means the house building industry is already improving upon the regulations. There is no need for Local Plan policies to repeat Building Regulations and it is in fact unhelpful to do so as Building Regulations may change during the course of the plan period.
32. HBF would caution against policies that seek to go further and faster than national legislation and policy changes, which would lead to the creation of a patchwork of differing local policies which could inadvertently undermine the delivery of the wider environmental objectives the Council is seeking and create unnecessary delays to much needed new housing.

Policy EN9 Biodiversity Gains

The Policy is not considered to be sound as it is not justified or effective or in line with national policy.

33. This Policy should be called 'Biodiversity Net Gain' in order to reflect how it is referred to in National Legislation, Planning Practice Guidance and DEFRA Advice. Biodiversity Net Gain
34. HBF note the introduction of Biodiversity Net Gain which came in for large sites on Feb 12th 2024, and for small sites from 2nd April 2024. It will be important for this policy to fully reflect all the new legislation, national policy and DLUHC and DEFRA guidance.
35. HBF has been involved in a significant amount of work, being led by the Future Homes Hub, on BNG preparedness for some time, including feeding into the BNG Planning Practice Guidance from DLUHC and the DEFRA BNG Guidance. HBF note that this represents a lot of new information that the Council will need to work through and consider the implications of, in order to ensure that any policy on Biodiversity Net Gain policy complies with the latest policy and guidance now it has been published. It should also be noted that the PPG is clear that there is no need for individual Local Plans to repeat national BNG guidance.
36. HBF therefore suggest that significantly more information, assessments and analysis around BNG, and Viability (for BNG and viability more generally) is needed to support the amber Vallet Plan, and in particular the site allocations.

37. It is the HBF's opinion that the Council should not deviate from the Government's requirement for 10% biodiversity net gain as set out in the Environment Act. The Plan should provide certainty for developers and a clear BNG policy with a fixed 10% figure, rather than the policy including the phrase "at least 10%" would help to provide this.
38. It is also important to note that for large and complex sites where the development is phased, the guidance is clear that the 10% must be delivered at the end of the development, and this may not result in 10% BNG on each phase. Additional advice on phased development has been provided in the new BNG PPG.
39. The costs of BNG must also be considered as part of the whole plan viability assessment and should be specified as a single specific item, not combined into a generic s106 costs item. There are significant additional costs associated with biodiversity net gain, which should be fully accounted for in the Council's viability assessment, some of which are unknown at this time. It is important that BNG does not prevent, delay or reduce housing delivery. The costs relate both the financial costs and also land take- which will impact on densities achievable if BNG is provided on site.
40. As this is still a new policy area and the market for off-site provision, and statutory credits are not yet known, any figure used for BNG costs will need to be kept under review as BNG implementation progresses and a greater understanding of actual costs become available. The Whole Plan Viability Assessment should clearly set out how it considered the implications of mandatory BNG and how it was arrived at using the most up to date BNG costs information available.
41. HBF suggest that there is also a need for this policy and supporting text to say more about Local Nature Recovery Strategies. As the LNRS emerges it will be important for this Local Plan to be kept under review and further public consultation on the interaction between the two documents and/or changes to Local Plan policy to reflect the LNRS may be needed.
42. HBF would also encourage the Council to ensure the Local Plan fully considers the new BNG requirements in relation to site allocations. This is likely to require undertaking an assessment of the baseline to support the allocation to enable an understanding the BNG requirements for a site to be allocated and the impact this may have on viability and other policy requirements and considerations. It will be important to understand the BNG costs of mandatory BNG as this is non-negotiable and as such may impact on the viability of the site and its ability to deliver against other policy requirements such as affordable housing or other s106 asks.
43. HBF also notes that there seems to be significant potential for confusion around environmental hierarchy, and suggest particular care is needed to

avoid any confusion between the well-established mitigation hierarchy and the new BNG hierarchy. There is need for the policy wording and/or supporting text to be clearer about the differentiation between the mitigation hierarchy (which seeks to avoid harm in the first place, then mitigate and only then compensate it in relation to protected habitats) and the BNG delivery hierarchy (which prioritises on-site BNG delivery, then off-site units and finally allows for statutory credits). There seems to be significant potential for confusion between the two difference hierarchies. HBF therefore suggest that the Council should take particular care to explain how the requirements of the two-part BNG hierarchy work in different ways and that they seek to achieve different aims.

44. Reference could also usefully be made within the Plan to the small sites metric. This is intended to be a less complex statutory metric that can be used to set out how 10% BNG will be secured on small sites. It can only be used for on-site BNG delivery. The national mandatory 10% BNG policy will apply to small sites from April 2024.
45. BNG will also impacts on the density of housing schemes that can be provided, as land used for on-site BNG is not available for housing. This may require larger and/or additional housing sites to be allocated.

Policy IN12 Infrastructure Delivery & Developer Contributions

The Policy is not considered to be sound as it is not justified or effective or in line with national policy.

46. Section 106 contributions can only be sought to ensure a development mitigates its own impact. They cannot be required to address existing shortfalls. It will therefore be essential for the Council to have robust and up-to-date evidence and calculate any developer contributions arising at the time a planning application is made.
47. The policy wording should therefore be amended to include wording that explicitly states an assessment of provision will be undertaken at the time of an application to ensure any requests for s106 contributions remain evidenced and justified.

Policy MR1 Monitoring and review

The Policy is not considered to be sound as it is not justified or effective or in line with national policy.

48. HBF do not support the inclusion of policies within a Local Plan that merely triggers a review of the Local Plan if monitoring shows housing delivery is not occurring as expected. Such a policy does nothing to address the housing crisis or undersupply of homes. There are other more effective and

immediate measures that could be introduced into policy that would enable the Council to address housing under deliver, much more quickly than would be possible through the production of another plan, or plan review.

49. HBF recommends that the Council include an appropriate monitoring framework which sets out the monitoring indicators along with the relevant policies, the data source and where they will be reported, this should also include the targets that the Plan is hoping to achieve and actions to be taken if the targets are not met. HBF recommends that the Council provide more details as to how the plan will actually be monitored, and identifies when, why and how actions will be taken to address any issues identified.

Appearance at the EIP and Future Engagement

50. HBF requests to participate in the Hearing Sessions for the Local Plan Examination, the HBF considers that their involvement is necessary to ensure that the home building industry is able to respond to any housing related issues raised during the hearing sessions.
51. I trust that the Council will find these comments useful as it continues to progress its Local Plan. I would be happy to discuss these issues in greater detail or assist in facilitating discussions with the wider house building industry.

Yours faithfully



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