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Lambeth Planning Policy
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28th July 2004

Dear Mr Vinall,

LAMBETH REPLACEMENT UDP – REVISED DEPOSIT DRAFT

Thank you for giving the House Builders Federation (HBF) the opportunity to comment on the Second Deposit Draft of the Lambeth UDP. The HBF have considered the proposed document and have made the following observations:

POLICY 16

Policy 16 (A) and 4.10.14 – Site Size

The Policy and supporting text indicate a threshold of 10 units or sites of 0.1 Ha or more. It is acknowledged that this is below the threshold of 15 units envisaged in Circular 6/98, it is also below the standard 15 unit and sites of 0.5ha threshold set out in the PPG 3 revisions in Para 10. The Council advocates the use of this lower threshold highlighting the draft revisions to PPG 3. Draft PPG 3 revision Para 11 states:

“In particular, plan should demonstrate that seeking affordable housing on smaller sites than set out in Paragraph 10 would:

- ***Result in increased supply of affordable housing;***
- ***Have no adverse effect on the overall supply and pace of housing development to meet a community’s needs.”***

The plan certainly does not adhere to Paragraph 11; there is no consideration of the effects of an imposition of this lower threshold on the supply and pace of housing development in the plan. Lowering the threshold will not automatically increase the quantity of affordable housing output. It is essential to seek an affordable housing threshold that will help maximise affordable housing and housing provision in general. With the majority of residential development taking place on Brownfield land, it is increasingly likely that if affordable housing requirements are too onerous, the residential land value will not exceed either the existing land value or commercial land values, so that if the site is developed it will be commercial rather than residential. This will inevitably result in fewer housing developments and thus, less affordable

housing. In setting the lower threshold, the Council have failed to take on board the likely effects of the policy. The threshold should be set at the level of existing Circular 6/98 and the Revised PPG 3 consultation i.e. affordable housing should not be sought on sites of 0.5 hectares or developments of less than 15 dwellings.

Policy 16 (B) and 4.10.13 – Level of Provision

The Policy and supporting text set out an affordable housing target of 50%, assuming public subsidy, or 40% with no public subsidy unless it is demonstrated and independently validated that the scheme would not be economically viable.

When taking the Housing Needs Survey into account, it is evident that the Council will not meet the need within the plan period. Therefore, the issue becomes one of prioritising and optimising affordable housing provision. It is essential that any indicative target, is just that, and that the Council employs a degree of flexibility. It is preferable to set a target, which will not deter development proposals coming forward but ensures that permissions will be deliverable and will not render schemes unviable, the availability of SHG is particularly significant to ensure targets are met.

With regards to the demonstration of viability, this amounts to an open-book accounting process, HBF is fundamentally opposed to such a requirement which goes way beyond the remit of town and country planning legislation and is, in effect, an attempt to set a level of developer profit by imposing a land tax on development which we believe to be illegal. Authorities can seek to negotiate with developers and can request open book accounting but it cannot expect or require it. Furthermore, different developers and development schemes will operate to different costs and profits and it will be difficult for a third party to comment on what is, and what is not, financially appropriate. Many of the larger developers are Public Limited Companies and bound by stock market regulations, they cannot disclose financial information to all and sundry.

Para 4.10.13 indicates that the 50% target is being set in conjunction with the Three Dragons/Nottingham Trent viability model. HBF has a number of concerns with this, notably that the Three Dragons Nottingham Trent University Report (3DNTU) has been reviewed comprehensively by ATIS Real Wetheralls Ltd and it is common knowledge among the industry that this report is subject to a number of flaws.

The main criticism of the report is that it assumes public subsidy of at least the equivalent to 100% TCI would be available for each and every site in London, however this is not the case and as such would require more public subsidy than is currently available.

The Three Dragons report, at paragraph 8.13, makes clear that its calculations about additionality assume no other planning gain, infrastructure or remediation requirements on the site. The Council however, under Policy

50a, could place additional financial demands on the developer that would serve to further reduce the viability of development in Lambeth.

Policy 16 (C) – Housing Type and Availability

The HBF objects to the permanent requirement for dwellings to remain affordable in perpetuity, as stated in Policy 16C. This amounts to a blanket requirement and is counter to the requirements of Circular 1/97. This takes no account of changing circumstances in the future. Greater flexibility is required, and should be reflected in the wording of the policy.

Policy 16 (D) – On and Off-Site Provision

The newly added stipulation that “off-site locations should provide their own affordable housing element as well as the element that is generated on the proposal site” is unjust and inflexible. There are genuine circumstances where affordable provision cannot be provided on-site and given the high land values throughout London, this approach is just going to render proposals unviable. The Council needs to be flexible in its approach and accept that on certain sites, this approach will not be viable, and should negotiate with developers to find the best solution for all parties involved, so much-needed residential development is not stifled.

Policy 16 (E) – Affordable Housing Priority Sites

The outlining of sites to be developed solely for affordable housing and the last sentence which states that an element of market housing may be appropriate in certain circumstances is phrased negatively and does not contribute to the Government’s agenda of creating sustainable mixed and balanced communities.

Para 4.10.11a

Paragraph 4 of Circular 06/98 states that planning policy should not be expressed in favour of any particular form of tenure. Paragraph 4.10.11a is contrary to Circular 6/98 in that it effectively undermines the valuable role Low Cost Market Housing can have as a form of affordable housing, it may be that this type of housing may not be affordable to all those in housing need, but there is no justification to exclude this sector altogether. Low Cost Market Housing has a valuable role to play, particularly in the case of Key Workers and First Time Buyers, and should be included in the definition of affordable housing.

Policy 26 (D) – Deficiencies in Community Facilities

To states that developers will be required to provide new facilities or make contributions to an existing shortage of community facilities is unreasonable and contrary to Circular 01/97 on Planning Obligations. Para B12 states:

“Developers should not be expected to pay for facilities which are needed solely in order to resolve existing deficiencies nor should attempts be made to extract excessive contributions to infrastructure costs from developers.”

As a result, this requirement should be deleted from the policy.

Policy 32a – Renewable Energy in Major Development

New Policy 32a states that the Council will expect major developments with a floorspace greater than 1000 sqm or residential developments of 10 or more units to incorporate renewable energy production equipment to provide at least 10% of the predicted energy requirements.

The London Plan (2004) states in Policy 4A.9 that “ ***The Mayor and boroughs should require major developments to show the development would generate a proportion of the site’s electricity or heat needs from renewables, wherever feasible.***”

The London Plan does not set a proportion of energy to be produced from renewable sources; it is unclear where this 10% requirement has been derived from. Policy 32a of the UDP does not take any level of feasibility into account i.e. not all sites will be able to satisfy the requirement.

It is unclear how the predicted energy requirements will be calculated, nor how they would be monitored to ensure the target was being met.

Furthermore, PPG12, paragraph 3.5 clearly states that development plans should not contain policies, which duplicate the provisions of other legislative regimes. The matter of detailed requirements for energy conservation is more properly a topic for consideration under the building regulations. PPG12 singles out Building regulations as one such regime. Building Regulations are constantly under review and builders are required to comply with whatever regulations are currently in force at the time they submit planning applications. It would be confusing and is unnecessary to have different sets of requirements in the development plan to those required under Building Regulations, notably Part L.

For all of these reasons the 10% target in Policy 32a should be deleted and replaced with the text which refers to the encouragement of energy efficiency measures as a general policy aspiration, and, if necessary, be accompanied by a cross reference to Building Regulations as the way in which this will be implemented and monitored.

Policy 32b – Sustainable Design and Construction

The types of material to be used in construction, is not a planning matter but falls under the jurisdiction of Building Regulations.

The house building industry are addressing the problems of on-site waste management and recycling, whilst working with ODPM in investigating Modern Methods of Construction (MMC). New build homes have improved substantially by increasing energy efficiency, water conservation and high-density schemes in response to PPG 3. Indeed this long-term goal of sustainability is almost certainly achievable only by a new build programme leading to the gradual replacement of under-performing older stock.

Policy 45 (I) Children's Play Facilities

HBF take issue with the requirement that this blanket requirement should be applied to all applications for new residential development of 10 or more units (or 0.1 Ha or more). This inflexible approach fails to take into account existing play area provision in the area of which the development place and this will ultimately lead to an imbalance of provision in the Borough. Additionally it fails to take into account the nature of residential development proposed, certain developments, such as retirement properties and one-bedroom apartments are unlikely to generate demand for children's play facilities.

With regards to long-term maintenance payments, Circular 1/97 (paragraph B14) deals with the matter of maintenance payments and states that these should not normally be sought. The exceptions being for "*small areas of open space, recreation facilities, children's play space, woodland, or landscaping principally of benefit to the development itself rather than the wider public*". This distinction must be drawn in any negotiation for commuted maintenance payments i.e. between amenity provided for the development itself rather than the wider community.

Thank you again for giving the HBF opportunity to comment on your UDP. I look forward to your acknowledgement of these comments.

Yours sincerely,

Jonathan Sheldon
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