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SENT BY E-MAIL AND POST

12th October 2015

Dear Sir / Madam

BIRMINGHAM DEVELOPMENT PLAN 2031 PROPOSED MAIN MODIFICATIONS CONSULTATION

Introduction

Thank you for consulting with the Home Builders Federation (HBF) on the above mentioned consultation. The HBF is the principal representative body of the house-building industry in England and Wales. Our representations reflect the views of our membership, which includes multi-national PLC's, regional developers and small, local builders. In any one year, our members account for over 80% of all new "for sale" market housing built in England and Wales as well as a large proportion of newly built affordable housing. We would like to submit the following representations and in due course appear at any resumed Examination Hearing Sessions to discuss these matters in greater detail.

Housing Needs

As requested by the Inspector in his Interim Findings dated 5th January 2015 the Council has undertaken further work on the OAHN. The document "OAHN Supplementary Report" by Peter Brett Associates dated March 2015 sets out the Council's latest estimate of OAHN. However there are a number of assumptions contained within this report which if viewed differently suggest the figure of 89,000 dwellings is a conservative estimate of OAHN.

As confirmed in the NPPG it is agreed that the 2012 SNHP provide the most up to date estimate of household growth which should be used as the starting point for the calculation of OAHN. However as set out in the "PAS Objectively Assessed Need and Housing Targets Technical Advice Note Second Edition" dated July 2015 further sensitivity testing should also be carried out with particular reference to migration, unattributable population change (UPC) and household formation rates (HFR).

It is acknowledged that the 2012-based population projections do not take UPC into account and this may be a reasonable judgement for England as a whole because as the ONS explains, the UPC for England is within the confidence interval for the international migration estimates and the sum of the confidence intervals for the 2001 and 2011 censuses. However the argument is less persuasive at the individual Local Authority (LA) level where for many authorities UPC is large compared with both the population change recorded between the two censuses and the confidence intervals on the census numbers. There are 91 LAs for which UPC is more than 50% of the recorded population change between two censuses and 85 for which it is more than twice the confidence interval for the 2011 census population counts (Article "Making Sense of the New English Household Projections" by Ludi Simpson & Neil McDonald in Town & Country planning April 2015).

When sensitivity tested the inclusion of UPC across the Greater Birmingham HMA adds 1,900 – 2,400 dwellings per annum of which almost 50% (770 – 980 dwellings per annum) is in Birmingham city. Previously the Council's own consultants were recommending the inclusion of UPC indeed paragraph 3.22 of the up dated Supplementary Report states that the exclusion is the view of the City Council itself so it can be inferred that the consultant's original opinion remains unchanged. The sensitivity testing on inclusion or exclusion of UPC for Birmingham is shown to be a significant factor therefore its discounting is questionable and the Council has not provided a sufficiently robust justification for its dismissal.

It is known that migration data forms an important component of population estimates that underpin household projections published by the DCLG. Unfortunately however it is also known that the population estimates on which household projections are based have "persistently underestimated" migration to the UK. This under estimation of international migration must be an influencing factor in calculating OAHN for the Greater Birmingham HMA and Birmingham itself as the England's second city. The 2012-based population projects (using historic trend data from a period affected by recessionary trends) had estimated a net annual migration level of 165,000 into the UK – just half the total suggested by the most recent ONS figure. Indeed the latest quarterly update on migration patterns into the UK published by ONS reveal net long-term international migration of 330,000 in the year to March 2015 which is the highest figure ever recorded and a "statistically significant increase" on the net migration level of 236,000 in the 12 months to March 2014. Hence it is no longer credible for OAHN to be based on low net migration projections when the reality has been shown to be consistently higher suggesting that the UK is now on a stable growth trajectory with no reason to believe that migration numbers will decline at any time soon. It has now been 15 years since net international migration was as low as set out in the 2012 SNPP. Therefore nationally the shortfall in housing supply is growing even faster than expected so an upward adjustment is necessary. In response to this issue the Council should be sensitivity testing alternative migration scenarios in its calculation of OAHN.

The case for adjusting the 2012 SNPP to reflect longer term migration patterns has also recently been strengthened by the London Plan Inspector accepting the GLA's proposal based on migration patterns partially returning to previous trends. The effect is that the draft London Plan is based on a net outflow over the period 2012-37 that is 380,000 larger than that suggested by the 2012 SNPP. Unless LAs outside London make complementary adjustments no one will be planning to house those people. (London Plan Inspector's Report on the Examination in Public into the Further Alterations to the London Plan, 18 November 2014).

Moreover it is acknowledged that trend based household projections "plan in" deterioration of HFR. So whilst the 2012 SNHP incorporate more of a move back to longer term trends than the 2011 interim SNHP it may still not be sufficient. This is because the 2012-based SNHP draw upon longer term trends since 1971 but the methodology applied by DCLG means that they have a greater reliance upon trends experienced over the last 10 years than to those experienced over the longer term. The implication of this recency bias is that the latest household projections continue to be affected by the recently observed trends during the period of suppressed household formation associated with the impacts of the economic downturn, constrained mortgage finance and past housing undersupply as well as the preceding time of increasing unaffordability which also suppressed household formation (page 19 of the Household Projections 2012-based: Methodological Report (DCLG, February 2015)). Therefore given that younger households were particularly affected by these past trends and evidence shows that household formation trends are likely to recover as the economy improves (Town & Country Planning Tomorrow Series Paper 16, "New estimates of housing demand and need in England, 2001 to 2031" by Alan Holman) it is contended that the Council should have applied a sensitivity test to consider the impact of improving HFR in younger age groups as undertaken in the alternative OAHN submitted by Barton Willmore on behalf of a developer consortium.

Finally other factors such as economic forecasts, worsening trends in market signals and affordable housing needs should also be considered which may necessitate an upward adjustment above demographic projections (ID 2a-018-20140306, 2a-019-20140306 and 2a-020-20140306). The alternative OAHN submitted by Barton Willmore includes evidence on worsening trends in key indicators such as :-

- increasing lower quartile unaffordability ;
- increasing numbers of concealed households ;
- more overcrowding ;
- higher rate of median house price change than elsewhere ;
- high residential rents ;
- since 2011 rates of development below OAHN.

As specified in the NPPG a worsening trend in any indicator will require an upward adjustment to an OAHN based on demographic projections alone. The Council has not given sufficient consideration to this aspect of calculating an OAHN.

Furthermore the Council has not provided a NPPF / NPPG compliant assessment of affordable housing needs. The meeting of affordable housing needs is specifically referred to in paragraph 18 of the Inspector’s Interim Findings Report.

In alignment with the Council’s further work **PMM2** to **Policy PG1 – Overall Levels of Growth** and **PMM3** to the accompanying text make reference to the OAHN of 89,000 dwellings (4,450 dwellings per annum) and an unmet housing need of 37,900 dwellings over the plan period 2011 – 2031. However it is questionable whether or not the Council’s proposed wording is as forceful as that envisaged by the Inspector in paragraph 79 of his Interim Findings Report. Moreover it is contended that an OAHN of 89,000 based on 2012 SNHP household growth of 86,000 per annum converted into dwellings using a vacancy / second home allowance of 3.2% with no upward adjustments for UPC, HFR, affordability and affordable housing needs is overly pessimistic. If appropriate upward adjustments were made the OAHN would be greater than 89,000 dwellings and as a consequence unmet housing needs would also be greater than 37,900 dwellings. The alternative OAHN submitted by Barton Willmore on behalf of a developer consortium recommends a housing target of 108,610 dwellings (5,430 dwellings per annum) for Birmingham city. This alternative OAHN includes adjustments in response to concerns about the Council’s under-estimation of OAHN as outlined above.

Meeting Unmet Housing Needs

As suggested by the Inspector **PMM84 – Monitoring Meeting Unmet Needs** sets out the triggers for the review of the Birmingham Development Plan together with mechanisms for monitoring the progress of delivering the city’s unmet housing needs in neighbouring authorities.

However it is difficult to comprehend that the proposals under **PMM84** will be effective in ensuring unmet housing needs are accommodated. As written **PMM84** is just not a practical proposal. The wording is too vague and imprecise, for example, if housing completions within the Greater Birmingham HMA (Birmingham, Bromsgrove, Redditch, Solihull, North Warwickshire, Tamworth, Lichfield, Cannock Chase, South Staffordshire and parts of Stratford upon Avon) “*fall significantly beneath*” planned targets and “*following monitoring years indicate no recovery*”. This wording contains no specified key performance indicators against which Birmingham City Council can undertake effective monitoring.

Moreover the triggers proposed in **PMM84** by the Council are incongruous with references in the Plans of neighbouring authorities. The Council is proposing that neighbouring authorities should review adopted Local Plans within 3 years of the adoption of the Birmingham Development Plan but corresponding deadlines have not been set in these Plans (see Table below).

PLAN	REFERENCE TO BIRMINGHAM’S UNMET NEEDS AND SUBSEQUENT PLAN REVIEW
Bromsgrove	POLICY BDP4.2 - A Local Plan Review including

Development Plan (Examination on-going)	a full Review of the Green Belt will be undertaken in advance of 2023 to identify ... c) Land to help deliver the objectively assessed housing requirements of the West Midlands conurbation within the current plan period ie. up to 2030.
Redditch Local Plan (Examination on-going)	Written text - As required by the Duty to Cooperate, due consideration will be given, including through a review of the BORLP4 to the housing needs of another Local Planning Authority in circumstances when it has been clearly established through collaborative working that those needs must be met through provision in Redditch. With regard to Birmingham City Council, the mechanism for resolving this potential strategic matter of with Birmingham's unmet housing needs this will be through the Greater Birmingham and Solihull Local Enterprise Partnership (LEP) and Redditch's subsequent review of the BORLP4.
Solihull Local Plan (adopted December 2013)	Clause 8.4.6 - In the event that the work identifies that further provision is needed in Solihull, a review of the Solihull Local Plan will be brought forward to address this.
North Warwickshire Core Strategy (adopted October 2014)	Clause 1.9 - It commits to working collaboratively with other authorities, in particular Birmingham and Tamworth, to objectively establish the scale and distribution of any emerging housing and employment shortfalls. In the event that work identifies a change in provision is needed in the Borough of North Warwickshire an early review of the North Warwickshire Local Plan will be brought forward to address this.
Tamworth Local Plan (on-going Examination)	No reference found
Lichfield Local Plan (adopted February 2015)	Clause 4.6 - Lichfield District Council will work collaboratively with Birmingham, Tamworth and other authorities and with the GBSLEP to establish, objectively, the level of long term growth through a joint commissioning of a further housing assessment and work to establish the scale and distribution of any emerging housing shortfall. In the event that the work identifies that further provision is needed in Lichfield District, an early review or partial review of the Lichfield District Local Plan will be brought forward to address this matter. Should the matter result in a small scale and more localised issue directly in relation to Tamworth then this will be dealt with through the Local Plan Allocations document.
Cannock Chase Local	Clause 1.8 - Cannock Chase Council will work

Plan Part 1 (adopted June 2014)	collaboratively with Birmingham and other authorities, including joint commissioning of appropriate evidence to assess the emerging housing shortfall and the scale and distribution of any such requirement. In the event that the additional work identifies Cannock Chase District as a reasonable option for helping to meet the requirement, this will be addressed further as part of Local Plan Part 2.
South Staffordshire Core Strategy (adopted December 2012)	No reference
Stratford upon Avon Local Plan (on-going Examination)	Explanation to proposed new policy - A further issue that may need to be addressed through this process is the potential for a shortfall in housing land arising from outside the Coventry and Warwickshire HMA, in particular from the Greater Birmingham area. In the event that such a shortfall may need to be partially addressed within the Coventry and Warwickshire HMA, the six local planning authorities have agreed to work together using the process described above. This process will seek to identify the most suitable available sites to meet any shortfall. Stratford-on-Avon District Council will participate actively in the process of an on-going basis. Should this strategy identify that sites within Stratford-on-Avon District are required to meet some or all of a housing need arising from outside the District, the Council will undertake work to establish the most appropriate sites to do this and if this indicates that significant modifications are required to the Local Plan, the Council is committed to undertaking an early review of the Plan to address this.

In paragraph 78 of the Inspector's Interim Findings Report the Inspector stated that it would be helpful to consider the outcomes of the Greater Birmingham & Solihull LEP and Black Country Authorities Strategic Housing Needs Study Stage 3 Report by PBA which was published in August 2015. Whilst this report provides an interesting discussion on alternative scenarios for the distribution of growth across the Greater Birmingham HMA there is no definitive conclusion. There is also no attempt to distribute a number of Birmingham's unmet housing needs to neighbouring authorities indeed there are several references in the report which emphasis that the numbers shown cannot be relied upon. It is also evident that the numbers quoted differ from numbers presented in other contemporaneous reports on OAHN. Therefore this report provides no resolution to the distribution of unmet housing needs from Birmingham to neighbouring authorities.

It is interesting to note that in June 2015 the Inspector examining the Warwick Local Plan indicated that the Warwick Local Plan should be withdrawn over uncertainty about 4,680 dwellings (234 dwellings per annum) of unmet housing needs across the Warwickshire & Coventry HMA between 2011 – 2031. Unlike the GB&S LEP and Black Country Authorities Stage 3 Report the latest work on the Coventry & Warwickshire SHMA provides a formula for the distribution of Coventry's unmet housing needs together with Memorandums of Understanding between the participating authorities which specify the amount of unmet needs to be met by each authority. In direct comparison there are potentially more than 37,900 dwellings of unmet needs across the Greater Birmingham HMA which remain undistributed. Again the phrase "*other Council areas that contribute to meeting the city's housing needs*" is meaningless. There is no excuse for the Greater Birmingham HMA authorities not undertaking a similar approach to the Coventry & Warwickshire HMA authorities. If Birmingham's unmet housing needs are not been met then the Birmingham Development Plan and other Greater Birmingham HMA authorities Plans are inconsistent with national policy by not meeting OAHN over the plan period. As stated by the Inspector in his Interim Findings (paragraph 61) unless there is certainty that Birmingham's unmet needs will be met the Development Plan could not be found sound. Until the distribution of unmet needs is agreed there will be no review of Local Plans in neighbouring authorities because it is not known where and how much of Birmingham's unmet housing needs has to be accommodated in each authority.

Under S110 of the Localism Act 2011 which introduced S33A into the 2004 Act the Council must co-operate with other prescribed bodies to maximise the effectiveness of plan making. The Duty to Co-operate requires the Council to "*engage constructively, actively and on an on-going basis*". The high level principles associated with the Duty to Co-operate are also set out in the NPPF (paragraphs 156, 178 – 181). In addition there are 23 paragraphs in the NPPG concerning the Duty to Co-operate. In considering if the Duty to Co-operate has been satisfied it is important to consider the outcomes arising from the process and the influence of these outcomes on the Local Plan. One required outcome of co-operation is the delivery of full OAHN for market and affordable housing in the HMA as required by paragraph 47 of the NPPF including the unmet needs of neighbouring authorities where it is reasonable to do so and consistent with sustainable development (paragraph 182 of the NPPF). However despite the publication of the Stage 3 Report the distribution of Birmingham's unmet needs remains unresolved. As obvious from the presented evidence the City Council and the other Greater Birmingham HMA authorities are no nearer resolving the strategic matter of unmet housing needs today than at the beginning of the process when in August 2012 the City Council wrote to all neighbouring authorities about its unmet housing needs.

Moreover as recently set out in the Written Ministerial Statement dated 25th March 2015 an early review clause is only appropriate if the matter is not fundamental to the soundness of the Plan. The meeting of more than 37,900 dwellings of unmet housing needs is fundamental to the Birmingham Development Plan and the Local Plans of neighbouring authorities. In

conclusion the provision to meet unmet housing needs in adopted Plans is some way off. The Greater Birmingham HMA authorities continue to defer a strategic matter which should have been addressed now under the Duty to Co-operate meaning that the effective delivery of full OAHN in the HMA will not be achieved.

Housing Supply

PMM62 to Policy TP28 – The Housing Trajectory and its accompanying reasoned justification (**PMM63**) set out the proposed housing trajectory on a slightly back-loaded basis however it is confirmed that the Council is not setting maxima figures for housing delivery and the housing trajectory figures are not used by the Council for the calculation of its 5 Year Housing Land Supply (YHLS).

At the time of this consultation the Council has still not addressed anomalies between sites identified in its land supply, preferred housing types and proposed densities. The Council continues to fail in reconciling the delivery of aspirational low density family housing from brown-field sites located in low value areas. Therefore it is unlikely that the Council will be able to demonstrate an on-going 5 YHLS.

The Council should be mindful that to maximize housing supply the widest possible range of sites, by size and market location are required so that house builders of all types and sizes have access to suitable land in order to offer the widest possible range of products. The key to increased housing supply is the number of sales outlets. Whilst some SUEs may have multiple outlets, in general increasing the number of sales outlets available means increasing the number of housing sites. So for any given time period, all else been equal, overall sales and build out rates are faster from 20 sites of 50 units than 10 sites of 100 units or 1 site of 1,000 units. The maximum delivery is achieved not just because there are more sales outlets but because the widest possible range of products and locations are available to meet the widest possible range of demand. A wider variety of sites in the widest possible range of locations also ensures all types of house builder have access to suitable land which in turn increases housing delivery.

Other Policies

Under **PMM66** it is proposed that extra care schemes will be required to provide affordable housing. The Council should confirm that extra care schemes were tested in its viability assessment.

PMM29 proposes changes to **Policy TP3 – Sustainable Construction** and **PMM31 to Policy TP4 – Low & Zero Carbon Energy Generation** the Council should confirm that these proposed main modifications are compatible with the Written Ministerial Statement dated 25th March 2015 and Productivity Plan published on 10th July 2015.

Under **PMM32** the Council should be mindful that the NPPF (paragraph 154) is explicit that Supplementary Planning Documents (SPD) should not add to

the financial burden of development. The Regulations are equally explicit in limiting the remit of an SPD so that policies dealing with development management cannot be hidden in an SPD.

The Council's proposals under **PMM83** on developer contributions and CIL for mitigation and provision of infrastructure are confusing. The Council should confirm its proposals remain valid after the introduction of S106 pooling restrictions in April 2015.

Conclusions

For the Birmingham Development Plan to be found sound under the four tests of soundness defined by Paragraph 182 of the NPPF, the plan must be positively prepared, justified, effective and compliant with national policy. Unfortunately despite the Proposed Main Modifications the Birmingham Development Plan remains unsound because of :-

- An under-estimation of OAHN at 89,000 dwellings ;
- No resolution to meeting unmet housing needs ;
- Policy requirements which are inconsistent with recent Written Ministerial Statements.

Therefore the Plan is not consistent with national policy. It is not positively prepared nor properly justified so it will be ineffective.

It is hoped that these representations are of assistance to the Council in informing the next stages of the Birmingham Development Plan. If any further information or assistance is required please contact the undersigned.

Yours faithfully
for and on behalf of **HBF**



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