



Gedling Borough Council
Planning & Economic Development
Civic Centre
Arnot Hill Park
Arnold
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NG5 6LU

SENT BY E-MAIL AND POST

4th July 2016

Dear Sir / Madam

GEDLING LOCAL PLAN PART 2 PRE SUBMISSION 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 attend the Gedling Local Plan Part 2 Examination Hearing Sessions.

The scope of the Gedling Local Plan Part 2

The Gedling Local Plan Part 2 sets out detailed planning policies that will work with the strategic policies set out in the adopted Aligned Core Strategy (ACS) including specific policies for development management and the allocation of non-strategic development sites.

Development Management Policies

Policy LPD36 states that planning permission will be granted for new residential development on sites of 15 dwellings or more subject to the provision of 10%, 20% or 30% affordable housing as set out in the Affordable Housing Supplementary Planning Document (SPD), or otherwise agreed by the Council. As currently proposed **Policy LPD36** is unsound. The provision of affordable housing is for the statutory Local Plan in accord with paragraphs 50 and 150 of the National Planning Policy Framework (NPPF) rather than the non-statutory Affordable Housing SPD. Affordable housing provision

requirements should be clearly set out in policy and not deferred to an SPD which is not subject to the same levels of scrutiny and examination as the Local Plan. Although para 11.2.5 of the Local Plan states that the SPD will be kept under review to reflect any new information which may have implications for the requirement for affordable housing provision in different sub markets within the Borough this appears not to be the case. The current SPD was adopted in 2009 therefore is pre NPPF so it will not have been tested against the NPPF's requirements for whole plan viability assessment nor the impact of adopting of a Community Infrastructure Levy (CIL) in October 2015.

Under para 11.3.11 of the supporting text of **Policy LDP37 - Housing Type, Size & Tenure** it is suggested that the introduction of the nationally described space standards may be undertaken by a review of Local Plan policy or preparation of an SPD. This is inappropriate as the introduction of space standards can only be adopted in Local Plan policy therefore reference to "or preparation of SPD" should be deleted. Moreover the Council could only adopt the nationally described space standards by meeting the criteria defined in the National Planning Practice Guidance (NPPG). The NPPG sets out the criteria the Council should met in setting these standards. As set out in the NPPG (ID 56-007 and ID 56-003) these policy requirements should be justified based on need and viability tested.

Policy LPD41 - Self build & Custom build proposes that on large sites, the Council will seek an appropriate percentage of the dwellings for self and / or custom build. The HBF supports self and / or custom build in principle for its potential additional contribution to overall housing supply where this is based on a positive policy approach to increase the total amount of new housing development and to meet an identified and quantified self-build housing need. However the Council's proposal is a restrictive policy requirement for the inclusion of such housing on large sites (not defined by the Council). This proposal provides no additionality to land supply but merely changes house construction from one to another type of builder. It is suggested that the Council gives further consideration to the practical workings of **Policy LPD41** including the implications on responsibilities under health & safety legislation, working hours, length of build programmes, etc. The Council should also refer to the East Devon Inspector's Final Report dated January 2016 which expresses reservations about the implementation difficulties associated with this sort of policy. In para 46 the Inspector states "However, I don't see how the planning system can make developers sell land to potential rivals (and at a reasonable price)". The more appropriate policy wording is "will encourage" rather than "will seek". It is also recommended that any policy to encourage self and / or custom build is based on evidence of demand for such housing and a positive addition to overall housing land supply.

Policy LPD47 - Local Labour Agreements proposes that the Borough Council will seek to negotiate planning agreements to secure Local Labour Agreements for developments of 10 or more dwellings or development that will create more than 15 jobs. The HBF would query if this policy requirement meets all three tests of para 204 of the NPPF. It is unlikely that a Local Labour Agreement is necessary to make development acceptable in planning terms. It is suggested that this policy is deleted.

Finally it is noted that **Policy LPD15 - Infill development within Green Belt** contains a double negative “not inappropriate” it is suggested that the policy is worded in more positive planning terms by using the word “appropriate”.

Site Allocation Policies

The ACS sets out the overall spatial strategy for the Borough and this vision is rolled forward in the Local Plan Part 2. The strategy has sought to maximise brownfield sites and over 75% of the housing provision is met within or adjoining the urban area. The purpose of the Local Plan is to allocate sufficient non-strategic sites to meet the objectively assessed housing needs of the Borough to 2028. Accordingly under **Policies LPD64 – 70** twenty four non-strategic housing sites are allocated (**H1 – H24**) in accordance with the housing distribution of **Policy LPD63**. Under **Policy LPD16** three further sites are allocated as proposed safeguarded land.

A **housing trajectory** is included in Appendix A. However a simplistic analysis of this trajectory demonstrates that the Council does not have a 5 YHLS based on either 5 or 20% buffer as illustrated below :-

- Shortfall in delivery 2011/12 – 2014/15 based on the stepped trajectory = 246 dwellings. From the start of the adopted ACS plan period the Council has under-performed in 3 out of 4 years ;
- 5 years requirement 2015/16 – 2020/21 based on the stepped trajectory = 2,280 dwellings ;
- 2,280 + 246 = 2,526 dwellings. Add 5% buffer = 2,652 dwellings (530 dwellings per annum) or add 20% buffer = 3,031 dwellings (606 dwellings per annum) ;
- Housing Land Supply (HLS) set out in Appendix A = 2,392 dwellings which is 3.9 years with 20% buffer or 4.5 years with 5% buffer.

The HBF does not comment on the merits or otherwise of individual sites. The above calculations are based on the HLS figures provided by the Council and as such our representation is submitted without prejudice to any further comments made by other parties. However suffice to say if the Council’s assumptions on lapse rates, lead in times and delivery rates are not robust and supported by evidence from parties responsible for developing sites the HLS position may worsen from that envisaged. If the Council cannot demonstrate a 5 years HLS then the policies of the ACS and the Local Plan Part 2 would be out of date under para 49 of the NPPF which undermines the positively planned and effectiveness of the Local Plan Part 2.

Conclusion

There are a number of proposed Development Management Policies (**LPD36, LDP37, LPD41 and LPD47**) which are unsound. The Council’s attention is drawn to the recent Court of Appeal judgement of Oxted Residential Ltd v Tandridge District Council (EWCA Civ 414 29April 2016) in particular para 38 which states “An Inspector conducting an examination must establish the true scope of the DPD he is dealing with and what it is setting out to do. Only then will he be able to properly judge whether or not within the scope and within

what it has set out to do, it is sound". The purposes of the Gedling Local Plan Part 2 is to provide detailed policies for development management which Policies **LPD36**, **LDP37**, **LPD41** and **LPD47** fail to do. These policies are unjustified and inconsistent with national policy and therefore are neither positively prepared nor effective.

There is also a concern that at the time of adoption of the Local Plan Part 2 a 5 years HLS may not be demonstrable by the Council thereby rendering relevant policies for the supply of housing in both the ACS and Local Plan Part 2 out of date under para 49 of the NPPF. Moreover the Court of Appeal Judgement Richborough Estates Partnership LLP v Cheshire East Borough Council & S of S CLG (C1/2015/0894) clarifies that para 49 of the NPPF should be interpreted widely and applies to all policies with the effect of restricting housing development in such circumstances the soundness of the Local Plan Part 2 is questionable under all four NPPF tests (para 182). So again the Gedling Local Plan Part 2 risks failing to fulfil the purpose of allocating enough housing sites.

It is hoped that these representations are helpful in informing the next stage of the Gedling Local Plan Part 2. If you require any further assistance or information please contact the undersigned.

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



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