

Sent by email to: [planningpolicy@broads-authority.gov.uk](mailto:planningpolicy@broads-authority.gov.uk)

12/01/2018

Dear Sir/ Madam

## **Response by the House Builders Federation to the Local Plan for the Broads**

Thank you for consulting the Home Builders Federation (HBF) on the Local Plan for the Broads. 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.

We recognise that as a National Park there are significant policy constraints that will limit the level of development. However, in recognising these constraints it is still important that the plan being proposed is supported by an appropriate evidence base, is an effective plan that is deliverable over its period and is consistent with national policy. Whilst we are pleased to see changes to the plan addressing some our concerns there are still elements of the Plan what we do not consider to be sound. Set out below are the areas of the Plan that we consider to be unsound against the tests outlined in paragraph 178 of the National Planning Policy Framework.

**We would like to submit the following representations on the Local Plan and we would welcome, in due course, participating in hearings of the Examination in Public.**

### **Duty to Co-operate**

Whilst the Broads National Park is highly constrained and will play a limited role in meeting the needs of the Housing Market Area (HMA) within which they are located it is still essential that the Broads Authority establishes that needs across the HMA are being met. We are pleased to see that the Norfolk LPAs along with the County Council have all agreed to meet their own housing needs and signed up to the Norfolk Strategic Framework. This should provide a reasonable basis for co-operation moving forward and clearly identifies housing as a key cross border issue. Our one concern regarding the duty is the reliance on Great Yarmouth to meet a proportion of the Broads housing needs. The duty to co-operate statement outlines on page 23 that delivery in the Great Yarmouth HMA is 69% less than current requirements. In the first three years of their current plan period Great Yarmouth have failed to meet their housing requirement and have a delivery shortfall of 343 homes. This is a significant shortfall and whilst there may be a Memorandum of Understanding outlining that Great Yarmouth will

accommodate these homes it may be prudent to identify further sites to meet these needs.

### **PUBDM13: Energy demand and performance**

This policy is unsound as it is ineffective

The HBF does not generally object to local plans encouraging developers to include renewable energy as part of a scheme and to minimising resource use in general it is important that this is not interpreted as a mandatory requirement. This would be contrary to the Government's intentions, as set out in ministerial statement of March 2015<sup>1</sup>, the Treasury's 2015 report 'Fixing the Foundations'<sup>2</sup> and the Housing Standards Review, which specifically identified energy requirements for new housing development to be a matter solely for Building Regulations with no optional standards. The Deregulation Act 2015 was the legislative tool used to put in place the changes of the Housing Standards Review. This included an amendment to the Planning and Energy Act 2008 to remove the ability of local authorities to require higher than Building Regulations energy efficiency standards for new homes. Transitional arrangements were set out in a Written Ministerial Statement in March 2015.

As written the policy could be considered to require applicants to comply with an energy efficiency standard that exceeds that required by Building Regulations. We would suggest that the policy be amended to encourage the adoption of energy efficiency measures and the use of renewable and low carbon energy sources. This would more accurately reflect the intention of Government is to improve energy efficiency through Building Regulations not through planning policy. It is also unclear as to how the Authority intend to monitor and enforce the delivery of this policy.

### **PUBSP15: Residential development**

Unlike other national parks the boundary of the Broads Authority is very tightly drawn to the valleys and rivers within the area and we appreciate the difficulties in assessing needs within the national park. Given the relatively small population we would not disagree with the housing needs assessment for the national park of 286. As the Broads Authority have stated they intend to meet this level of need they should set out in text of the policy as the housing requirement for the national park. It would also be helpful if this was broken down by HMA to allow for monitoring against specific requirements, in particular the requirement in relation to the Great Yarmouth HMA. At present the policy does not establish the Authority's requirement and this should be rectified to ensure clarity as to the objective of this policy.

### **PUBDM33: Affordable Housing**

This policy is unsound as it has not consistent with national policy.

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<sup>1</sup> [www.gov.uk/government/speeches/planning-update-march-2015](http://www.gov.uk/government/speeches/planning-update-march-2015)

<sup>2</sup> <https://www.gov.uk/government/speeches/fixing-the-foundations-boosting-britains-productivity>

It is essential that policies in Local Plan provide a clear statement on the intentions of the Authority with regard to what it is expecting from applicants. The need for such clarity is established in paragraphs 17 and 154 of the NPPF. In particular paragraph 154 states:

*“Only policies that provide a clear indication as to how a decision maker should react to a development proposal should be included in the plan.”*

This policy fails to achieve the necessary level of clarity with regard to the requirement that developments of between 6 and 10 units will contribute a commuted sum to support affordable housing delivery. There is no detail as to how much a developer will be expected to contribute and will lead to uncertainty in bringing sites forward. Policies need to be clear and unambiguous in order to allow policy compliant schemes to come forward and for decisions on those schemes to be considered efficiently, and most importantly, predictably. At present this policy lacks the necessary detail to allow for efficient and predictable decision making – one of the core planning principles set out in paragraph 17 of the NPPF.

#### **PUBDM42: Design**

##### Part k of this policy is unsound as it is unjustified

Part K of policy PUBDM24 requires 5% of all dwellings over 20 units to be built to part M4(2). The Council are required by paragraph 56-007 of PPG to justify the imposition of the higher standard having regard to needs, the accessibility and adaptability of existing stock and the overall impact on viability. Whilst the Council have established that in general the Broads has an ageing population there is no evidence in relation to the existing stock, the type of tenure where needs are most likely to occur or the impact on viability. Without this evidence it is not possible for the Council to justify the inclusion of adoption of the optional technical standard. Part k of the policy should therefore be deleted as it is unjustified.

#### **PUBDM44: Designing places for healthy lives**

##### Policy is unsound as it is ineffective

We recognise the importance of ensuring new development supports the wider aims of local authorities and their partners to improve the health and well-being of their residents and workforce. However, the requirement for all new development to explain how their development facilitates Health and well-being is unnecessary and an additional burden on applicants. Planning Practice Guidance (PPG) sets out that HIAs “*may be a useful tool to use where there is expected to be significant impacts*” but it also outlines the importance of the local plan in considering the wider health issues in an area and ensuring policies respond to these. As such Local Plans should already have considered the impact of development on the health and well-being of their communities and set out policies to address any concerns. Where a development is in line with policies in the local plan it should not be necessary to provide additional information on health and well-being. Only where there is a departure from relevant

policies in the plan should the Broads Authority consider requiring an assessment as to the contribution a development makes towards health and well-being.

#### **PUBDM46: Planning obligations/ Developer contributions**

The policy is unsound as it is unjustified and ineffective.

The Council's evidence on infrastructure is limited and fails to set out the type of infrastructure required in the Broads and the cost of that infrastructure. There is no evidence to show what the impact of the new housing being proposed for the area will have on the local infrastructure and its capacity to absorb any increase in its use. Given the level of housing development being proposed the impact on infrastructure is likely to be minimal over the course of the plan period. The Authority's own evidence sets out that for many of the infrastructure items listed in this policy that there is no additional impact. For example, on both education and police services the Local Infrastructure Study establishes that there are no additional needs, and there is no evidence presented with regard to waste and recycling facilities. Yet these are all included within the policy even though there is no need identified from the levels of development being proposed.

We would also suggest that the inclusion of administrative fees as part of a planning obligation is also inappropriate and unlawful. The case of *Oxfordshire v Secretary of State for Communities and Local Government* [2015] EWHC 186 established that Local Planning Authorities have no right to demand an administrative payment in relation to S106 contributions as they fall outside of the scope of Regulation 122 of the CIL regulations and paragraph 204 of the NPPF. This paragraph sets out that planning obligations should only be sought where they meet all of the following tests:

- They are necessary to make the development acceptable in planning terms
- Directly related to the development
- Fairly and reasonable related in scale and kind to the development

We do not consider that the Authority has sufficient evidence to include all of the items listed in PUBDM24 as being required to make development acceptable in planning terms. There may well be a desire to make improvements to certain public facilities and to raise funds from development to support these. However, if there is no evidence to support the need for such contributions then the Council should not include these within the policy. It is also unlikely that the Authority would be able to pool contributions to infrastructure outside of the Broads National Park due to pooling restrictions on financial contributions. This will further limit the effectiveness of the approach to developer contributions set out in this policy and in particular the support of infrastructure beyond the boundaries or control of the Authority.

Given that there is no evidence on either the likely scale of contributions there are real concerns as to the deliverability of this policy. Without a more detailed assessment of infrastructure needs this policy cannot be considered to be effective or justified.

## Conclusions

For the Local Plan for the Broads to be found sound it must pass the four tests set out in paragraph 182 of the NPPF. At present we consider the Publication Local Plan to be unsound due to:

- The affordable housing policy is not justified by the evidence base and is inconsistent with national policy
- Lack of evidence to support adoption of optional accessibility standards
- Planning obligation policy is unjustified and ineffective

We hope these representations are of assistance in taking the plan forward to the next stage of plan preparation and examination. I would also like to express my interest in attending any relevant hearing sessions at the Examination in Public. I have also attached at appendix 1 responses to the Authority's additional questions regarding previous consultations, participation at the EIP and notifications. Should you require any further clarification on the issues raised in this representation please contact me.

Yours faithfully



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## Appendix 1

**Have you raised these issue during previous consultations on the Local Plan?**

Yes

If you have answered 'No' could you please explain why this has not been raised before:

(Please continue on a separate sheet / expand box if necessary)

**If your representation is seeking a change, do you consider it necessary to participate in the public examination?** (Please note that the Planning Inspector will make the final decision on who will be invited to attend individual sessions at the public examination, although all members of the public may observe the proceedings)

Yes

**If you wish to participate in the public examination, please outline why you consider it to be necessary?**

To ensure that the interests of the housebuilding industry are effectively represented at the EIP

(Please continue on a separate sheet / expand box if necessary)

**Please tick this box  if you would like to be notified of the following:**

- Submission of the Local Plan to the Secretary of State for Public Examination;
- The publication of the recommendations of any person appointed to carry out an the Examination of the Local Plan (the Inspector's Report); and
- The adoption of the Broads Local Plan