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26/01/2017

Dear Sir/ Madam

### **Response by the House Builders Federation to the Reading Pre-Submission Local Plan**

Thank you for consulting the Home Builders Federation (HBF) on the Pre-Submission Local Plan. 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 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.**

#### **Whole Plan Viability**

The Council have not published a whole plan viability assessment as part of this regulation 19 consultation. Having spoken to the Council they confirmed that this key evidence would not be available during the consultation and would only be published in submission to the Secretary of State. This approach is unacceptable as it fails to give the development industry the opportunity to submit comments on the viability of a plan prior to its submission. It also suggests that the cumulative impact of the plan on the viability of development did not inform its preparation and the Council cannot say at this point whether or not the plan is deliverable. Alongside the concerns regarding the approach taken to plan preparation we do not consider this to be a legally compliant approach to regulation 19 of the Town and Country Planning (Local Planning) (England) Regulations 2012.

Regulation 19(a) states that the local planning authority “*must make a copy of each of the proposed submission documents ... available in accordance with regulation 35*”. Details of what is considered to be a “*proposed submission document*” are set out in Regulation 17. Part (e) of Regulation 17 establishes that supporting documents used in the preparation of the local plan should be considered as submission documents. Given the paragraph 173 of the National Planning Policy Framework requires Council to consider the implications on viability of policies in the local plan we would consider the

viability assessment to be a key supporting document that should have been published as part of the regulation 19 consultation.

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

The plan is unsound as the Council have failed to address how its unmet needs will be accommodated.

The duty to co-operate is both a legal and policy requirement to ensure that key issues, such as housing delivery, are considered at a strategic level to ensure the necessary co-operation between authorities when preparing local plans. In particular the NPPF in paragraph 179 outlines that:

*“Joint working should enable local plan authorities to work together to meet development requirements which cannot wholly be met within their whole areas – for instance because of a lack of capacity or to do so would cause significant harm to the principles and policies of this Framework.”*

The NPPF also states in paragraph 181 that this co-operation should result in:

*“a final position where plans are in place to provide the land and infrastructure necessary to support current and projected future levels of development”*

Therefore, it is important that where Council's cannot meet their identified levels of housing needs the outcomes of any co-operation clearly show where those unmet development needs will be accommodated. At present the Council and its partner authorities in the West Berkshire Housing Market Area (HMA) have recognised that Reading's unmet needs of 644 homes over the plan period will need to be accommodated elsewhere in the HMA. However, there is no indication as to where and when this need will be met. The Local Plan merely states the Council will continue to work with neighbouring authorities in the Western Berkshire HMA to ensure the shortfall is delivered.

However, the Duty to Co-operate statement outlines that neither of these authorities have indicated whether or not they will have capacity to meet Reading's unmet needs. It would appear that both authorities have not made sufficient progress with their local plans to make any such decisions. We would also question the degree to which Memorandum of Understanding agreed between the Council's supports the Council's belief that Reading's unmet needs will be met within the HMA. The MOU sets out in part B of paragraph 2.1 that there is agreement the that needs **should** be met within the HMA but there are no agreements that they **will** meet unmet needs and, importantly, what would happen if these needs cannot be met within the HMA.

Given the non-committal statements made by these Council's as part of the Duty to Co-operate and their slow progress in preparing plans we do not think the Council can say with sufficient confidence, at this stage, that their unmet housing needs will be met by these authorities. Therefore, whilst the Council has probably undertaken sufficient activity to fulfil the legal aspects of the duty to co-operate we do not consider it to have

fulfilled the policy requirements for co-operation as set out in paragraphs 178 to 181 of the NPPF.

Despite these concerns we are also aware that the failure of other areas to progress Local Plans should not prevent the Council from bringing forward plans to deliver much needed development. If the Local Plan is to be considered sound we would suggest that as a minimum policy H1 be amended setting out that the Council will review its own local plan should the stated level of unmet needs in Reading not be addressed within the submitted local plans of Wokingham, West Berkshire or Bracknell Forest.

## **H1: Housing Provision**

The policy is currently unsound as it is inconsistent with national policy

*The OAN*

The Berkshire and South Bucks Strategic Housing Market Assessment states that the Objectively Assessed Housing Needs for Reading to be 699 dwellings per annum for the plan period 2013 to 2036. This assessment of need used the 2012 based DCLG Household Projections as the demographic starting point and then makes a series of adjustments to take account of economic growth, a return to pre-2008 migration patterns and the need to address affordability.

*Demographic starting point*

We would not disagree with the Council's use of the 2012 based projections. Since the preparation of the current SHMA the Government have published the 2014 based household projections which show the slight decrease in household numbers during the plan period of 25 homes per annum. However, we would not consider this to be materially different and as such the Council are justified in their continued use of the 2012 projections.

*London migration adjustment*

We would support the adjustment of 68 homes per year that has been made to the demographic starting point to reflect the expectation that migration between the HMA and capital is likely to revert to pre-2008 levels. The level of housing delivery in London has been significantly below the London Plan target of 42,000 dpa. However, even the delivery of 42,000 dpa would appear to be unachievable given the latest monitoring report published by the GLA indicates delivery of conventional housing (self-contained flats and houses) for the 2015/16 period as being 32,919<sup>1</sup>. This degree of under provision in the Capital will also be a driver of further out-migration alongside reducing the amount of in-migration from those areas surrounding the capital as set out above. If the right homes are not available to meet growing needs then there will be little option but for these households to move to those areas surrounding the capital.

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<sup>1</sup> Para 2.21 London Plan Annual Monitoring Report 2015/16 (July 2017).  
[https://www.london.gov.uk/sites/default/files/amr\\_13.pdf](https://www.london.gov.uk/sites/default/files/amr_13.pdf)

### *Economic growth*

It is also evident in the SHMA that economic growth will play a significant role in driving housing needs across the HMA. It is essential that housing needs are consistent with economic growth scenarios. Whilst we have broadly welcomed the Government's decision to introduce a standard methodology for assessing housing needs we do consider it to have a number of shortcomings. One of these is its failure to recognise the need to ensure housing delivery is sufficient to meet the economic growth expectations of an area. PPG is clear that economic growth is a key factor in establishing housing needs and Council's must ensure their final OAN reflects this position.

Table 63 of the SHMA indicates that the level of jobs growth in the Borough will need to be supported by 689 new homes every year (though this is reduced to 642 to take account of Bracknell Forest's demographic based OAN being greater than its employment based OAN). The approach taken by the Council is to include this as an uplift to the SHMA of 33 dpa rather than to consider this against the demographic starting point and the uplift for market signals to ensure housing delivery can support employment growth. However, the OAN in the SHMA of 699 homes would be sufficient to meet the economic expectations of the Borough.

### *Market Signals*

We do not consider the uplift of 57 dpa that has been made to take account of market signals to be sufficient. It is just 10% of the demographic starting point of 541 dpa and does not reflect the market signals set out in then SHMA. Since the publication of the PPG, the approach taken to market signals and the degree to which Councils have responded to these signals has varied considerably. The PPG provides no detail as to the how much of an uplift is necessary in relation to the nature of market signals in area. Until recently the only guidance came from the Local Plan Expert Group who suggested uplifts of over 25% where affordability ratios showed house prices were more than 8 times local salaries.

However, this lack of clarity on market signals has now been partly addressed with the publication of 'Planning for the Right Homes in the Right Places' in September 2017. This consultation set out the Government's proposals for assessing housing need using a standard methodology. Whilst this consultation and the methodology cannot be given any significant weight there we consider it to provide evidence as to the degree which the Government thinks market signals relating to affordability should be used to uplift baseline demographic projections. It is clear from the consultation that where affordability ratios show house prices to be more than four times local salaries then an uplift should be applied. The degree of uplift is also significant and, for example, where house prices are 8-time median salaries the uplift should be 25%. This approach is more in line with the approach suggested by the Local Plan Expert Group rather than the relatively limited response that has been made in many SHMAs since the introduction of PPG.

The market signals for Reading would suggest that the current uplift of 10% is not sufficient and fails to provide the response to affordability concerns that is expected by Government. Both median and lower quartile resident affordability ratios are high at 8.98 and 10.64 respectively<sup>2</sup>. On the basis of the Government's proposed uplifts in 'Planning for the Right Homes in the Right Places' the Council would be expected to apply uplifts of greater than 31% to their demographic starting point. It is not just affordability ratios that suggests a 10% uplift for market signals is insufficient. House prices have seen rapid increases in recent years. Lower quartile house prices have increased by 67,500 since 2013. This suggests that affordability is as much to do with rising house prices as to their relative value against the back drop of low wage inflation.

### *Conclusion on housing needs*

Taking into account the various uplifts that have been included within the assessment of housing need and the clear drive the Council have effectively uplifted OAN to 28% of the 2012 based demographic starting point. This is a similar level of uplift to that which would be expected if the Government's approach to market signals set out in 'Planning for the Right Homes in the Right Places' where to be applied. We therefore consider 699 dpa to be a reasonable assessment of housing needs.

Policy H1 sets out the Council's housing requirement as 15,433 homes or 671 homes per annum. The Council identify that this is 644 homes short of their objectively assessed needs for housing and as such the requirement is based on capacity rather than meeting housing needs. As mentioned above the Council state that they expect the unmet needs for Reading to be met within the HMA. However, as we have already stated there is limited evidence to show that these needs **will** be met within the HMA and as such policy H1 is not consistent with paragraph 47 of the NPPF which establishes that the local plan should meet the full objectively assessed needs for housing within the HMA. Whilst the local plan states that there will be continuing dialogue on this issue there are no statements within any of the agreed Memoranda of Understanding that other LPAs will deliver additional housing in order to address Reading's unmet needs.

As highlighted earlier in this representation there will be a need to ensure that there are mechanism to ensure that the Council reviews the Local Plan should the other authorities in the HMA not be able to address this shortfall.

### **H2 density and mix**

#### The policy with regard to self and custom build housing is unsound as it is not effective

Whilst we do not have any issues to raise with regard to the policy in general we do not consider the approach to the implementation of the self and custom build element as set out in paragraph 4.4.14 of the supporting text to be effective. In line with PPG the Council only require applicants to consider making appropriate provision for self or custom build housing. This is consistent with paragraph 57-025 which states that

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<sup>2</sup> Source: Office for National Statistics

Councils should encourage land owners to consider supporting self and custom build housing. However, paragraph 4.4.14 then sets out a formula as to the level of provision expected. This would seem to be inconsistent with the approach set out both in Reading's policy and in PPG and suggests that applicants would be required to provide plots for self and custom housebuilders. The formula is also ineffective and unfair as it could potentially place a greater burden on developments coming forward later on in the plan period should the list grow disproportionately.

### **H3 – Affordable housing**

#### The policy is unsound as it is not consistent with national policy and is unjustified

As highlighted above the Council have not published a viability assessment as part of the evidence supporting the Local Plan. As such we cannot comment on the cumulative impact of the policies in the plan and whether the plan is justified and consistent with paragraph 173 of the NPPF. We would suggest that further consultation is required to comply the relevant regulation and reserve the right to comment in more detail at the examination in public. Other comments relating to the soundness of this policy are set out below.

This policy seeks contributions, both in the form of on-site provision of affordable housing and financial contributions, from development 10 or less units. This is inconsistent with national policy as established in PPG paragraph 23b-031 which sets out that planning obligations cannot be collected from development of 10 or less units and of no more than 1,000 square meters. These were initially set out in the ministerial statement of 28<sup>th</sup> of November which following judicial review were given legal effect on the 13 May 2016. In the judicial review it was recognised that ministerial statements have the same weight as the NPPF with regard to the preparation of local plans and the planning application decision making process.

Paragraph 4.4.19 argues that there is an exceptional need for affordable housing in Reading. However, we would suggest that the need for housing is no more exceptional in Reading than in many other areas of the wider South East. Like many areas there is a clear need for affordable housing but it is also important to remember that the Government's reasons for the introduction of this threshold was to tackle:

*“the disproportionate burden of planning obligations on small-scale developers, custom and self-builders”*

The intention of this policy, as set out in the ministerial statement, was to lower the construction cost of small-scale new build housing and help increase housing supply. In particular, the Government was seeking to encourage development on smaller brownfield sites and help to diversify the house building sector by providing a much-needed boost to small and medium-sized developers. In considering the introduction of such a policy the Government would have been aware of its impacts on affordable housing delivery. However, they have considered it more appropriate to support small and medium sized housebuilders recognising the important contribution they play in delivering new homes.

The Council also argue that the legal judgement clarified that the statement does not have the effect of overriding a local policy. The Council also suggests that the judgment by the Appeal Court has clarified that the statement does not have the effect of overriding local policy where there was exceptional need for affordable housing. It is true that the weight to attach to policies is a matter of discretion for the Local Authority, in particular where a change in national policy leads to a conflict with an adopted local plan. This is an inevitable consequence of policy change. However, where a plan is being prepared it must be remembered that the NPPF has established that it must be consistent with national policy in order to be found sound.

The judgement also makes no statement that the exceptional need for affordable housing is sufficient evidence for national policy on this matter to be set aside in favour of a local policy. As set out above the policies intentions were to reduce the financial small and medium sized housebuilders to bring forward smaller sites in order to bring forward more small-scale development. The Council have provided no evidence that the proposed obligations in policy H3 will not be a burden on this sector of the housing industry nor the relative contribution of small sites to overall affordable housing provision. In fact, there is virtually no evidence supporting this significant departure from government policy. As such we consider this policy to be unsound and it should be amended to reflect Government policy as set out in paragraph 23b-031 of PPG.

#### *Size, type and tenure mix of affordable housing*

The policy does not give a clear indication as to the size type and tenure mix of the affordable housing it will expect development to achieve. It is proposed that this will be done on a site by site basis and in relation to the current evidence on assessed needs. Whilst we welcome flexibility within policies it is important that they provide some guidance as to the requirements expected from an applicant. The current approach within this policy would leave an applicant, and indeed the decision maker, with very little understanding of whether a proposed scheme is policy compliant. The NPPF establishes in both paragraph 17 and 154 that local plans should ensure decisions can be made with a high degree of predictability and that policies should provide a clear indication as to how decision makers should react. Policy H3 currently fails to achieve this in relation to the size type and mix of affordable housing.

It would appear from the supporting text that the Council intends to set out in supplementary planning documents more detail as to the required size, type and tenure mix for any affordable housing contributions. However, we would consider this approach to be inappropriate as it does not allow the impact of these policies to be fully tested during the examination of the local plan. The approach to the type, size and tenure mix of affordable housing can have a significant impact on the viability of development and, in line with paragraph 173 of the NPPF, it must be considered as part of the whole plan viability assessment.

#### **H5 Standards for new housing**

Parts of this policy are unsound as they are unjustified and inconsistent with national policy.

PPG has established the optional technical standards that can be applied via a local plan where there is sufficient evidence to support their introduction. This policy establishes the Council's intentions to apply these optional technical standards and set out below are our comments on each of these.

#### *Space standards (Part a)*

Paragraph 56-020 of PPG sets out that local planning authorities will need to justify the application of internal space standards. In justifying this policy, the council will need to take in to account:

- Need – evidence should be provided on the size and type of dwelling currently being provided
- Viability – the impact of adopting space standards should be considered as part of the place viability assessment
- Timing – whether a transitional arrangement is required to enable any additional cost arising from space standards to be factored into future land acquisitions.

At present no relevant evidence has been supplied by the Council supporting the introduction of space standards. The Council has raised a concern that developments coming forward under permitted development are bringing forward units below space standards but as they point out this could not be addressed through such a policy. However, the Council have not published any evidence that the size of new homes being built in the Borough is below space standards. So, whilst it may be a concern it is one that is not supported by any evidence. At the time of writing the Council has also not produced any viability evidence to support the introduction of space standards. As there is no assessment as to the impact on the plan viability, as required by PPG, the policy cannot be considered to be sound.

#### *Zero carbon homes and dwelling emissions rates (part c and d.)*

Whilst the HBF does not generally object to local plans encouraging developers to improve energy efficiency 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>3</sup>, the Treasury's 2015 report 'Fixing the Foundations'<sup>4</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. In order to make this policy sound parts c and d should be removed.

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<sup>3</sup> [www.gov.uk/government/speeches/planning-update-march-2015](http://www.gov.uk/government/speeches/planning-update-march-2015)

<sup>4</sup> <https://www.gov.uk/government/speeches/fixing-the-foundations-boosting-britains-productivity>



### *Accessible homes (part e and f)*

We do not consider the Council to have justified the requirement for all homes to be built to part M4(2) and for all of affordable homes and 5% of market homes on sites of 20 or more dwellings to be built to part M4(3). Paragraph 56-007 requires local authorities to demonstrate the need for these requirements to be applied to new homes. This evidence should include the likely future need for housing for older and disabled people, the accessibility and adaptability of existing stock, the different needs across tenure and the overall impact on viability. It is therefore incumbent on the Council to provide a local assessment evidencing the specific case for Reading which justifies the inclusion of optional higher standards for accessible / adaptable homes in policy H5.

The Council's only evidence would appear to be set out in latest SHMA. This document acknowledges that there is likely to be increase in older people across the HMA. However, it is notable that Reading's increase in its population of older people of 63.5%, as set out in table 110 of the SHMA, is lower than its neighbours, and that at 14.9% it has the lowest proportion of older person only households. These trends are also lower than for the South East in general where the population of older people is expected to grow by 64.7% and the proportion older person only households is 21.9%. The Council's evidence on its ageing population is therefore not unusual and is not a phenomenon specific to Reading. As such it does not justify all new homes being built to part M4(2). Most pertinently the SHMA identifies in table 114 that by 2036 there are likely to be 6,254 older people with mobility problems, which is around 20% of the older people population of Reading and about 3.5% of the total population. This suggests that only a relatively small proportion of the population will require homes built to the higher optional standards. If it had been the Government's intention that such generic arguments justified requiring all new homes be built to the higher optional standards for adaptable accessible dwellings then the logical solution would have been to incorporate the standards as mandatory via the Building Regulations, an approach the Government has not taken forward.

At present there is no evidence regarding the impact of the policies in the plan on the viability of new development. This is a requirement set out more broadly in the NPPF as well as specifically in relation to the optional standards. With this evidence the policy has not been justified as required by both the NPPF and PPG. We therefore do not consider the requirement for all new homes to be built to part M4(2) of the building regulations to be justified.

The proposal to require 5% of homes on developments of 20 or more dwellings as being M4(3) is contrary to national policy. PPG sets out in paragraph 56-009 that the standard for wheelchair accessible homes only to properties where the local authority is responsible for allocating or nominating a person to live in that dwelling. This means that M4(3) can only be applied to affordable homes and the policy should be amended to reflect this position.

### **CC9: Securing infrastructure**

Parts of this policy are unsound as they are inconsistent with national policy

The requirement in the final paragraph of this policy is unjustified and inconsistent with national policy. The local authority must justify the requirement for a contribution towards the administrative costs of monitoring and implementing S106 charges. The case of Oxfordshire County Council v Secretary of State for Communities and Local Government and others [2015] established that administrative charges must be considered against the regulation 122 'necessity' tests in the same way as other planning obligations. The high court upheld the decision by the planning inspector to strike out a charge to administer, monitor and enforce planning obligations as these were considered to be part of the function of the Council's functions as a Local Planning Authority. We would therefore suggest that the wording of this paragraph be amended to read:

*"Where justified, necessary and related to the development the Council may require contributions towards the monitoring and implementation of planning obligations."*

### **Conclusions**

At present we do not consider the plan to be sound as considered against the tests of soundness set out in paragraph 182 of the NPPF. We do not consider the Council has met the tests of soundness in the following key areas:

- Failure to meet the needs of the HMA in full with insufficient mechanisms established in policy to ensure unmet needs are addressed in future. Policy H1 must be amended to require a review of the Local Plan if unmet needs are not met by the other authorities in the HMA
- Policy H3 on affordable housing is not consistent with national policy
- The adoption of the optional technical standards set out in policy H5 have not been justified as required in PPG.
- Requirement for all developments making a planning contribution to pay an administrative charge is not justified or consistent with national policy and should be amended.

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. Should you require any further clarification on the issues raised in this representation please contact me.

Yours faithfully



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