

Sent by email to: [issuesandoptions@rochford.gov.uk](mailto:issuesandoptions@rochford.gov.uk)

07/03/2018

Dear Sir/ Madam

### **Response by the House Builders Federation to the Rochford Local Plan Regulation 18 consultation**

Thank you for consulting the Home Builders Federation (HBF) on the Development Management 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.

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

The Duty to Co-operate (S110 of the Localism Act 2011 which introduced S33A into the 2004 Act) requires the Council to co-operate with other prescribed bodies to maximise the effectiveness of plan making by constructive, active and on-going engagement. The high level principles associated with the Duty are set out in the National Planning Policy Framework (NPPF) (paras 156, 178 – 181) and in twenty three separate paragraphs of the National Planning Practice Guidance (NPPG). In determining if the Duty has been satisfactorily discharged it is important to consider the outcomes arising from the process of co-operation and the influence of these outcomes on the Local Plan. One of the required outcomes is the delivery of full objectively assessed housing needs (OAHN) for market and affordable housing in the housing market area (HMA) as set out in the NPPF (para 47) including the unmet needs of neighbouring authorities where it is reasonable to do so and consistent with sustainable development (NPPF para 182).

The Council considers itself to be in an HMA with Basildon, Castle Point and Southend-on-Sea. We would not disagree with this HMA but it must be recognised that there will be linkages with other neighbouring HMAs that could lead to it being reasonable for housing needs from outside the HMA to be met within Rochford. However, it would appear that there are particularly challenges facing the South Essex HMA. The recent decision by Castle Point Borough Council to unilaterally reduce the amount of homes they will seek to deliver is one such challenge. This would suggest that there is a need for strong co-operation between the authorities in deciding how the housing needs of the HMA will be met. We therefore welcome the efforts that are being made to improve

co-operation across the South Essex HMA. There is clearly the appetite for joint working that can deliver shared outcomes when necessary, as was the case for the Joint Area Action Plan for London Southend Airport. A similar degree of positive and effective co-operation must be given to the issue of meeting housing needs and we welcome any positive steps that are taken in this direction. One such step has been the preparation of a Memorandum of Understanding (MOU). However, whilst this is a reasonable start it we would suggest that the Council seeks to secure greater certainty that housing needs will be met within the HMA. The MOU should establish tangible outputs or agreement as to how development needs will be met and where which is a key requirement of co-operation as set out in paragraph 179 of the NPPF which states:

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

It is important to remember that paragraph 181 of the NPPF states that 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”*. The Council should look to ensure that this is the goal of any co-operation and if achieved can be considered to have fulfilled both the legal and policy elements of the duty to co-operate.

### **The need for market and affordable homes**

#### *Objectively assessed needs*

The approach set out in the Council’s Strategic Housing Market Assessment update would appear to be a sound basis for assessing housing needs. The outcome of this study is an objectively assessed housing need (OAN) for Rochford of between 331 and 361 dwellings per annum (dpa). The higher figure is a 41% uplift on the 2014 based household projections. The higher estimate of OAN establishes a level of housing needs that is similar to the Government’s expectations for Rochford if the standard methodology were to be applied, as such we would urge the Council to prepare a plan to meet the higher OAN. In seeking to meet this level of need the Council have identified three options on page 38 of the consultation document:

- A. meet our own needs as far as possible given environmental and other constraints
- B. Work with other neighbouring LPAs to ensure the needs of the HMA are met
- C. Consider a policy requirement to deliver a percentage of new market homes on schemes to be made available to residents of Rochford first.

The first two options set out are not options but fundamental requirements of the plan making process as established in paragraphs 14 and 47 of the NPPF. The key question for the Council is how will it meet its own OAN as well as ensure the needs of the HMA are met in full. To achieve this the Council will have to co-operate with its partners in the HMA to establish an effective strategic approach to housing delivery. Given that the

HMA has already seen one authority, Castle Point BC, attempt to reduce its housing requirement without consulting with other authorities in the HMA it is imperative that more robust systems for co-operation are established as soon as possible.

Whilst the Council are right to consider the constraints on development within the District it should not seek to restrict its housing requirement solely on the basis of environmental capacity, as is alluded to in paragraph 6.29. Paragraph 7 of the NPPF sets out that there are three dimensions to sustainable development and the Council will also need to consider the social and economic advantages that arise from meeting housing needs. In particular the Council will need to consider whether they are able to mitigate against any negative environmental impacts or indeed whether the social and economic benefits outweigh any negative environmental impacts. As such the Environmental Capacity Study 2015 prepared by the Council may inform the consideration of development options as part of the Sustainability Appraisal but it should not be used as the basis to establish the District's housing requirement.

What will be essential is for the Council to undertake an assessment of the planning constraints to development as established in footnote 9 to paragraph 14 of the NPPF. In particular we consider it essential that the Council undertakes a review of its Green Belt to understand the degree to which land under this designation continues to support the purposes as set out in paragraph 80 of the NPPF and to consider whether there are any exceptional circumstances that would support amendments to the current boundary. When considering exceptional circumstances we recommend that the Council refers to the case of *Calverton Parish Council v Nottingham City Council, Broxtowe and Gedling Borough Council* [2015] EWHC 1078. This case highlighted the importance of considering housing needs and supply against the strength of the Green Belt when assessing whether exceptional circumstances are present. So whilst the Government have stated that housing need on its own are not likely to constitute exceptional circumstances, they would be sufficient where land is not performing strongly against the purposes of Green Belt. We would also add that the worsening affordability of housing in the District would also contribute to the argument that there are exceptional circumstances to amend Green Belt boundaries in Rochford. If the Council has not already begun the process of reviewing the Green Belt we would recommend that work is taken forward with some urgency.

With regard to option c, the Council cannot seek to apply a "Rochford First" approach to the sale of market homes. Such an approach is fundamentally opposed to the operation of the free market. Just as residents of Rochford are permitted to buy homes in any other part of the Country, so people from elsewhere should be permitted to purchase homes in Rochford. Whilst the HBF have worked with the Mayor of London and our members to establish a voluntary scheme to promote homes in London for the first 3 months on which they are marketed solely to those living and working in the Capital we must stress that this is a voluntary scheme and not one that has been established through the plan making process. We do not consider it appropriate to have a planning policy that would restrict sales in this manner, in fact we would consider it beyond the scope of the planning system to prevent a developer from selling homes to any willing buyer. We would therefore strongly suggest the Council does not take forward option C on page 38.

### *Affordable homes*

The Council must set their affordable housing policy at a level that does not affect the viability of development within their area or push it to the margins of viability. This means that despite the Council's statement in paragraph 6.32 that delivering a lower proportion of affordable housing is not a reasonable option it may need to consider such an approach. In fact PPG encourages this in paragraph 10-007 which states:

*"Emerging policy requirements may need to be adjusted to ensure that the plan is able to deliver sustainable development."*

Until the necessary evidence is available it is not possible to determine the correct approach to regarding the level of affordable housing that should be provided. The level of affordable housing that development can reasonably support will vary in relation to the infrastructure required, the nature of the development strategy being taken forward and other policies in the plan, such as the optional technical standards discussed below, will all reduce the potential contribution development can make toward supporting affordable housing and must be tested before the Council considers its options.

If the Council wishes to improve the provision of affordable housing it also has the option of increasing the allocation of land for residential development. PPG sets out in paragraph 2a-029 that an:

*"... increase in the total housing figures included in the local plan should be considered where it could help deliver the required number of affordable homes"*

We would therefore encourage the Council to consider the option of increasing the overall supply of land to a level that not only meets the need for affordable housing but also establishes a reasonable level of affordable housing contribution. However, any policy must not require contributions from developments of fewer than 10 units and less than 1000 sqm. Any policy, such as option C on page 39 of the consultation document would, that seeks to do so would not be consistent with the written ministerial statement of the 2 March 2015 and paragraph 23b-031 of PPG.

### *Homes for older people and Adults with disabilities*

Any policy on optional accessibility standards will need to be full justified, as required by paragraph 56-007 in PPG, on the basis of need, viability and the accessibility and adaptability of the existing housing stock. In particular the Council needs to consider the impact on viability of delivering both the lower and higher accessibility standards set out in part M4 of the Building Regulations. Whilst on their own the costs may not appear significant the cumulative impact of these costs alongside those for affordable housing, infrastructure, open space, energy efficiency etc. that the Council have suggested will be required is significant. It should also be noted that paragraph 56-009 of PPG states that: *"Local Plan policies for wheelchair accessible homes should be applied only to*

*those dwellings where the local authority is responsible for allocating or nominating a person to live in that dwelling.”* The Council should therefore not apply the higher level Part M4(3) to market homes.

## **Delivering Housing needs**

### *Meeting housing needs*

All the options set out at paragraph 6.48 should be considered and it is likely that a mix of these options will be required in order to meet the development needs of the District, and potentially offer opportunities to meet housing needs from elsewhere in the HMA if necessary. It is also important as part of the development of the local plan to ensure that the Council provides a mix of development opportunities. The Government set out in the Housing White Paper the importance it places on ensuring there are opportunities for small and medium sized house builders as well as large volume house builders. As such it will be important to allocate a range of different sites and not rely on strategic allocations to deliver the vast majority of the Council’s housing needs. The allocation of small site not only provides opportunities for SME developers it also improves rates of delivery as smaller sites can be developed more quickly enabling the Council to maintain a five year land supply prior to strategic sites coming on line.

### *Bungalows*

We do not consider it appropriate to set a target for the development of bungalows. Bungalows will have a much larger footprint than two and three story homes of the same floor area and as such have a significant impact on viability due to the reduction in the number of units that can be delivered on a site. The Council must also remember that there is a need to maximise development on each site and the delivery of bungalows will significantly reduce the capacity of each site. This will require the Council to release more land or set higher density targets than the 30 dwellings per hectare, as identified as an option on page 50, if it is to meet housing needs.

## **Housing Mix**

We would agree that the current policy in the Core Strategy provides no real guidance to applicants as to what a policy compliant scheme would look like. The NPPF in paragraph 17 and 154 is clear that the local plan, and the policies it contains, should support effective and efficient decision making with policies that provide a clear indication as to how a decision maker should react. We would therefore support option B which would provide clear guidance with the flexibility to vary the mix on the basis of viability.

The continued application of the nationally described space standard will need to be fully justified as required by paragraph 56-020 of the NPPF on the basis of need and viability. Should the Council consider it to have sufficient evidence we would recommend that any policy is sufficiently flexible to vary these standards to support higher densities in appropriate locations. Well-designed homes can easily meet the needs of many individuals and families whilst being below the nationally described

space standards and the Council should ensure it has the ability to support such developments.

### **Design and building efficiency**

Paragraph 10.63 sets out seven options with regard efficiency standard in buildings. 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, however 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. As such we would support option G not to have a policy on energy efficiency standards. Any other approach would be inconsistent with the Government's approach to building standards which it limits to those optional technical standards set out in PPG.

### **Self-build and custom housebuilding**

In considering its options for the delivery of self and custom build housing the Council needs to consider the approaches set out in PPG. Whilst this suggests developing policies in local plans for self-build and custom housebuilding it also outlines that the need for Council to consider:

- Using their own land
- Engaging with land owners to encourage them to consider self-build and custom housebuilding and facilitating access where a land owner is interested
- Working with custom build developers to maximise opportunity

Further guidance is also provided in para 57-14 of PPG which sets out the need for Council's to consider how they can support the delivery of self-build plots through their housing strategy, land disposal and regeneration functions. This would suggest that the Council needs to set policies that support and encourage land owners and developers to bring forward plots the emphasis should be on the local authority using their own land and as part of their overall housing strategy finding the necessary plots. We therefore consider option A to be inconsistent with national policy as it seeks to impose a proportion of self-build plots on land owners and developers rather than facilitating, encouraging and incentivising the delivery of serviced plots for self-build and custom housebuilding. We would recommend that the option D is the most appropriate with regard to approach taken in the local plan.

Should the Council choose to have a policy it will be important to consider what should happen to self-build plots should they not be sold. Where it is agreed that self-build plots will be provided on sites as part of any S106 agreement the policy must set out that any unsold will revert to the developer after 6 months of it being offered on the open market to be delivered as part of the overall scheme. We would also recommend

---

<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>

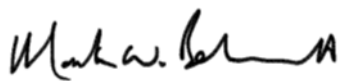
that if development of a purchased plot has not commenced within three years of purchase that the buyer be refunded and the plot reverts to the developer. It is important that plots should not be left empty to detriment of its neighbours or the development as a whole.

### **Parking standards**

Whilst Government policy supports the use of minimum parking standards for residential development there is also a drive for higher density residential development around transport hubs. In order to achieve higher densities and ensure schemes remain viable it may be necessary to reduce parking requirements in sustainable locations below stated minimums. We would therefore recommend that any policy state that where appropriate development will be permitted below minimum standards. This would ensure the policy is sufficiently flexible to support sustainable and viable development, all of which are key elements the NPPF, specifically paragraphs 7, 14, 39 and 173.

We hope these comments are of assistance in taking the plan forward to the next stage of plan preparation and examination. Should you require any further clarification on the issues raised in this representation please contact me.

Yours faithfully



Mark Behrendt  
Planning Manager – Local Plans  
Home Builders Federation  
Email: [mark.behrendt@hbf.co.uk](mailto:mark.behrendt@hbf.co.uk)  
Tel: 020 7960 1616