

Sent by email to: planning.policy@shepway.gov.uk

19/03/2018

Dear Sir/ Madam

Response by the House Builders Federation to the Shepway Places and Policies Local Plan

Thank you for consulting the Home Builders Federation (HBF) on the Places and Policies 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.

The HBF does not comment on the merits or otherwise of individual sites therefore our representations are limited to the development management policies of the Places and Policies Local Plan. We consider that there are a number of policies in the plan which are either inconsistent with national policy, have been insufficiently justified or are ineffective and as such must be considered unsound. We hope these comments are helpful and we would welcome, in due course, participating in the relevant hearing sessions during the Examination in Public.

HB3 Internal and external space standards

The policy is unsound as it is unjustified

The Written Ministerial Statement dated 25th March 2015 confirms that: *“the optional new national technical standards should only be required through any new Local Plan policies if they address a clearly evidenced need, and where their impact on viability has been considered, in accordance with the NPPG”*. If the Council wishes to adopt the Nationally Described Space Standards (NDSS) this should, therefore, only be done by applying the criteria set out in PPG which states in paragraph 56- 020 that: *“Where a need for internal space standards is identified, local planning authorities should provide justification for requiring internal space policies. Local Planning Authorities should take account of the following areas need, viability and timing”* . Set out below is our assessment as to whether the Council has met these tests.

Need. It is incumbent on the Council to provide a local assessment evidencing the specific case for Shepway which justifies the inclusion of the NDSS as a Local Plan policy. If it had been the Government's intention that generic statements justified their adoption then the logical solution would have been to incorporate the standards as mandatory via the Building

Regulations which the Government has not done. The NDSS should only be introduced on a %need to have+ rather than a %vice to have+ basis. The identification of a need for the NDSS must be more than simply stating that in some cases the standard has not been met it should identify the harm caused or may be caused in the future. We could not find any evidence that has been prepared by the Council on the need for the NDSS s to be introduced within Shepway and as such the policy is unjustified on the basis of need.

Viability. The impact on viability should be considered in particular an assessment of the cumulative impact of policy burdens. Whilst the Viability study mentions space standards it is not clear how these have informed the viability assessments. The requirement for the NDSS would reduce site yields or the number of units on a site. Therefore the amount of land needed to achieve the same number of units must be increased. The efficient use of land is less because development densities have been decreased. At the same time the infrastructure and regulatory burden on fewer units per site intensifies the challenge of meeting residual land values which determines whether or not land is released for development by a willing landowner especially in lower value areas and on brownfield sites. It may also undermine delivery of affordable housing at the same time as pushing additional families into affordable housing need because they can no longer afford to buy a NDSS compliant home. The most recent viability study we could find on the Council's website was from 2014 and was used to support the preparation of the Council CIL Charging Schedule. We could find no reference to the NDSS in this assessment and we must conclude that the Council has not considered the impact on viability of their introduction.

Timing. The Council should take into consideration any adverse effects on delivery rates of sites included in the housing trajectory. The delivery rates on many sites will be predicated on market affordability at relevant price points of units and maximising absorption rates. An adverse impact on the affordability of starter home/first time buyer products may translate into reduced or slower delivery rates. As a consequence the Council should put forward proposals for transitional arrangements. The land deals underpinning the majority of identified sites will have been secured prior to any proposed introduction of NDSS. These sites should be allowed to move through the planning system before any proposed policy requirements are enforced. The NDSS should not be applied to any outline or detailed approval prior to the specified date and any reserved matters applications should not be subject to the nationally described space standards.

Recommendation

We do not consider the Council to have undertaken the required assessment as to the needs for or the impacts from introducing the NDSS. Without this assessment the policy cannot be justified and the requirement should be removed from the plan.

HB4 Self-build and Custom Housebuilding Development

The policy is unsound as it is not consistent with national policy.

Whilst we support the encouragement of self-build housing through the local plan we do not consider the requirement for sites of over 40, or 20 depending on the area, to provide no less than 5% service plots for self and custom house building to be justified or consistent with

national policy. Whilst we recognise that Local Planning Authorities now have a duty to promote self-build housing we do not consider the Council to have looked at sufficient options with regard to how it can provide plots to support self-builders.

Paragraph 57-024 of the PPG sets out a variety of approaches that need to be considered including the use of their own land. This is reiterated in para 57-14 of the PPG which sets out the need for Councils to consider how they can support the delivery of self-build plots through their housing strategy, land disposal and regeneration functions. We cannot find any evidence as to the Council's consideration of other reasonable approaches to delivery as suggested in PPG. Without such consideration it would appear that the Council is seeking to place the burden for delivery of self-build plots on house-builders without looking sufficiently at other delivery mechanisms as set out in national guidance.

We also consider the policy to be inconsistent with the third bullet point of paragraph 57-025 of PPG. This outlines that the Council should engage with landowners and encourage them to consider self-build and custom housebuilding. The approach taken by the Council moves beyond encouragement and requires land owners to bring forward plots.

Recommendation

Parts 1 and 2 of the policy should be amended to state that the Council will encourage the provision of self-build plots.

E8 Provision of Fibre to the Premises

The policy is unsound as it is not consistent with national policy.

Following the Government's *Housing Standards Review*, the Written Ministerial Statement of 25 March 2015 announced that local planning authorities preparing Local Plans "should not set any additional standards or requirements relating to the construction, internal layout or performance of new dwellings". In terms of the construction, internal layout and performance of new dwellings local planning authorities are only allowed to adopt the three optional technical standards subject to evidence of need and viability.

Councils should not seek higher standards than Building Regulations on any other technical standard including Part R1 Physical infrastructure for high speed electronic communications networks. However, it is not clear whether this policy seeks to require a higher standard but it would appear to merely reflect Part R1. If no increase in the technical standard is expected then the policy is redundant and should be deleted. Similarly if the objective is to seek a higher standard this is not consistent with Government policy and will require E8 to be deleted.

T2 Parking standards

The policy is unsound as it is not consistent with national policy.

The Council should remove references to maximum or minimum parking standards in table from the Guidance table for Residential Parking on page 325. The Government abolished maximum national parking standards in 2011 which was reiterated by the Secretary of State

for Communities and Local Government in his written ministerial statement published on the 25th of March 2015. However, we welcome the Council's confirmation that these standards are guidance and only act as starting point and allow applicants to determine the most appropriate level of parking depending on the location and nature of the development being proposed.

The Council must be clear as to how it defines an area with a history of parking problems. The approach taken to this policy will be open to significant interpretation as by the public and decision makers, both officers and members. The NPPF establishes in paragraphs 17 and 154 the importance that local plans and the policies they contain provide a practical framework for decision making and that policies must provide clear indication as to how a decision maker should react. Without a clearer definition there is potential for variable decision making.

Recommendation

The term maximum should be removed from the table on page 325 and a clearer definition of an area with a history of parking problems should be included within the policy.

CC1 Reducing Carbon Emissions

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 2015¹, the Treasury's 2015 report *Fixing the Foundations*² 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.

Recommendation

In order to be consistent with the government's intentions with regard to the optional technical standards that can be set in Local Plans this policy should be deleted or be reworded to encourage the use of renewable and low carbon energy technologies.

CC2 Sustainable Design and Construction

Part 1 of this policy is unsound as it has not been justified

In order to require new development to meet the tighter water standard of 110 litres per person per day the PPG sets out in paragraph 56-015 that Councils must establish a clear local need and consider the impact on viability should it choose to require this higher standard. As we have highlighted elsewhere in this response the Council have not published an up to date viability assessment as part of this consultation so cannot claim to have considered the impact

¹ www.gov.uk/government/speeches/planning-update-march-2015

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

on viability. In relation to needs the Council have stated in paragraph 15.20 that the district is already under severe water stress but have not provided any evidence to support this statement. Unless the Council can justify this statement, and provide the necessary viability evidence, they should not include the requirement for the tighter option technical standard for water use.

Recommendation

That part 1 of the policy be deleted.

CC3 Sustainable Drainage Systems

The policy is unsound as it is not consistent with national policy.

Paragraph 15.35 outlines that on brownfield sites discharge rates should be reduced to the equivalent of greenfield run off rates. On many brownfield sites it may be impossible to achieve this level of run off. Guidance by Defra³ on this matter also suggests that a brownfield development must be as close as practicable to greenfield run off rates. This recognises that in some situations a development will not be able to deliver green field run off rates but that it should seek an improvement over the current site.

Recommendation

That paragraph 15.35 is amended to read:

On brown field sties, discharge rates are reduced as far as practicable below existing run off rates for that site.+

HW2 Improving the Health and Well Being of the Local Population and Reducing Health Inequalities

Part 1 of this policy is unsound as it has not been justified

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

3

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/415773/sustainable-drainage-technical-standards.pdf

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

Recommendation

That the policy be deleted.

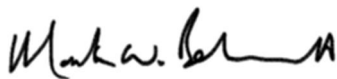
Conclusion

At present we do not consider the plan to be sound, as measured against the tests of soundness set out in paragraph 182 of the NPPF, in the following key areas:

- The optional technical standards for space and water have not been justified as required by PPG
- Requirement for self-build and custom house-building plots on sites should be encouraged and not set as a requirement;
- Additional standards for the provision of fibre+ should be removed as these are not consistent with the Government's approach to technical building standards;
- Residential parking standard should not be sets maximums and clear guidance is required as to an area of historic parking problems;
- The policy on Sustainable Drainage Systems should not require the redevelopment of brownfield sites to deliver greenfield run off rates; and
- The requirement for developments of 100 or more units should be deleted as it is unjustified

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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