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29/03/2018

Dear Sir/ Madam

### **Response by the House Builders Federation to the Bedford Draft Local Plan for Submission**

Thank you for consulting the Home Builders Federation (HBF) on the Draft 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.**

#### **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 consider Bedford Borough to be the “best fit” HMA on which to plan for housing needs. Given the evidence this is not an inappropriate position but it is important that the Council recognises that this does not absolve them from co-operating on the delivery of housing needs with other HMAs given that the evidence also shows strong links with both its neighbouring HMAs and with London. However, despite the evidence

of overlapping HMAs and strong migratory and commuting links with other Borough's we could find only limited reference to the duty to co-operate in the Local Plan and supporting evidence base and few of these references relate to housing. No statement has been provided as part of this consultation as to what the cross boundary and strategic issues are for Bedford and the degree of co-operation that has been undertaken by the Council in order to address this issue. The Council will need to show how it has not only engaged with its neighbouring authorities but also with appropriate London Boroughs due to the strong commuting links between Bedford and the Capital.

The HBF are particularly concerned about housing delivery in the Capital. Last year London Borough's delivered 32,919<sup>1</sup> despite having a target of 42,000 dpa. To suggest that the capital can increase delivery to 65,000 homes per annum over the next ten years in order to meet housing needs seems unlikely. More specifically the London Plan expects outer London Borough's to deliver significantly higher housing requirements than they have in the past, without amending Green Belt boundaries - as has been necessary in areas outside of the Capital. We are concerned that many London Borough's will be unable to meet the housing targets they have been set in the new London Plan. It is therefore essential for the Council to have maintained close relationships with relevant London Borough's in order to establish whether they are able to meet their existing and future housing requirements. The chronic undersupply of housing within the capital is a significant cross border issue for Bedford and one they should have considered through the duty to co-operate.

What is also surprising is that no reference is made to the Oxford - Cambridge Growth Corridor and the degree to which the Council has engaged with this key growth strategy for the region as part of the preparation of the Local Plan. The aspirations for the Growth Corridor is to double the current rates of house building in the period to 2050 and it is essential that this is at least considered within this Local Plan which runs until 2035. There have also been wider concerns regarding the tendency of local authorities within this area to underestimate the levels of housing needs. The recent National Infrastructure Commission (NIC) report<sup>2</sup> on the Cambridge-Milton Keynes-Oxford Arc identified the tendency for local planning authorities in this area to run assessments that produce lower level so f housing need than official projections. On page 26 of this report the NIC states:

*"... there is good reason to believe that the methodology used in undertaking assessments of local housing need can be conservative and mask high levels of unmet need."*

It would appear that the tendency to underestimate housing need is prevalent across this region. If the long term economic growth and infrastructure plans that are required for this area are to be realised then the assessments of housing need must not seek to suppress official demographic projections.

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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)

<sup>2</sup> Partnering for Prosperity: A new deal for the Cambridge-Milton-KeynesOxford Arc (National Infrastructure Commission 2017)

### *Conclusion on Duty to Co-operate*

With no evidence on the cross border and strategic issues being faced by the Council and the nature of the co-operation undertaken to address those issues it is not possible to state whether they Council have meet either the legal or the policy requirements of the duty to co-operate. However, what is clear is that housing delivery is a cross border issue that should be considered by the Council. The Bedford HMA includes parts of Central Bedfordshire Council and the Huntingdonshire HMA includes parts of Bedford BC. The Council must show that it has engaged with both these areas and that needs are being met in full. There are also strong links between Bedford and London that should not be ignored. It is essential that the Council has considered the impact of London's failure to meet both its housing requirements and its housing needs during the preparation of this Plan.

### **Policy 3S – Amount and distribution of housing development**

Paragraph 6.5 of the Local Plan states that the Council's objectively assessed housing needs for the plan period 2015 to 2035 is 19,000 homes. This level of need is taken from the Council's Strategic Housing Market Assessment that was published in October 2016 and is based on:

- A demographic starting point of 17,802 dwellings, a reduction of 2,467 dwellings when compared to the DCLG 2014 based household projections
- An uplift of 344 dwellings to account for suppressed household formation rates based on the number of concealed households and homeless families in the Borough.
- An uplift of 292 dwellings to account for additional households diverted from residential care; and
- A 5% uplift of 890 homes in response to market signals market signals. However, this is reduced by the 344 dwelling uplift for suppressed household formation.

However, we do not consider the approach taken by the Council in assessing housing needs to be consistent with national policy and guidance. Our main concerns relate to the Council's use of a ten year migratory trend to reduce the demographic starting point and the application of a minimal uplift to take account of market signals. These concerns are set out in more detail below.

#### *Demographic starting point*

The Government have made it clear in Planning Practice Guidance (paragraph 2a-017) that the household projections produced by the Department for Communities and local Government are "...statistically robust and are based on nationally consistent assumptions". This position was reiterated in the recent consultation paper 'Planning for the Right Homes in the Right Places' which also comments on the robustness of these projections stating in paragraph 16: "*The office for National Statistics projections for numbers of households in each local authority are the most robust estimates of future growth*". So the starting point for any assessment of housing need is that the assumptions made in the official population and household projections are robust and as such there will need to be strong reasons for departing from these.

PPG does provide some guidance on appropriate reasons for departing from the official projections. Paragraph 2a-017 outlines examples of the circumstances where an LPA might amend the official projections. These include:

- migration levels that may be affected by changes in employment growth or a one off event such as a large employer moving in or out of an area or a large housing development such as an urban extension in the last 5 years
- demographic structure that may be affected by local circumstances or policies e.g. expansion in education or facilities for older people

The Government though are clear that these must be clearly explained and justified on the basis of established sources of robust evidence. What the Government have not stated within guidance is that they consider the use of the five year trend within official projections to be inappropriate and that Councils can apply a ten year trend if they wish. However, paragraph 3.16 of the SHMA outlines that this position is one of preference and that “on balance” they “favour” the use of the ten year trend. What is particularly interesting in this scenario is that the SHMA then outlines that the use of a ten year migratory trend in this situation would take account of periods where migration is considered to be abnormally low. This leads to an annual household growth that is over 200 households fewer than the DCLG 2014 based projections. The Council appears to have recognised that the ten year trend in this scenario is inappropriate and has looked to establish a more reasonable ten year trend by adjusting migration for the period for the last census. This adjustment then sees the proposed level of household growth using the ten year trend increase substantially. We would suggest that rather than amending an adjusted demographic starting point the Council should have used the unadjusted official projections as the demographic starting point.

PPG also highlights a further reason for the use of the official projections and that is consistency with paragraph 2a-017 stating that the projections are based on “..*nationally consistent assumptions*”. This is important and ensures that the flows between all areas are consistent. If a ten year trend is applied in one area that it must be applied to all areas to obtain a consistent and reliable projection. There is a danger in the approach taken by the Council that sees migration into Bedford reduced will similarly reduce outmigration from another area – ultimately increasing the number of households in that area, an increase that will not have been accounted for. The consequences of this approach do not seem to have been considered by the Council. Consistency is an important element of the Government’s approach in assessing housing needs and should not be so easily ignored.

Therefore whilst we would not disagree with the Council that there would appear to be some evidence of under enumeration in the Census data we do not consider there to be any evidence to suggest the need to project forward on the basis of a 10 year migratory trend. In fact such an approach has the danger of continuing trends that are no longer applicable and placing local preferences with regard to projections over the importance of using nationally consistent assumptions. Given the evidence of under enumeration we would have expected the Council to have modelled projections based on a five year migratory trend rather than adjust the ten year trend which creates further uncertainty as to the accuracy of the starting point and its consistency with national projections.

## *Market signals*

PPG established the principle that where market signals indicated that the housing market was under pressure, due to the past under supply of housing, then local planning authorities should increase supply above the baseline demographic projections. However, the Government did not elaborate as to what an appropriate uplift would be, other than stating in paragraph 2a-020 that it should be “reasonable”. Because of this there have been discussions at many local plan examinations as to what an appropriate uplift should be. Uplifts have generally ranged from 5% to 20% depending on market signals, but it would seem that more recently inspectors, and LPAs, have been choosing higher uplifts where market signals are worst. However, there have been examples of uplifts above this level. Cambridge agreed an uplift of 30% and a recent example is Waverley Borough Council<sup>3</sup> where the inspector agreed that a 25% uplift was required to address the considerable affordability concerns in that Borough.

Outside of local plan examinations there have been other recommendations as to the level of uplift required to address the issues of undersupply and affordability that are a current feature of housing markets across the Country. The Local Plan Expert Group, for example, suggested in their final report that where lower quartile incomes to lower quartile house prices were greater than 8.7 then LPAs should uplift supply by 25% above the baseline demographic projection.

But since the publication of the SHMA the Government have given some indication as to what it considers to be reasonable as part of its consultation paper ‘Planning for the Right Homes in the Right Places’ and most recently in the revised draft PPG, published in March alongside the Draft NPPF. Whilst these consultation documents can only be given limited weight we do consider it to provide the only indication as to what the Government considers to be a reasonable uplift in relation to market signals.

As part of this consultation the Government sets out its proposal for a standard methodology to be used when establishing the housing needs for each LPA in the Country. Most importantly the consultation establishes the Government’s intention with regard to market signals and the level of uplift it considered is required to meet needs, address past under supply and improve affordability. The standard methodology proposes a formula that requires an uplift of 2.5% above the demographic base for every 1 point above the baseline affordability ratio. The baseline ratio was set at 4 and would mean that, for example, an area where the median workplace to house prices affordability ratio was 8 would be required to provide an uplift of 25% on its base demographic projections. However, the formula has been capped so that those areas with the worst affordability would not be required to provide more than a 40% uplift over demographic projections of household growth. This would suggest that even where uplifts of 20% have been adopted these were much lower than the Government’s expectations.

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<sup>3</sup>[http://www.waverley.gov.uk/downloads/file/5963/waverley\\_local\\_plan\\_part\\_1\\_examination\\_inspectors\\_report](http://www.waverley.gov.uk/downloads/file/5963/waverley_local_plan_part_1_examination_inspectors_report)

The reason why we consider this part of the consultation provides the clearest indication as to what is considered to be a reasonable uplift is that without this degree of uplift the Government are unlikely to be meet their long stated aim of delivering at least 300,000 new homes each year from 2020. In fact this was the target set out in the 2017 Autumn Budget. In his budget statement the Chancellor announced the Government's target for house building across the country stating:

*"I'm clear that we need to get to 300,000 units a year if we are going to start to tackle the affordability problem, with the additions coming in areas of high demand."*

If the Government are to achieve its aims of delivering this level of housing and addressing affordability it is clear they consider increases of 40% in those areas with the worst affordability will be necessary, and as such this degree of uplift should begin to be considered as reasonable. However, the 40% cap on the uplift above demographic projections, alongside the lack of a floor to prevent authorities such as Barrow in Furness ending up with a zero target, means that total delivery would still only be 266,000 new homes per annum. So whilst the Government might consider 40% to be the ceiling it will potentially prevent them from meeting their own target.

The levels of uplift and aspirations set out in the standard methodology are also broadly supported in evidence submitted by the Treasury to the House of Lords Select Committee on Economic Affairs suggested that to stabilise house price growth and prevent affordability from worsening would require between 250,000 and 300,000 new homes to be built each year. This roughly translates to a 1.3% increase per annum to existing national housing stock in order to stabilise the housing market with regard to affordability. Given the variability of affordability across the country this would require greater increases above existing stock in those areas which are least affordable. This position is also consistent with paragraph 2a-020 of PPG which states that:

*"The more significant the affordability constraints (as reflected in rising prices and rents and worsening affordability ratio and the stronger the indicators of high demand (e.g. the differential between land prices), the larger the improvement in affordability needed and, therefore, the larger the additional supply response should be."*

It is evident is that in order to deliver the homes needed, and also improve affordability, the uplifts to baseline demographic projections of household growth must be greater than have been applied since the publication of the PPG. The Government's methodology would see Bedford required to deliver an uplift on the DCLG baseline of uplift of 28% resulting in an OAN of 1,281 dpa. However, this uplift is based purely on a single indicator – the median house price to median income ratio. It does not, as PPG still requires, provide a wider consideration of other market signals and what the trends in those indicators might suggest is a reasonable uplift. However, it does suggest that where those indicators show a housing market under severe pressure the Government considers uplifts of up to 40% to be reasonable. As such we consider the 5% uplift following the consideration of market signals that is being proposed by the Council to be inadequate.

As to what the uplift should be it is important to consider the Government's continued aim of delivering 300,000 homes per annum in order to meet needs and improve affordability. This is an ambitious aim and will require those authorities where affordability is worse to meet official household projections and include a substantial uplift. If Council's such as Bedford look to deliver housing at levels that are significantly below those suggested in the standard methodology will mean a failure to meet national targets and a continuation of the current undersupply and worsening affordability.

### *Conclusion on OAN*

The HBF consider the Council's OAN to be unjustified and inconsistent with national policy on the basis that:

- the decision to use the ten year migration trend, which departs from the methodology used in the official household projections has not been justified
- The response to market signals is insufficient given the concerns regarding affordability and what should be considered a "reasonable" response in the light of recent Government consultations on the standard methodology and their stated objective to deliver 300,000 homes each year.

### **Policy 55 – Energy Efficiency**

#### This policy is unsound as it is inconsistent with national policy

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 taken forward into the plan as a mandatory energy efficiency requirement. This would be contrary to the Government's intentions, as set out in ministerial statement of March 2015<sup>4</sup>, the Treasury's 2015 report 'Fixing the Foundations'<sup>5</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 (WMS) in March 2015. It must also be remembered that policy has moved on since 2015. The Government have set out the optional technical standards that can be adopted in local plans. These do not include measures to improve energy efficiency above Building Regulations.

As written the policy requires 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 but remove any requirement to deliver energy

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<sup>4</sup> [www.gov.uk/government/speeches/planning-update-march-2015](http://www.gov.uk/government/speeches/planning-update-march-2015)

<sup>5</sup> <https://www.gov.uk/government/speeches/fixing-the-foundations-boosting-britains-productivity>

efficiency standards in excess of that required by Building Regulations. 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.

### **Policy 59S - Affordable housing**

#### This policy is unsound as it is inconsistent with national policy

The first paragraph of policy 59S sets out the Council's intention to require small sites delivering 3 or more dwellings in villages with a population of less than 3,000 to deliver 30% of units as affordable housing. This is inconsistent with paragraph 23b-031 of Planning Practice Guidance and the ministerial statement published on the 2 March 2015.

Whilst the history behind the Government's small site exemption policy is long and tortured what must be remembered is that, following the various legal challenges, the final decision allowed the Government to introduce this policy and that it should be given the same weight as if it were in the National Planning Policy Framework. However, as the final judgement rightly addressed this is one material consideration amongst many that the Council must consider but, having said that, significant weight must be attached to national policy. This means that in order to depart from such a key part of the Government's policy framework the bar for justification must be set very high.

Before considering the Council's evidence base it is worth reiterating why the Government introduced this particular policy. The Ministerial Statement is clear that the reason for introducing this policy was to "ease the disproportionate burden of developer contributions on small scale developers". This is distinct from whether or not such development are viable in general but whether they are a disproportionate burden on a specific sector that faces differential costs that are not reflected in general viability assessments. These costs have led to a reduction in the number of small and medium (SME) sized house builders. Analysis by the HBF<sup>6</sup> shows that over the last 30 years changes to the planning system and other regulatory requirements, coupled with the lack of attractive terms for project finance, have led to a long-term reduction of total SME house builder numbers by about 70% since 1988. The Government is very anxious to reverse this trend and increase the number of small businesses starting up and sustaining this activity. Improving business conditions for SME home builders is the key to long-term supply responsiveness.

It is also necessary to consider the Government's broader aims for the housing market. This is most clearly set out in the Housing White Paper (HWP). Their aims are not just to support existing SME house builders but to grow this sector again which was hit hard by the recession with the number of registered small builders falling from 44,000 in 2007 to 18,000 in 2015<sup>7</sup>. To grow the sector one key element of the Government's approach has been to simplify the planning system in order to reduce the burden to new entrants into

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<sup>6</sup>[http://www.hbf.co.uk/?eID=dam\\_frontend\\_push&docID=25453&filename=HBF\\_SME\\_Report\\_2017\\_Web.pdf](http://www.hbf.co.uk/?eID=dam_frontend_push&docID=25453&filename=HBF_SME_Report_2017_Web.pdf)

<sup>7</sup> Fixing our Broken Housing Market, Department for Communities and Local Government, February 2017



this market. Therefore, the focus of the Council should be on freeing up this sector of the house building industry rather than seeking to place financial burdens that the Government have said should not be implemented.

However, we could find no consideration of the impact of this policy on SME house builders within the Council's evidence. In justifying the requirement for smaller sites in villages to contribute to affordable housing costs is solely based on the viability of these developments. The Council's focus on the general viability of affordable housing delivery on small sites is missing the broad scope of the Government's policy to support the growth of this particular sector and see it thrive once more. As such we do not consider the Council to have justified a departure from national policy with regard to the small site exemption. The policy will continue to be a burden to SME house builders and in particular to new entrants into the market. As such the requirement for sites delivering 3 or more homes in villages to provide 30% affordable homes should be deleted.

#### *Viability of higher density development in Bedford*

The Viability Assessment suggests that some higher density development within the town of Bedford may not be viable. The Assessment conclude in paragraphs 6.8 and 6.9 that development in this location will require flexibility in the delivery of the policy and a reliance on an uplift in values as a result of regeneration activity. Given a significant amount of development is expected to come forward in Bedford we would suggest that the affordable housing requirement are reduced in this area to ensure the deliverability of development in these areas. By anticipating viability concerns within the Local Plan the Council can reduce the need to negotiate on a case by case basis and ensure development comes forward sooner. Such an approach would also recognise the increasing importance being placed on higher density development in urban areas by the Government and the need for other policies to support this approach.

#### *Exemption for older peoples' accommodation providers*

Providers of accommodation of older people (assisted care housing, supported housing, sheltered housing, retirement housing) should be exempted from the requirements of this policy. This is because they operate a very different business model to developers providing more conventional housing types. There are two main factors. First, the amount of development on a site that contributes to its gross development value (its saleable value) is much reduced compared to other more conventional housing providers building houses of flats. This is because many of the facilities provided on site by providers for older people, is shared area. Second, it is hard, and sometimes inappropriate to integrate affordable housing on site. Consequently, few older peoples' schemes are able to viably provide affordable housing on site. They typically rely on providing payments in-lieu to contribute to affordable housing off-site.

This position is also broadly consistent with the viability evidence which outlines that flatted accommodation, which is the predominant development type for older peoples' accommodation, faces more challenging viability within Bedford. In particular the Viability Assessment identifies the additional costs are a key factor in the marginal viability facing flatted developments, stating in paragraph 6.8 that:

*“However, we note that developments incorporating flats demonstrate more challenging viability with wholly flatted developments only showing viability where higher values are achievable and in less dense flatted development scenarios. This is because the development typologies comprising or incorporating houses incur lower build costs than flatted development. In addition, housing developments also benefit from being entirely saleable floorspace whereas only a proportion of flatted developments will be counted as saleable floorspace due to the need to provide communal areas, stair cores, corridors etc.”*

Given that older people’s accommodation has higher communal spaces than comparable flatted developments open to all we consider that the Council should make an exception for the providers of older peoples’ accommodation. Policy 59S should instead seek contributions in-lieu from these providers instead.

### **Policy 60S - Housing Mix**

#### The policy is unjustified and inconsistent with national policy

Whilst we recognise that there may be the need to provide some market homes to the higher access standard in order to provide choice within the market there is not sufficient evidence to say that 60% new homes should be built to this standard. It would seem from the supporting statement to the policy in the Local Plan (paragraphs 10.13 and 10.14) that the Council are yet to do much of the analysis of need that is needed to inform the requirements proposed in policy 60S. Paragraph 56-007 of PPG requires local authorities to demonstrate the need for the optional technical standards 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.

Whilst the Council have set out in paragraph 10.13 that demand for more accessible homes is likely to increase due to an ageing population, there is no analysis as to how many existing homes have been adapted or the different needs across different tenures – as required by PPG. In particular analysis of the use of disabled facilities grants and the number of existing homes that are already accessible will enable the Council to understand to a much finer degree the need for accessible or adaptable homes amongst its ageing population. The assumption at present is that all older people will require an adaptable home at some point and that those requiring one will seek to move. This is clearly not the case with many older people never requiring a more accessible home and those that do moving to specialist accommodation. Therefore we do not consider the Council to have provided the evidence required by national policy to justify 60% of all new homes being built to the optional standard M4(2).

The second bullet point under this policy is inconsistent with national policy. 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 and the appropriate relevant paragraph of H2 mentioned above should be deleted.

Finally, the Council state in paragraph 10.16 that they will vary the requirement where viability is compromised. We welcome this statement but consider it necessary for this to be included in the policy to ensure the necessary flexibility to respond to rapid change as required by paragraph 14 of the NPPF.

## **Policy 62 - Self-Build and Custom Build Housing**

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 100 to provide up to 10% 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 Council's to consider how they can support the delivery of self-build plots through their housing strategy, land disposal and regeneration functions.

Whilst the Council has stated is investigating other means by which to promote self-build custom house-building opportunities, including the use of its own land, it has not been able to bring these forward in the Local Plan. Without the conclusion of these investigation it would appear that the Council is seeking to place the burden for delivery of self-build plots on larger sites. We would suggest that it should conclude these investigations before requiring the provision of service plots on larger sties. We could also find no analysis of the demand for self-build and custom housebuilding in the Borough that would justify the need for 10% of homes on sites of over 100 units to be plots for self-builders. Even if the Council's approach where supported by national policy there is no justification as to why the requirement has been set at this level.

Finally, 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. We would therefore suggest that the policy be deleted and replaced with a policy that seeks to encourage the provision of self-build plots.

Where it is agreed that some plots for self-build and custom housebuilding are to be provided within larger sites it is important that the Council's policy is clear as to when these revert to the developer when they are not sold. At present this policy provides a very complex set of requirements that would extend over a 3 year period if a plots remains unsold. This is too long and we would suggest the policy states that this policy is simplified and the process shortened. If there is the level of demand for serviced plots suggested by the Council there should not need to be such a lengthy process for their sale or return.

### **Policy 93: Electric vehicle infrastructure**

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

The Council does not set out in this policy what is required by an applicant with regard to the provision of infrastructure to support the use of electric vehicles. The Council have stated in paragraph 12.22 of the Local Plan that this document is still in being prepared. The approach taken by the Council is therefore unsound for two reasons. Firstly it does not comply with legislation that prevents the Council from setting policy in supplementary planning documents, which cannot be challenged through an Examination in Public. This principal was most recently tackled in *William Davis Ltd & Ors v Charnwood Borough Council* [2017] EWHC 3006 (Admin) (23 November 2017) where supplementary planning document strayed into an area that should be considered by a development plan document. This decision quashed an SPD that contained policies that clearly encouraged and imposed development management policies against which a development could be refused. Policy can only be established through the Local Plan. Secondly, without the detail as to the level of infrastructure required the Council cannot have tested this as part of the required whole plan viability assessment. On reviewing the Council November 2017 Viability Assessment we could not find any indication that this had been tested. Paragraph 173 of the NPPF outlines that viability requires careful attention and it is important that Council consider the cumulative impacts of all policies. Without the necessary consideration of this policy in the Viability Assessment there is insufficient evidence to justify its inclusion and as such it should be deleted.

### **Policy 97 – Sustainable Drainage Systems (SuDS)**

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

The opening paragraph of this policy states that post development run off rates should be the equivalent of greenfield run off rates. On many brownfield sites it may be impossible to achieve this level of run off. Guidance by Defra<sup>8</sup> 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. Given the Government's focus on delivering more development on brownfield sites we would suggest it is essential that greater flexibility is provided in this policy. We recommend that the policy is amended to read:

“All development proposals must incorporate suitable surface water drainage systems appropriate to the nature of the site. Post-development run off rates should ~~achieve greenfield equivalents~~ be reduced as far as practicable below existing run off rates for that site. ~~The fact that a site is previously developed and has an existing high run-off rate will not constitute justification.~~”

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[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/415773/sustainable-drainage-technical-standards.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/415773/sustainable-drainage-technical-standards.pdf)

## **Policy 98: Broadband**

The policy is unsound because they are unjustified and contrary to 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. Council's should not seek higher standards than Building Regulations on any other technical standard – including Part R1 Physical infrastructure for high speed electronic communications networks.

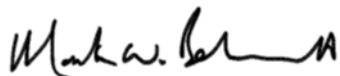
## **Conclusion**

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:

- Approach taken in establishing OAN is not consistent with Planning Practice Guidance
- Policy 55 on Energy Efficiency is inconsistent with the Government's approach to technical building standards
- Affordable housing policy is inconsistent with the Written Ministerial Statement on small site exemptions
- Adoption of the optional accessibility standards has not been justified
- Policy for self-build and custom housebuilding is overly prescriptive and as such is inconsistent with PPG.
- Policy 93 on electric vehicle infrastructure lacks the required detail which is expected to come forward in supplementary guidance. This approach is unlawful as policy can only be introduced through a local plan;
- Guidance on run off rates set out in Policy 97 should be amended to ensure greater flexibility and consistency with Government guidance on the run off rates from brownfield development.
- Policy 98 should be deleted as it is not consistent with the Government's approach to technical building standards.

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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