

Sent by email to: localplan@eastleigh.gov.uk

06//08/2018

Dear Sir/ Madam

Response by the House Builders Federation to the Regulation 19 consultation on Eastleigh Local Plan

Thank you for consulting the Home Builders Federation (HBF) on Eastleigh 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. Outlined below are our concerns regarding the soundness of the local plan.

Duty to Co-operate

The duty to co-operate is the basis for strategic and cross boundary planning across England. The duty is established in legislation which sets out the process all Local Planning Authorities (LPAs) must follow in carrying out the duty to co-operate. However, the legislative framework is also supported by more detailed guidance in both the National Planning Policy Framework (paragraphs 178 to 181) and in Planning Practice Guidance (paragraphs 9-001 to 9-023).

With regard to the legal requirements of the duty to co-operate it would appear from the Council's 'Duty to Co-operate Statement' that they have undertaken the required consultation with the relevant statutory bodies. In particular, the development of the Partnership for Urban South Hampshire (PUSH) clearly provides a mechanism through which strategic and cross boundary issues can be discussed and, hopefully, resolved. One of the key strategic and cross boundary issues identified by the Council in the duty to co-operate statement is the delivery housing needs. Table 2 on page 19 outlines this issue and that the OAN for the Southampton HMA is set out in the PUSH Spatial Position Statement (SPS). However, as is noted in table 2 the SPS met most but not all of the objectively assessed needs for the HMA through its allocations. The OAN for the Southampton HMA was identified in table 1 on page 14 of the SPS as being 57,000 between 2011 and 2036 (2,280 dwellings per annum (dpa)). However, the distribution of housing development across the HMA would deliver 50,050 homes between 2011 and 2034 (2,176 dpa).

Therefore we are concerned that the outcomes of the strategic and cross boundary co-operation will lead to housing needs across housing market area not being met which is a principle requirement of co-operation when preparing local plans. Paragraph 47 of the NPPF requires LPAs to:

*“... ensure their Local Plan meets the “full, objectively assessed needs for market and affordable housing in the **housing market area** as far as is consistent with the policies set out in this Framework” (our emphasis)*

Paragraph 179 provides further clarification stating that:

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

These two paragraphs establish that the Council must not only seek to meet their own objectively assessed need for housing in their local plan but ensure that where other LPAs in their housing market area cannot meet their own housing needs, due to constraints, then these must be addressed within other local plans in that HMA. The approach outlined in the SPS indicates that the constraints in the HMA will prevent LPAs from meeting housing needs in full. It is a constraints led approach to housing delivery. This would appear to be confirmed by the Council in their Housing Trajectory Background Paper which outlines in paragraph 3.5 the constraints that were considered by PUSH to limit the ability of the Southampton HMA to meet housing needs.

Whilst we recognise that Paragraph 14 of the NPPF indicates that there are policies that restrict development it is essential that those constraints are consistent with footnote 9 of the NPPF. However, in constraining supply the LPAs in the HMA have included the maintenance of countryside gaps between settlements. Whilst this may be an objective of a plan it is not, outside of Green Belt policy, a constraint to development set out in the NPPF. As such it should not be used as the basis for constraining an areas ability to meeting housing needs. In effect the Council are seeking to apply a principle of the Green Belt where there is no Green Belt.

Even if the constraints had been valid it is incumbent on the LPAs in the HMA to identify where these unmet needs would will be delivered. PPG sets out in paragraph 9-10 that plans should be examined on the outcomes of co-operation not just the activities undertaken. Unless it can be identified as to how an unmet needs are addressed the outcomes of any co-operation can be considered to be effective.

Recommendation

We suggest that Eastleigh increase its housing requirement to address some of the unmet needs of the HMA. We would disagree that this is as a result of Eastleigh being the last man standing, but is a result of co-operation that has been based on an approach that seeks to constrain delivery in a manner not supported by the NPPF. At the recent examinations into both the Waverley and Guildford Local Plan the unmet needs arising

from the constraints faced by Woking led to the unmet needs being allocated between Guildford and Waverley. A similar approach should be considered with regard to the Southampton HMA.

Strategic Policy S2 Approach to new development

The policy is unsound as it does not include any requirement for the unmet needs arising within the HMA.

The Council's housing requirement of 14,580 homes to be delivered between 2016 and 2036 (729 dpa) is arrived at through a combination of its Objectively Assessed Needs (630 dpa), its allocation in the PUSH Spatial Position (650 dpa) Statement and the backlog in delivery since 2011. In considering the soundness of the housing requirement the Council have prepared background papers on the OAN and Housing trajectory which provide a helpful overview of their approach.

Objectively Assessed Needs for housing

The Objectively Assessed Needs background paper provides a proof of evidence used in justifying the Council's OAN of 630 dpa. In considering the soundness of the approach taken it is important to refer back to the key principles that need to be considered when establishing the housing needs for an area. The starting point of any assessment is that it must meet the demographic need for housing based on the Government's Household Projections adjusting these to take account of any suppression that may have occurred due to poor delivery. Secondly consideration needs to be given as to whether needs are likely to be higher due to the level of economic growth expected in an area and finally consideration needs to be given to market signals and where appropriate an uplift made to the demographic needs in order to improve affordability. The approach taken by the Council to each of these steps is considered below.

Demographic projections

We would agree with the use of the 2014 based household projections as the most up to date starting point for considering housing needs. In testing these projections the Council have considered a range of migration trends and examined household formation rates to consider whether there has been any suppression in the trends that needs to be addressed. The outcome of this assessment is that the Council consider the 2014 based projections to provide the most appropriate starting point and that no adjustment should be made with regard to the longer migration period. However, it is also suggested that this be adjusted to take account of suppressed household formation. We would agree with this approach and consider it to represent a positive approach the demographic assessment of needs.

Labour force and Economic Growth

As required by PPG the assessment of housing needs considers a range of data with regard to economic participation and employment growth and how this will impact on housing needs. Whilst these assessments appear reasonable our only concern would be

the use of the Oxford Econometrics data with regard to jobs growth. Paragraph 2.41 of OAN background paper outlines that this is closest to the average of the three assessments considered and as such is the most appropriate. However, this represents an average growth rate of 0.5% whilst evidence on job density published by the ONS¹ suggests jobs growth between 2006 and 2016 was 1.5% per annum. The Council should consider higher growth expectations prior to submission and whether these impact on housing needs.

Market Signals

The Council's assessment of the market signals for Eastleigh show an area that is becoming increasingly unaffordable and one that requires an uplift to the demographic projections. The Council proposes that a 15% uplift should be applied however in considering the degree to which the demographic projection should be increased it is important to consider the key aim of this uplift. PPG states in paragraph 2a-020 that an uplift made should be reasonable and that the stronger the indicators of high demand will require a larger response in terms of the uplift to housing supply. Whilst plan makers are not expected to estimate the precise impact of any uplift the PPG still states that they should increase supply by an amount that:

“... could be expected to improve affordability ...”

No assessment appears to have been undertaken as to whether or not the level of housing being proposed will have any impact on affordability. However, the level of housing being proposed for the plan period is slightly higher than is being proposed through the standard methodology. Whilst the Government has been clear that the revised NPPF will not apply to any plan that is submitted for examination 6 months after the publication of the new Framework the Government's expectations with regard to housing delivery provide a reasonable context against which to consider uplifts and their impact on affordability. In essence the Government considers the delivery of 300,000 per annum to be the level at which affordability issues will begin to be addressed. It is looking to achieve this through the standard methodology which recognises that in order to address affordability the majority of the 300,000 new homes will need to be delivered in those areas where demand is highest and affordability is worst.

As the standard methodology uplift also takes into account past suppression of household formation and backlog it cannot a direct proxy for market signals, but it does provide some indication as to the degree to which LPAs should have been responding to market signals. For example, in relation to Eastleigh the minimum level of delivery using the standard methodology would be 715 dpa, an uplift of 34% on demographic projections. On the basis of the plan period 2016 to 2036 this plan will deliver 729 dpa – a figure that takes into account both past under delivery, market suppression and market signals. Given the similarity of approaches the 15% uplift for market signals, in addition to adjustments for backlog and the suppression of household formation, would appear to be reasonable and closely aligned with Government expectations and results in a level of delivery that could be considered to improve affordability.

¹ <https://www.nomisweb.co.uk>

Conclusions and recommendation on OAN and housing requirement

We consider the assessment of housing needs to be sound. However, the housing requirement set out in S2 fails to take into account unmet needs from across the HMA. In order for S2 to be considered sound the housing requirement should include a proportion of the identified unmet needs for the HMA.

Housing land supply

In considering their housing land supply the Council have looked to discount expectations with regard to identified and allocated sites as well as windfall assessments. This approach is to be welcomed and recognises that not all development will be delivered at the rates and timescales expected during the preparation of the local plan. Our only concern is with regard to the inclusion of a large site windfall allowance. The Council have outlined in the Housing Trajectory Background Paper that such supply has made an important contribution in the past. But it is by no means certain as to whether this situation will continue at such a consistent level across the plan period given that the policies on affordable housing, sustainable development, access standards and internal space standards will, potentially, make development of typical windfall sites significantly less attractive. If the Council is to retain this level of windfall within the plan modifications to these policies as outlined below will be necessary.

Strategic policy S8, Protection of Countryside gaps

This policy is unsound as it is unjustified and not consistent with national policy

As outlined above we are concerned that the approach taken by the Council has been to use “Countryside Gaps” as a constraint as part of the process of developing its local plan. As highlighted above paragraph 35 of the Housing trajectory Paper outlines that the maintaining countryside gaps between town and cities informed the decision not to meet the housing needs of the HMA. The creation of these gaps has the effect of creating a “Green Belt” around the eastern boundary of Southampton and will prevent any future expansion to what is a very tightly bound city. In taking forward such a policy the Council have set out in the Countryside Gaps background paper a number of paragraphs from the NPPF which they consider to support the use of Countryside Gaps. However, none of these paragraphs refer directly to the use of Countryside Gaps between settlements but provide general position with regard to the need to take environmental and landscape consideration into account when preparing a local plan and determining planning applications.

We would not disagree that the local plan should consider policies that allow for the consideration of important landscapes and environmental designation as part of the decision on any planning application. However, these elements of national policy are not relevant to the Council’s reasons for including policy S8 within the Local Plan. The aim is to maintain gaps between settlements and not the protection of the countryside, valued landscapes, or important habitats. In fact the Local Plan has policies (S7 on new development in the countryside and DM11 on nature conservation) to achieve these

separate requirements of national policy and as such the Green Gap policy cannot be considered to be consistent with the NPPF.

Recommendation

That policy S8 be deleted.

Policy DM2, Environmentally sustainable development

Policy is unsound as it is inconsistent with Government 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 2015², the Treasury's 2015 report 'Fixing the Foundations'³ 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 parts 'a.', 'c', 'b' and 'i' of this policy cannot be considered sound as they require applicants to comply with an energy efficiency standard that exceeds that required by Building Regulations including the requirement for certification to 'passivhaus' standards for some residential developments. Furthermore part 'h.' of the policy requires development to aim for internal water consumption of 90 litres per day which is contrary to the optional standards set out in paragraph 56-014 of PPG. Such requirements are not justified and are inconsistent with national policy and should be deleted. Indeed it is also a concern of the Council's viability consultants who state in paragraph 3.4.59 in relation to the use of passivhaus standards:

"... we offer an observation that we are uncertain that this policy is required or necessary bearing in mind the currently established national policy approach; based on building regulations and their progression over time, generally with a move away from locally specific policies aside from the optional standards relating to space, water usage and accessibility where needs and viability

² www.gov.uk/government/speeches/planning-update-march-2015

³ <https://www.gov.uk/government/speeches/fixing-the-foundations-boosting-britains-productivity>

evidence supports the inclusion of those (all included as standard assumptions across this assessment)."

Finally we are unsure as to what the term 'multi-residential development' means. We would assume it refers to a higher density flatted developments but this is not clearly established in the local plan. The Council need to use well understood terminology in order to provide guidance to both the decision maker and applicant as required by paragraph 17 and 154 of the NPPF.

Recommendation

Parts 'a.', 'c.', 'h.' and 'i.' of the policy should be deleted and reference to the requirements for passivhaus certification and BREEAM for multi-residential developments in part 'b.' should be deleted as these are inconsistent with national policy. The reference to multi-residential development needs to be amended or clearly defined.

Policy DM6, Sustainable surface water management and watercourse management

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

Part 'iii' of this policy requires SuDS to ensure discharge rates at least mirror Greenfield rates before development. On many brownfield sites it may be impossible to achieve this level of run off. Guidance by Defra⁴ 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.

Recommendation

Part 'iii.' Be amended to read:

"iii. Ensure that discharge rates on previously developed should be reduced as far as practicable below existing run off rates for that site. Development on Greenfield sites should seek to maintain existing run off rates."

DM14, Parking

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 parking provision. The Council have stated that this will be set out in SPD. The approach taken by the Council is therefore unsound as it does not comply with legislation that prevents the Council from setting policy in supplementary planning documents, which

⁴https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/415773/sustainable-drainage-technical-standards.pdf

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 to ensure these cannot be amended without the required consultation and examination in public.

Recommendation

Parking requirements currently proposed to be established in the SPD should be set out within an appendix to the Local Plan.

Policy DM30, Delivering affordable housing

This policy is not sound as it is unjustified

This policy establishes the Council's intention to seek 35% affordable housing on all sites across the Borough. Whilst we welcome the overall flexibility within this policy and the openness to a negotiated solution with regard to affordable housing we do not consider it justified to have a single requirement given the evidence set out in the Viability Assessment. This assessment indicates that in the lower value areas, such as Eastleigh town centre, that viability is compromised with by the policy requirements of the local plan. The appendices of the viability assessment show that in these lower values areas the delivery of 35% affordable housing will not be viable for a significant number of the schemes tested.

This is clearly a concern of the report's authors as they state in paragraph 3.4.24 the consideration should be given to lower rates of affordable housing being set for town based scenarios. As such we are surprised that differential requirement was not considered appropriate not only on the basis of the viability evidence but also with regard to the inclusion of large windfalls within the trajectory and the Government's aims of delivering as much development as possible on previously developed brownfield sites (paragraph 17 and 111 of the NPPF). If the Council are to achieve their aspirations of delivering 860 homes on larger windfall sites they will need to ensure the policies in the local plan support the development of previously developed land in and around the Borough's town centres. At present the Council's policies will potential discourage the development of such sites which is contrary to the principles of the NPPF and not justified by the evidence.

Recommendation

The Council should amend the policy to require a lower proportion of affordable housing within its towns and in particular Eastleigh. From the evidence this should be no greater than 20%.

Policy DM31, Dwellings with higher access standards

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 no evidence indicating that 80% new homes should be built to this standard. 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. However, the only evidence provided by the Council is in paragraph 3.2 and 3.3 of the Accessible Housing and Internal Space Standards Topic Paper. These paragraphs outline that there is an ageing population and that by the end of the plan period it is expected that 80% of all new homes are likely to feature at least one occupant over 65.

We have a number of concerns regarding the Council's evidence supporting this policy. Firstly the assessment misunderstands the data on household formation. Due to the ageing population there will be growth in households with at least one occupant over 65, but that does not mean all those households will be in a new home. The majority of these new households will currently live in the Borough. The additional households forming during the plan period are a result of people living longer not through increased migration of older people into Eastleigh.

Secondly, many of these households will also not be looking for a new home. Movements amongst older households are significantly lower than for other age groups and as such there is more likely to be a need for improvements to existing homes rather than for more accessible new build housing. Data on migration from the 2011 Census shows that just 6% of those over 65 had lived elsewhere the previous year (a total of 823 people compared to 12,980 for the Borough as a whole).

Finally, the number of people aged over 65 requiring a more accessible home is relatively small and mostly applicable to the population that is over 75. Evidence from the 2011 Census on long term health problems or disability shows that 21% of the population over 65 had an illness that limited their day to day activities a lot. If all of those individuals are in separate households this would equate to around 2,688 of the 12,800 households expected to form during the plan period. This evidence suggests that the need for more accessible homes is significantly less than the 80% suggested by the Council.

As well as requiring 80% of homes to be built to M4(2) part 'iii.' of this policy also requires at least 2 dwellings or 7% of market homes on developments of 40 dwellings to be built to part M(3). This is not consistent with paragraph 56-009 of PPG which 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.”

As such the Council should delete references to market homes begin required to deliver homes to part M4(3).

Finally, the Council refer in part 'i.' to all homes being built to part M4(1). As this is a mandatory building regulation there is no reason for its inclusion and it should be deleted.

Recommendation

Part ii should be deleted as there is insufficient evidence as required by PPG to support 80% of all homes to be built to Part M4(2).

Requirement for at least 2 or 7% of homes on developments over 40 dwellings to be built to part M4(3) in part 'iii' should be deleted as this is inconsistent with national policy.

Part 'i.' should be deleted as it is a mandatory requirement and has no relevance with regard to decision making. As such it is inconsistent with paragraph 17 and 154 of the NPPF.

DM32, Internal space standards for new residential development

The policy is unsound as it is not effective

The policy as it is written does not offer the required level of flexibility that is expected by the NPPF in order for the policy to be considered effective. Where a local plan is reliant on a significant amount of windfall development it is important that policies do not place such restrictive policies that potential sites remain undeveloped. There may well be site specific constraints on developable land that require units to be built at below space standards in order to be deliverable. Given the reliance on windfall it is important that policies in the local plan are sufficiently flexible to support the delivery of such sites. In particular we would suggest that the policy allow for the development of well-designed accommodation at below minimum space standards where appropriate. We would also recommend that a transition period be included within the plan to enable developers to factor the space standards into considerations for future acquisitions.

Recommendation

That DM32 be amended to include the following:

- “Delivery of homes below national described space standards will be considered appropriate where site constraints prevent these standards from being met and the homes provided are of a high quality design.”
- “This policy will take effect 12 months after the adoption of the Local Plan”

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 plan does not take account of the unmet needs arising within the HMA as required by the NPPF and assessment of capacity in the HMA is unsound as it includes Green Gaps;
- Policy on Green Gaps is inconsistent with national policy and should be deleted
- Requirements above building regulations set out in DM2 are inconsistent with national policy;
- Requirements for SuDS in DM6 are inconsistent with guidance from Defra with regard to run off rates;
- Affordable housing policy DM30 fails to take account of the evidence which indicates the need for variation in the requirement in lower value areas;
- Proposed adoption of option access standards is not justified and should be deleted.

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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