

Sent by email to: planningpolicy@oxford.gov.uk

28/12/2018

Dear Sir/ Madam

Response by the House Builders Federation to the Oxford City Local Plan

Thank you for consulting the Home Builders Federation (HBF) on the Oxford City 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.

It is not certain as to whether the Council intends to submit this plan for examination prior to the end of the transition period. As such we have used the 2012 NPPF and supporting guidance as the basis for our comments. However, given the uncertainty created by the transition period we have in places referred the revised NPPF and its supporting published in 2018. It is important to take account of the latest guidance as development will be considered against this latest policy once this plan is adopted and is therefore a material consideration.

Duty to co-operate

The HBF has been broadly supportive of the collective approach taken by the Council's in Oxfordshire with regard to their strategic approach to planning for new housing and infrastructure. In particular there has been a commitment from those authorities surrounding Oxford City Council to increase growth in response to the city's inability to meet its own housing needs in full. As part of the agreement between the Oxfordshire authorities it was agreed that there was an assumed capacity of 10,000 homes within Oxford City.

However, as stated in the Local Plan there will be a shortfall in delivery against this assumed capacity. At present it is not been established how this shortfall against assumed delivery will be addressed. Given the commitments made by Government as part of the Growth Deal it will be essential that the Council provides the necessary



evidence prior to submission of the local plan as to how the additional homes required to address any shortfall will be delivered.

H1: The scale of new housing provision

As outlined above we have been broadly supportive of the approach taken by the Oxfordshire Council's in establishing their objectively assessed need for housing and the decision to plan for 100,000 homes to meet needs and support the economic growth of the area. However, as outlined above we are concerned that the Council will not meet the 10,000 homes that the other authorities were expecting the City Council to deliver. This means that more homes will need to be identified either in this local plan or in the local plans of neighbouring authorities. Unless these additional homes are identified the Council cannot be considered to have met the requirements of paragraph 47 of the 2012 NPPF or paragraph 60 of the 2018 NPPF. Given that the Council has identified that there are exceptional circumstances supporting the amendment of Green Belt boundaries there may be potential to amend boundaries further. We would suggest that the acuteness of the need for homes in the City, the agreed growth deal with the Government and the fact that its neighbours have already made significant commitments to support Oxford City Council in addressing their shortfall are exceptional and could be used to support further amendments in line with national policy.

H2: Delivery of affordable homes

The policy is unsound as it is unjustified and inconsistent with national policy

50% affordable housing requirement

Whilst it is not yet clear as to whether the transitional arrangements will apply to this local plan it is important to recognise that it will be delivered under the 2018 NPPF and its associated guidance. The latest Framework places far more emphasis on the local plan with regard to viability and ensuring that development will be deliverable against the policy requirements being set by the Local Planning Authority. It is therefore essential that the approach taken by Councils is consistent with both policy and guidance and that the Council does not seek to secure contributions at a level that could make development viability marginal and which will, inevitably, lead to site by site negotiations with regard to affordable housing and other contributions.

The approach taken by the Council is not consistent with the approach outlined by policy and guidance in two key areas. Firstly, the Council has set developer profit on the basis of gross development cost (GDC). Paragraph 7.27 of the Development Viability Assessment states:

“... a 20% profit on cost for market homes and zero profit on affordable homes have been determined as an appropriate return to developers factoring in the strength of the Oxford market, and the level of risk of developing in Oxford”

However, PPG establishes at paragraph 10-018 that:

“For the purposes of plan making an assumption of 15-20% of gross development value (GDV) may be considered a suitable return to developers in order to establish the viability of plan policies.”

Accounting for developer profit on the basis of GDC the Council's viability assessment is inconsistent with national policy and as such fails to effectively justify the Council's 50% affordable housing requirement within policy H2. The Council have looked to justify their position with regard to profit margins by stating that the risk of housing delivery within Oxford is much lower than for the rest of the Country due to the strength of the market and as such a lower level of return is appropriate. We disagree with this assessment of the situation. The risk relating to development is not necessarily related to the current strength of a market but relates to its strength in the future.

Decisions on development are ones of long term risk which is why the margin for the developer needs to be at least 20%. There may be a strong market now but there is no guarantee of this happening in future, especially given the significant uncertainties facing the Country at present. For example, increased borrowing costs and a slow market due to economic uncertainty could affect Oxford as it would any other areas of the Country. As such there is no justification for departing from Government policy and what it considers to be an acceptable degree of profit.

By setting developer profit at 20% of GDC for market homes and 0% of affordable homes the Council are effectively reducing the profit expectations for development to a level significantly below that set out in PPG. We estimate that this approach will see margins of between 6% and 9% of GDV depending on the value area. As such it cannot be considered a sound approach as it could lead to sites being considered unviable for development.

Secondly, whilst the Council's approach to land values is consistent with the latest guidance, we do not consider a 30% uplift to EUV for greenfield sites to be sufficient incentive for the release of such sites. PPG states that the uplift should provide “*a reasonable incentive*” and the experience of our members is that in areas where Council's have not increased the supply of land for housing a 30% uplift is likely to be insufficient in securing the sale of greenfield sites.

Contributions from small sites

Paragraph 63 of the 2018 NPPF establishes the approach set out in the 2015 Written Ministerial Statement with regard contributions for affordable housing not considered to be major development. The Council have decided to ignore this policy and will require small sites of between 4 and 9 units to make a financial contribution toward affordable housing provision.

When considering the appropriateness of including such a policy 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 is 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 HBF¹ 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 worth considering 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 2015². To grow the sector one key element has been to simplify the planning system in order to reduce the burden to new entrants into 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.

In conclusion, the Council’s focus on the general viability of affordable housing delivery on small sites is, in part, 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. In addition, the outcomes of the policy are likely to be ineffective in delivering the scale of affordable housing required to meet needs in Oxford City.

Recommendations

The Council must:

- Reassess the viability of the Local Plan in a manner that is consistent with national policy and guidance. In particular the Council should allow for a profit margin of 20% on market housing and 6% on affordable housing. The outcomes of any revised viability assessment should then be thoroughly considered and the policy be amended where necessary. If the Council fail to

¹http://www.hbf.co.uk/?eID=dam_frontend_push&docID=25453&filename=HBF_SME_Report_2017_Web.pdf

² Fixing our Broken Housing Market, Department for Communities and Local Government, February 2017

- update the viability assessment both policy H2 and the local plan as a whole cannot be considered to be sound; and
- Delete part a)ii).

H4: Mix of dwelling sizes

This policy is unsound as it is not effective

The HBF understands the need for a mix of house types, sizes and tenures and is generally supportive of providing a range and choice of homes to meet the needs of the local area. It is, however, important that any policy is workable and ensures that housing delivery will not be compromised or stalled due to overly prescriptive requirements or the need to provide significant amounts of additional evidence. Whilst Strategic Housing Market Assessments (SHMA) can provide a broad snapshot in time of what is needed it should be left for developers to supply the homes they consider are necessary to meet demand. The development industry understands what types of homes are needed to meet the demands of its customers, if it did not then the homes would not sell.

In order for the right type of homes to be delivered it should be left to the development industry to build the right homes to meet the needs of the market in that location. We would therefore suggest that the policy requires applications for housing development have regard to the evidence on housing mix on strategic sites but that the final mix is left to agreement between the applicant and developer on a site by site basis. This would establish a flexible approach to housing mix which recognises that needs and demand will vary from area to area and site to site; ensures that the scheme is viable; and provides an appropriate mix for the location.

Recommendation

That the second paragraph be deleted, and the final paragraph be amended to read:

“Sites for 25 homes or more, or sites of 0.5 ha and greater, ~~below the threshold or within the city centre or a district centre~~ should demonstrate how the proposal has had regard to local housing demand, including for affordable housing demonstrated by the housing register.”

H7 Community led and self-build housing

Policy is unsound as it is unjustified and inconsistent with national policy

Whilst we support the encouragement of self-build custom housebuilding through the local plan, we do not consider the requirements in H7 to be justified or consistent with national policy. Firstly, we are concerned that the policy could lead to an over provision of such sites. Whilst self-build registers provide an indication of demand, they provide limited evidence as to whether those on the list continue to require a plot or have a

reasonable expectation of becoming a self-builder. The fall in the number of people registering gives an indication that demand may not be strong after initial interest and we would suggest that the Council reviews this list to better understand whether or not those on the list remain interested. For example, a recent review by Hart district Council saw the numbers of interested parties fall from 117 to just 7.

Given the uncertainties we would suggest that rather than require 5% of the area of all sites over 50 units the Council would be best served by seeking alternative approaches to their delivery. In fact, we consider Government guidance on this issue to be more focussed on engaging with land owners to identify appropriate sites rather than requiring plots to be provided by the housing building industry for self-builders and custom housebuilding. Paragraph 57-025 of PPG, for example, 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. As such we consider the policy to be inconsistent with current guidance.

In addition, 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 custom housebuilding plots through their housing strategy, land disposal and regeneration functions. We could not find any evidence that the Council have examined these options and have instead looked to place the burden of their duty on to the house building industry.

Finally, the policy makes no reference to custom-build housing despite there being no distinction in both legislation and policy between plots identified to meet the needs for either these two approaches to house building. Where the Council refers to "*self-build housing*" it should amend this to "*self-build housing and custom housebuilding*". This will provide the necessary consistency of terminology with policy and legislation.

Recommendation

We recommend that the policy is amended to outline that the Council will work with land owners and developers to encourage the provision of land and plots to support self-build and custom housebuilding.

H10: Accessible and adaptable homes

The policy is unsound as it has not been justified

With the introduction of latest part M of the building regulations all new homes are now more accessible than the majority of the existing housing stock. However, whilst we recognise that there may be a need for some homes to be designed to the higher accessibility standards part M4(2) and M4(3) it is important that any such requirements are based on evidence of need, the accessibility of the existing housing stock and viability, as set out in paragraph 56-007 of PPG.

In the Background Paper on Internal, Space Standards and Accessible and Adaptable Homes the Council set out their evidence to support their policy of requiring 15% of all market homes to be built to part M4(2) and all affordable homes to be built to the same optional standard. In addition, the policy also requires 5% of all dwellings on sites of 4 homes or more to be built to part M4(3). The evidence supporting this policy sets out that Oxford has a comparatively young population and that this trend is set to continue but that due to increased life expectancy the population of older people is also expected to grow. As such the majority of the growth in older people will be amongst those who are already resident in the city and not be as a result of inward migration, who would require somewhere new to live. This growth in population sees the proportion of older people within the population increase from 11% to 15%. However, given that the majority of older people are already resident in the city and will not require, and may be never will, a more accessible home this proportion may be too high.

We would also question whether the evidence supports the need for all affordable homes to be provided at part M4(2). The evidence provided by the Council to support this policy does not indicate that there is any difference in the age profile between the different tenures. Therefore, we do not consider the Council's evidence to justify the need for all affordable homes to be built to part M4(2). We would also query the need for 5% of all homes to be built to part M4(3). The data is based on those with limiting conditions which may not be physical disabilities requiring a wheel chair. Therefore, the Council may have overestimated the need for such homes.

Part M4(3) of the Building Regulations makes a distinction between wheelchair adaptable homes and wheelchair accessible homes. The Council's policy is not clear as to which element of part M4(3) the policy would apply. Given that paragraph 56-010 states "*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 clearly state in policy which part of M4(3) it is seeking to require.

Finally, we would recommend that the policy is amended to recognise that there may be situations where the application of this policy is not feasible or viable. This situation is set out in paragraph 56-010 of PPG and should be included in the H10.

Recommendation

To make the policy sound we recommend that:

- The proportion of affordable homes required to meet part M4(2) is reduced to reflect that required in market homes;
- The policy is amended to provide clarity with regard to the approach taken on M4(3); and
- That the phrase "*where viable and feasible*" be added after "*ensure*" in the first sentence of the policy.

RE1: Sustainable design and construction

Policy is unsound as it is inconsistent with national policy

The Government have established the optional technical standards that Councils can seek to apply through their Local Plans. These standards do not include reductions in carbon emissions beyond those established in part L of the Building Regulations. We recognise that the Government's position as set out in the Written Ministerial Statement of March 2015 has not yet been fully enacted. 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 in March 2015. These arrangements were clear that Local Planning Authorities should not set standards above that which would have been required to meet level 4 of the Code for Sustainable Homes. This is considered to be 19% reduction on part L. Policy RE1 however requires development to achieve a 40% reduction, rising to 50% from 2026 which is significantly higher than under the transitional arrangements. As such consider the Council's current policy to be unsound as it goes beyond what is required by part L of the building regulations and the transitional arrangements.

In fact, we would also argue that Council's should not be applying any greater standard than part L given that the Government are clear in PPG as to the optional technical standards that can be applied in a local plan. It is queried whether this policy is in line with the Governments intentions as set out in Fixing the Foundations 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.

On the same basis the Council cannot require applicants to demonstrate as part of an application how they have used recycled materials, minimised waste and maximised recycling as part of the construction process nor require the installation of Smart Metres. The house building industry recognises the importance of these issues, but they go beyond the scope of planning policy which has clearly established the optional standards that can be adopted in a local plan.

Recommendation

That:

- the second paragraph of policy RE1;
- parts a), c) and d) of the first paragraph be deleted;
- Final sentence of the 6th paragraph be deleted

RE5: Health Impact Assessments

This policy is unsound as it is not effective

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 applications to undertake a Health Impact Assessment (HIA) in order to demonstrate how they have incorporated measures to improve health and well-being is wholly unnecessary. It is for the plan to establish the framework through which development comes forward and as part of its development to consider the health impacts of development. As such if a development comes forward that is in line with the local plan then there should be no need for further assessment, or indeed measures, to show how it contributes to the health and well-being of its future residents.

Recommendation

That the policy is deleted

M3: Motor vehicle parking

The policy is unsound as it is ineffective and inconsistent with national policy

In the Written Ministerial Statement HCWS488 published in March 2015³ the Government outlined its concerns regarding the use of maximum parking standards and the impact this had with regard to on street parking. Paragraph 106 of the 2018 NPPF reiterates this position and sets out that maximum parking standards should only be set where there is a clear and compelling justification. The constrained nature of the City and the need to maximise densities in the city indicate that there may be some justification for the application of maximum standards in specific locations.

However, we are concerned that this approach has been taken beyond the remit of national policy by their use on sites outside of controlled parking zones and not within a reasonable walking distance of frequent public transport and local services. In particular we are concerned that flatted development regardless of its location will be required to be car free and provide no parking spaces. This approach lacks the necessary flexibility to adapt to situations where parking would be of benefit or where the lack of parking could have an impact on the value of properties and viability of these sites, especially given the Council's requirement for 50% of all homes to be affordable.

³ www.parliament.uk/business/publications/written-questions-answers-statements/written-statement/Commons/2015-03-25/HCWS488/

Recommendation

That greater flexibility be allowed within the parking standards and that some parking for flatted development be allowed outside of those areas defined in the first paragraph of policy M3.

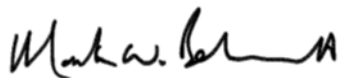
Conclusion

At present we do not consider the plan to be sound, as measured against the tests of soundness set out in the NPPF, on the basis that:

- The Council has not identified how the shortfall in housing required to ensure the HMA meets needs in full will be delivered;
- The viability assessment is not consistent with national policy in its treatment of developer profit;
- The mix required in H4 is not flexible and as such is ineffective;
- The requirement for all affordable homes to be built to part M4(2) has not been justified;
- Approach taken with regard to carbon emission from residential development is not consistent with national policy;
- Policy H7 on self-build housing is not sufficiently justified or consistent with national policy;
- Parking policy and standards are not flexible and as such inconsistent with national policy.

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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