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14/02/2020

Dear Sir/ Madam

### **Response by the Home Builders Federation to the consultation on the new Castle Point Local Plan**

1. Thank you for consulting the Home Builders Federation (HBF) on the new 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.

#### **Duty to co-operate**

2. The Council have placed a significant emphasis within their co-operation activities on the decision to develop a joint strategic plan (JSP) for South Essex with neighbouring boroughs. The decision to undertake such a plan is to be commended but we are concerned that the decision to develop the JSP seems to have led to the subsequent conclusion that any unresolved issues, such as unmet development needs, can be deferred to this future plan. However, Planning Practice Guidance (PPG) states that strategic matters should not be deferred. We consider in more detail the issue of unmet housing needs with regard to policy HO1 but in brief it is not evident from the documentation produced by the Council that the JSP will indeed address current unmet needs later in the plan period as proposed by Council's across South Essex and more should have been done to address housing needs through local plans being prepared at present. There is also limited consideration of the unmet housing needs present in London and the nature of the cooperation with relevant London Boroughs and the GLA as to how the unmet needs of the capital between 2018 and 2028 could be addressed within South Essex.

#### **Strategic Policy HO1 – Housing Strategy**

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

##### *Local Housing Needs Assessment*

3. The Council state in paragraph 9.5 that they have used the Housing Needs Consultation Data Table published by the Government in September 2017 to arrive at the minimum number of houses to be provided in Castle Point. However, the table published by the Government is not based on the most recent evidence



required to support a plan with a start date of 2018. Planning Practice Guidance states that the local housing needs assessment (LHNA) should be calculated with the starting point being the current year. The calculation used by the Council has a base year of 2016. Using 2019 as the base year with the latest median affordability ratio (from 2018) the LHNA for Castle Point would be 353 dpa. This would require the Council to deliver 5,295 homes over the required 15-year plan period. We recognise that this is only 11 more than is being proposed in policy HO1 but it is important that the correct approach is used when applying the standard method.

*Unmet housing needs in neighbouring areas*

4. Paragraph 60 of the NPPF is clear that the LHNA is the minimum number of homes that should be delivered. The same paragraph goes on to state that:

*“In addition to the local housing need figure, any needs that cannot be met within neighbouring areas should also be taken into account in establishing the amount of housing to be planned for.”*

5. Whilst we recognise and appreciate the collaborative work that is taking place in preparing the JSP for South Essex and Brentwood with the aim of meeting needs the Council does not appear to have grappled with the matter of unmet needs of neighbouring areas in relation to this local plan. It is a matter of fact that housing needs within the South Essex Housing Market Area (SEHMA) will not be met as Basildon Council have stated in their submitted local plan that they will not meet its housing needs between 2014 and 2034 in full. Basildon state in paragraph 11.5 of their submitted local plan that it may only be possible to deliver 15,456 homes in the plan period and as such will fall short of its objectively assessed needs for new homes of 19,771 homes by 4,316. Whilst the Council have referenced this situation on page 30 of their duty to co-operate statement there appears to have been no attempt to address this issue through those local plans currently being prepared. It would appear on reading page 21 of the Duty to Co-operate statement that Castle Point and the other authorities in South Essex have made the decision that such issues would be considered as part of the preparation of the JSP with the Council stating that:

*“... the CPBC Local Plan will seek to rely on the JSP to bring forward strategic housing sites together with associated infrastructure in the latter years of the plan period.”*

6. Such a position is contrary to the expectations of Government as expressed in Planning Practice Guidance which states that when examining plans inspectors will:

*“... expect to see that strategic policy making authorities have addressed key strategic matters through effective joint working, and not deferred them to subsequent plan updates ...”*

7. The issue of Basildon's unmet housing needs is one that should have been addressed by the authorities in the SEHMA through those local plans that are currently being prepared and examined. By deferring decision making to a future local plan those homes that are needed now will either not be delivered or be delivered too late to meet the pressing need for new homes over the next 15 years. If Castle Point are satisfied that Basildon has done all it can to meet needs then the responsibility falls on it, and the other authorities in this area, to increase their own delivery to take account of any shortfall.
8. In addition to unmet needs in Basildon the Council must also consider the degree to which it could help to meet the unmet needs of London. It is worth reiterating that the NPPF states in paragraph 60 that Council's should take into account the unmet needs of neighbouring areas and not just neighbouring authorities. We are concerned that minimal consideration has been given to the unmet needs of London which has a considerable impact on housing needs in South Essex. At the time, the plan was being prepared the Council will have been aware that there was a shortfall of some 10,000 homes across the capital that needed to be delivered elsewhere. The amount of unmet needs has now risen to over 140,000 units following the conclusion of the Inspectors examining the plan that the supply of small sites in outer London Borough's had been significantly overestimated leading to the recognition at paragraph 175 of their report<sup>1</sup> that London will fail to meet its housing needs "*by some margin*". Whilst we accept that these conclusions were reached relatively recently it does, alongside the unmet needs of Basildon, suggest that the need for housing in Castle Point and neighbouring areas is acute and that this adds to the case for further allocations in this local plan.
9. As noted above paragraph 60 of the NPPF requires Council's to provide for the needs of neighbouring areas where they cannot meet needs. But we recognise that this is caveated in paragraph 11 which states that these needs should only be met on the basis that:
  - *the application of policies in this Framework that protect areas or assets of particular importance provide a strong reason for restricting the overall scale, type, or distribution of development in the plan area; or*
  - *any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.*
10. However, the Council have seemingly not looked to consider whether the application of the policies in the Framework proves a strong reason for not meeting some of the needs of other areas or whether in doing so the adverse impacts would significantly outweigh the benefits. We would have expected this particular matter to have been grappled with through the Sustainability Appraisal and its consideration of any reasonable alternatives. But no assessment has been made

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<sup>1</sup> <https://www.london.gov.uk/what-we-do/planning/london-plan/new-london-plan/inspectors-report>

as to the potential for Castle Point to deliver beyond the LHNA nor the impact of delivering development above this minimum requirement. This is a substantial flaw in the Council's approach to considering its housing requirement and one that is not consistent with national policy. The Council cannot discount the option of meeting needs from a neighbouring area without ever having considered or tested development options that go beyond minimum needs.

11. The consideration of higher needs is also more pertinent given the amendments made to the presumption in favour of sustainable development in the 2019 NPPF compared to the 2012 edition. The 2019 NPPF applies a different test to that set out in the 2012 version of the Framework. Part b(i) now states that needs, including those of neighbouring areas, must be met unless the policies in the NPPF provide a "strong reason" for restricting development. This change highlights that the mere presence of such policies in the NPPF is not sufficient to restrict the overall scale of development but that there must be strong reasons that their application should lead to housing needs not being met. This is a different test and one that the Council does not appear to have tackled in relation to the unmet needs of neighbouring areas.

#### *Overall Housing supply*

12. Paragraph 9.6 of the Local Plan states that the Council expect to deliver 5,284 homes over the plan period – 154 homes above its assessment of housing needs. However, we are concerned is that this provides virtually no flexibility within supply should delivery not be as expected by the Council. Such a position takes no account of the fact that development is unlikely to be delivered as expected by the Council nor the requirement in paragraph 11 of the NPPF for Councils to prepare flexible plans that can take account of rapid changes. If the plan is to achieve its housing requirement it stands to reason that additional sites are essential to enable the local plan's development requirements to be surpassed. For this reason, the HBF recommends that a 20% buffer in the Council's overall housing supply is necessary to ensure its housing requirement is met. The importance of including a substantial buffer even in authorities with substantial Green Belt designations was considered in the recent judgement in the in Compton Parish Council & Ors v Guildford Borough Council & Ors. [Case Number: CO/2173/201]. This judgement recognises at paragraph 91 that providing headroom against slippage and for flexibility to meet changes can be considered as contributing to the exceptional circumstances supporting the amendment of Green Belt boundaries with Ousley J stating:

*"However, in my judgement, once meeting the OAN is accepted as a strategic level factor contributing to "exceptional circumstances", as it has for the purposes of this issue ... it follows that the provision of headroom against slippage and for flexibility to meet changes, "future proofing" the Plan, as the Inspector put it, would also contribute to such circumstances."*

13. Given that the Council has recognised that there are exceptional circumstances required to amend Green belt boundaries then it should allocate sufficient land to provide the necessary buffer between needs and supply to then ensure those needs are met in full.

*Five-year housing land supply*

14. We could not find an assessment of the Council's five-year housing land supply from the likely point of adoption. We note that at paragraph 5.4 of the 2018 Strategic Housing Land Availability Assessment the Council has examined five year land supply from 2018 but given that the plan, if found sound, will not be adopted until the end of 2020 at the very earliest the Council must produce a more up to date assessment of housing land supply. It is also not possible for those commenting on this plan to undertake their own assessment as to whether or not the plan will have a five-year housing land supply on adoption as no annualised trajectory has been provided. The trajectory currently provided by the Council within the local plan and its supporting evidence base only provides estimates of delivery in five-year tranches commencing from 2018. This makes it impossible to comment on this key aspect of plan deliverability and soundness. It will be essential for the Council provides on submission a detailed trajectory and assessment of its five-year housing land supply and we reserve the right to comment on this at any hearings.

*Accommodation for older people*

15. We note and welcome the Council's commitment to meeting the needs within this policy and part b(ii) of policy HS1. However, the plan does not state in policy how many specialist homes for older people the Council will deliver. The Council have stated within the monitoring framework how many additional bed spaces in care homes are needed but there is no mention of the level of provision for older people in sheltered or similar types of accommodation focussed on meeting the needs of this growing section of the population.
16. Given that Paragraph 63-006 states that the Council should: "... set clear policies to address the housing needs of groups with particular needs such as older people..." we consider it to be essential that the Council states within policy the amount of such specialist accommodation the Council will seek to provide in order to provide an effective approach to meeting the needs of older people. Without the clarity of a stated requirement for such homes it will not be clear to decision makers of the need for such schemes and whether there is an under provision this of specialist accommodation for older people. Given that paragraph 63-016 states that where there is an identified unmet need for specialist houses that "local authorities should take a positive approach to schemes that address this need" we would suggest that a stated requirement for such accommodation is a key part of any decision making process with regard to such sites.

17. In addition, we could not find any testing on the viability of special accommodation for older people within the Development Viability Study. Such development has additional costs and less saleable floorspace than a standard residential scheme. Therefore, it is more likely that the additional costs placed on such development through the local plan will make such schemes unviable. It will be important for the Council to undertake the necessary testing prior to the submission of this local plan or alternatively it should not require onsite affordable housing provision from such schemes.

### Recommendation

18. The Council must:

- Increase minimum housing requirement to 352 dpa and 5,295 for the plan period;
- Assess the potential for meeting unmet needs from neighbouring areas;
- Identify sites to provide a buffer in the housing land supply to secure the necessary flexibility to ensure the housing requirement is delivered; and
- Provide an annualised housing trajectory to ensure the effective scrutiny of the local plan's delivery expectations; and
- Set out in policy the amount of older people's accommodation the Council will plan for.

### **Development viability**

19. As the Council will be aware the 2019 NPPF places far greater weight on the need for local planning authorities to assess the viability of planned development at the plan making stage. This is to allow decision makers to assume, as set out in paragraph 57 of the Framework, that any policy compliant development is viable. For this position to be arrived at the Local Plan, as established in paragraph 34 of the NPPF, must set out the developer contributions that will be required from all development and ensure those contributions will not undermine the deliverability of the local plan.
20. However, the Council have not tested the impact of the full costs of the infrastructure required on site within their viability assessments. The Infrastructure Delivery Plan (IDP) published in 2019 sets out the specific infrastructure requirements expected from allocated sites and on page 79 provides a per unit cost on each site which varies between £5,000 and £22,000 per unit. These costs are significantly higher than both the site-specific and general viability evidence prepared by the Council and published in November 2018. The Draft Site Viability Assessment tests the cost of developer contributions as being between £1,400 and £1,500 per unit with the whole plan viability assessment testing contributions from larger developments of 300 homes or more at £5,000 per unit.
21. The substantial disparity in the costs expected and those tested in the viability studies means that the Council will need to reconsider whether it can achieve its policies, such as those for affordable housing, on all its allocated sites. At present

we are concerned that the infrastructure costs on sites within CPBC could, in combination with the policies in the local plan, impact on the viability of development sites allocated in the local plan. We would suggest that the Council undertakes additional viability work prior to submission that assesses the full infrastructure costs of development on these sites as required by the NPPF. It would appear likely, given the scale of the infrastructure that is expected to be provided on many sites, that the Council will need to take a more balanced view as to the costs being placed on development within Castle Point. It is our view that at present the Council cannot state, on the basis of its current evidence, that development in the plan could be assumed by decision makers to be viable.

### **Strategic Policy HO2 – Master Planning**

#### Policy is unsound as it is not justified

22. It is not appropriate to require master plans or development briefs for all major developments. We recognise the importance of master planning and development briefs for strategic large-scale developments but to require developments as small as 10 units to undertake such a process is disproportionate and unjustified. The Council must reconsider the threshold at which it considers master planning to be necessary to avoid unnecessary costs being placed on smaller developments.

#### Recommendation

23. A more appropriate threshold is for the use of master planning and development briefs are included in this policy.

### **Strategic Policy HO3 – Housing Mix**

#### Policy is not sound as it is not justified

24. We do not consider the Council to have adequately justified the requirement in HO3 for sites as small as 0.5ha to deliver at least 35% of the development as 1 or 2 bedroomed homes. The type of home that is delivered on smaller sites is principally dictated by the market for such homes in that location and not wider needs seen across the Borough. Such a low threshold could also discourage SME developers from bringing forward small sites where they may potentially need to deliver flatted development to provide smaller units as this could create additional complexity and greater risks. We would therefore suggest that the proposed threshold be increased to sites of greater than 1 ha which is consistent with the Government's definition of a small and medium sized site as set out in paragraph 68 of the NPPF. We would also recommend that the policy is more flexible and allows greater scope for departure from policy where it is not feasible or viable to deliver the proposed mix.

### **Strategic Policy GB1 – Green Belt Strategy**

#### Policy is unsound as it does not serve a clear purpose

25. The 2019 NPPF establishes in part f of paragraph 16 that policies should serve a clear purpose and avoid unnecessary duplication – two things that this policy does not achieve. Whilst we accept the sentiment behind this policy it is not needed and if the Council wishes to make such statements they are better set out in the supporting text and not in policies.

### **Strategic policy CC4 – Sustainable Buildings**

Parts 1, 2, 4 and 5 of CC4 is not consistent with national policy.

26. Parts 1 and 2 state that decentralised energy must be incorporated into all new development. However, paragraph 153a) of the NPPF states that this should only be required where it is “*feasible and viable*”. We would therefore suggest that this policy be amended to state that the incorporation of decentralised energy is only expected where it is feasible and viable to provide.
27. Consideration of improved water efficiency, as required in part 4 of this policy, beyond building regulations can only be applied on the basis of the optional technical standard set out in paragraphs 56-013 to 56-017 of PPG. These paragraphs establish that the Council must provide clear evidence of the need for the adoption of the improved 110 litre per person per day standard. At present the Council’s policy does not refer to the optional standard so it is not clear what the aim of the Council is with regard to this policy. If it wants to apply the optional standard it should clearly state its intention and justify its decision to adopt the optional technical standard. If not, it should delete this part of the policy.
28. Whilst we recognise the Council’s desire to ensure that the material used in the construction of new development is as sustainable as possible but part 5 of CC4 is not consistent with national planning policy which does not establish the need for development to consider the energy expended in the production of the material used in the construction of a proposed development. With regard to material used in a development the only consideration that can be made by the Council when determining a planning policy is in relation to the aesthetics of the development and its reference to the surrounding area (as is set out in policy DS1). The most the Council could seek with regard to this issue is to support developments that use of materials that are sustainable in both the energy used in their production and transportation.

### **Conclusion**

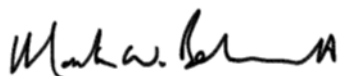
29. At present we do not consider the plan to be sound, as measured against the tests of soundness set out in paragraph 35 of the NPPF, in the following key areas:
- The Council has failed to adequately consider its ability to meet the unmet needs arising within the Housing Market Area;
  - There is insufficient flexibility in housing supply to ensure housing needs are met in full;



- Insufficient evidence to show that the Council will have a five-year housing land supply on adoption;
- The Council should include a specific requirement within policy for meeting the specialist accommodation needs of older people;
- The cost of providing infrastructure requirements on allocated sites as set out in the local plan must be tested as required by national policy and guidance;
- The threshold at which master plans and development briefs are required is too low;
- The threshold for the housing mix requirements is too low;
- The policy on Green Belt merely repeats the NPPF and should be deleted; and
- The policy on sustainable buildings should not require consideration as to the energy expended in the production of the material used when constructing a building.

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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