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06/02/2019

Dear Sir/ Madam

## **Response by the House Builders Federation on the Preferred Approach to the Chichester Local Plan**

Thank you for consulting the Home Builders Federation (HBF) on the Preferred Approach to the Council's 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.

### **Housing needs**

Policy S4 considers the Council's housing requirement to be 12,350 dwellings to be delivered between 2016 and 2035 (650 dpa). This is based on the standard method which has been applied to the Council current housing requirement plus an adjustment to take account of unmet needs in the South Downs National Park. Whilst we would not disagree with the application of the standard method, which is consistent with step 3 of paragraph 2a-004 in Planning Practice Guidance, or the adjustment to meet some of the needs of the National Park Authority, we would suggest that further consideration is required regarding the delivery of housing in neighbouring authorities and housing market areas (HMA) to ensure needs are being met in full.

### **Policy S4: Meeting Housing Needs**

No housing trajectory is included in the consultation document. However, we would like to highlight to the Council that paragraph 73 of the NPPF now requires strategic policies on housing delivery to include a housing trajectory within the local plan. This will need to illustrate on an annualised basis housing delivery over the plan period. We would also suggest the Council provides a trajectory in its evidence base for each site allocated in the plan to ensure all stakeholders can comment on the plan's effectiveness.

Whilst national policy requires all plans to include either a 5% or 20% buffer within their five year housing land supply, it is also important that the Council provides sufficient contingency within their land supply across the plan period. This is to ensure that there



is flexibility to take account of any changing circumstances, as required by paragraph 11 of the NPPF, and the potential for slow delivery. This is especially the case where a Council is relying on a few large scale sites or a specific area to meet the majority of the area's needs. Greater flexibility will provide reassurance to the Council and the Government that the Local Plan housing requirement will be delivered and is not at risk from delays in strategic allocations. Whilst it is important to ensure that delivery expectations on all sites are reasonable there will be circumstances where delivery may be delayed or slowed. As identified in Sir Oliver Letwin's independent review of build out, delivery on large housing sites may be held back by numerous constraints including discharge of pre-commencement condition, limited availability of skilled labour and building materials, a lack of capital, constrained logistics of sites, slow delivery of utilities and absorption rates of open market sales. At present the Council has identified additional supply of just 128 homes, a 1% buffer. This is insufficient and we therefore suggest that a 20% buffer is included within the Council's land supply to ensure that the housing requirement is delivered.

It is also important that there is sufficient supply in the early part of the plan period to provide a level housing trajectory. We recognise that there may be circumstances where a stepped trajectory may be appropriate where there is a significant change in the housing requirement between previous and emerging policies or where strategic sites will have phased delivery. However, the aim should not be to prepare and plan that will have a stepped trajectory. The plan should allocate a range of sites, in terms of size and location, that will ensure that provision comes forward evenly across the whole plan period.

### **S1: Presumption in favour of sustainable development**

We recognise that when the NPPF was first published Councils were advised by the Planning Inspectorate to include a model wording in local plans with regard to the presumption in favour of sustainable development. However, it is our understanding that this advice has since been rescinded and that such statements are no longer a requirement of local plans. As such S1 repeats national policy and should be deleted.

### **S6: Affordable housing**

The publication of the 2018 NPPF and its associate guidance places far greater emphasis on testing the viability of development through the local plan rather than on a site by site basis. This is clearly stated in paragraph 10-002 of PPG and in paragraph 57 of the NPPF. Both these paragraphs indicate that decision makers can assume that a development is viable with all a local plan's policies being met. This means that policies for affordable housing will need to be less aspirational than in the past and recognise the variability of viability across an area and between development scenarios. It is therefore important that the evidence on viability is available from the start of plan preparation so that policies are informed by this research. In fact, Government have stated in paragraph 10-001 of PPG that:

*“These policy requirements should be informed by evidence of infrastructure and affordable housing need, and a proportionate assessment of viability...”*

We are therefore concerned that the Council has not published its viability evidence as part of this consultation. This would suggest that the Council is seeking to maintain its existing policy without adequate consideration as to what adjustments may be necessary to ensure that site by site negotiation on viability become the exception. It will be important for the Council to consider how any addition policies within the new local plan will impact on a developments ability to deliver affordable housing. The cumulative impact of the optional technical standards, open space requirements and higher energy standards will have an impact on viability. The Council will need to prioritise its requirements if it wants to deliver affordable housing at the suggested level.

This policy also requires any affordable housing supplied on site to be indistinguishable from market housing. Such an approach is not an effective approach to the delivery of such homes. It must be remembered that affordable homes are a different product and as such may well be designed differently and use different materials. The same is often the case between different market products with lower value properties being designed differently to those with a higher value. As long as the proposed development is in keeping with the design policies set out in the local plan then a differential appearance within a site should not be an issue for consideration. We would therefore recommend that this paragraph is removed from the policy S6.

### **S27: Flood risk management**

Part 3 of this policy requires SuDS to ensure discharge rates match greenfield rates where feasible. On many brownfield sites it may be impossible to achieve this level of run off. Guidance by Defra<sup>1</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. Therefore, whilst we appreciate that this policy is caveated with regard to feasibility, we would suggest that a more appropriate wording would be:

*“3. Discharge rates on previously developed should be reduced as far as practicable below existing run off rates for that site.”*

### **DM1: Specialist housing**

Whilst we welcome the support for specialist accommodation to meet the needs of older people, we would suggest that the Council seeks to identify the number of specialist homes for older people it will seek to deliver over the plan period and identify

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<sup>1</sup>[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)

sites that will meet those needs. In particular retirement accommodation for older people can ensure that individuals are able to stay in their own homes longer than in open market housing. By working to ensure that these needs are not only identified but are also met the Council can ensure that there is sufficient choice for older people within the Borough.

## **DM2: Housing Mix**

### *Size and tenure mix*

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 effective 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. Paragraph 11 of the NPPF recognises this need for flexibility stating that plans should be “*sufficiently flexible to adapt to rapid change*”. Policies identifying a precise mix do not offer that flexibility and as such cannot be considered sound.

It is important to remember that whilst Strategic Housing Market Assessments (SHMA) can provide a broad snapshot in time of what is needed across an LPA or HMA they do not provide a definitive picture as to the demand for different types of homes in specific locations. So, whilst we support Council’s in seeking to achieve a broad mix across the plan period this should not be translated directly into policy. 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.

We would therefore suggest that the policy requires applications for housing development to have regard to the evidence on housing mix 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.

### *Accessibility standards*

The HBF recognises that there may need to be some homes built to the optional technical standards for accessible and adaptable homes. However, in order to apply the optional technical standards on accessible homes, as set out in PPG, the Council must first identify that there is a need for such homes, and secondly ensure that the application of this standard does not compromise the viability of development in the Borough. Whilst this policy refers directly to part M4(3) in part 5 it is not clear as to the approach being taken in part 3. If the Council is seeking to require a proportion of homes built to part M4(2) of the Building Regulations, it must state this position and justify this with the necessary evidence. Where the Council seeks to apply optional technical standards, these must also be considered as part of the viability assessment.

### *Space standards*

If the Council wishes to apply the Nationally Described Space Standard it should, as set out in PPG, ensure there is sufficient evidence to justify their inclusion. The space standards should only be considered as a need to have and it is important to recognise that there will be situations where well designed homes below space standards can ensure the viable delivery of a site and meet the need for new homes.

### **DM8: Transport, Accessibility and Parking**

The Council does not set out in this policy what is required by an applicant with regard to parking provision. Instead the Council have referred in paragraph 7.51 of the Local Plan to the guidance produced by West Sussex County Council. 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 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. Details of any parking provision should therefore be provided within the plan to ensure that it is a part of the viability considerations informing this plan and that any changes to parking requirements will be consulted on and examined as required by the relevant legislation.

### **DM9: Existing employment sites**

Whilst we welcome the general approach taken by the Council in this policy it is not clear as to how the sequential test mentioned in part 3 of the final paragraph will be demonstrated. Firstly, it is not clear which sequential test the Council is referring to. We have assumed it is referring to the sequential test outlined in paragraph 86 and 87. Secondly, the sequential test in these paragraphs is in relation to new town centre uses not the loss of older uses. If a site on the edge of a town centre is no longer required, then the only consideration should be whether it supports the vitality and viability of that town centre not whether there are more appropriate B1a sites outside of the town centre that could be developed. This aspect of DM9 is therefore not consistent with national policy and could delay, or prevent, the delivery of developable sites in the urban area. Part 3 of the final paragraph of policy DM9 should therefore be deleted.

### **DM16 Sustainable design and Construction**

Point 4 of this policy requires 10% of energy from all sites to be from renewable sources. This is not consistent with the NPPF which outlines at paragraph 153 that development should comply with local requirements for decentralised energy where

this is feasible and viable. To ensure consistency with national policy we would there suggest that part 4 is amended to read:

*4. The energy supplied from ~~renewable resources~~ decentralised energy supply will be maximised to ensure that at least 10% of the predicted residual energy requirements of the development, after the standards in point 2 and point 3 are achieved, is met from such sources, where feasible and viable. ~~through the incorporation of renewable energy.~~*

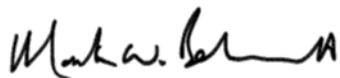
#### **DM28 Natural Environment**

Part 5 of this policy requires development to show that both the actual and perceived identity of a settlement is maintained. However, such a policy is not consistent with paragraph 16 of the NPPF that requires policy to be clearly written and unambiguous. To allow a decision to be made on the basis of a perceived rather than actual impact is wholly ambiguous and is impossible for an applicant to determine as its based wholly on an individual's experience and bias. Policies must ensure that decision making is consistent and ensures that applicants have a high degree of certainty as to whether an application is permitted. We consider other policies to provide sufficient guidance with regard to design and development within settlements and recommend that part 5 of DM28 is deleted.

#### **Conclusion**

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. We would therefore suggest the Council implements our recommendations and ensures that it has a robust evidence base with regard to both viability and the duty to co-operate prior to this plan being submitted for examination. Should you require any further clarification on the issues raised in this representation please contact me.

Yours faithfully



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