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12/11/2024

Dear Sir/ Madam

### **South Oxfordshire and Vale of White Horse Joint Local Plan**

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

### **Consultation on amendments to the NPPF**

2. At the end of July, the Government commenced a consultation on a number of amendments to the NPPF. The proposed revisions will make significant changes to the current document and there is a strong possibility that many of the Councils' neighbours, will be required to prepare plans that are consistent with the changes being proposed to the NPPF, should they be adopted. Alongside the changes to the NPPF the Government have also consulted on a new standard method. While our comments will be based on the current NPPF we will refer to the potential impact of the proposed changes within our representations.
3. If submitted under the proposed transitional arrangements the council cannot just disregard all of the proposed changes. For example, they will need to take into account the impact of any changes resulting from the NPPF on plan making in neighbouring areas as part of its duty to co-operate. The Council will be aware that this work must be done prior to submission for the council to show that they have fulfilled their duty to co-operate, a point we discuss in more detail below. While the proposed amendments can only be given limited weight with regard to the local plan at this point in time, it is important to note that inspectors

are already asking local plans at examination for comment on the proposed changes and the Written Ministerial Statement 'Building the Homes We Need' that was published early this year and it will be necessary for SODC and VoWH to consider the need for an immediate review should it be submitted prior to the implementation of any changes.

#### *Review*

4. In particular the changes to national policy being proposed by the Government mean that the plan will require modification to set out an immediate review of the plan to take account of proposed changes to the NPPF that are currently being consulted on, should they be adopted. While these changes are still out for consultation should the remain as currently presented consideration will need to be given to paragraph 227 in the draft NPPF which states:

*“Where paragraph 226 c) applies, local plans that reach adoption with an annual housing requirement that is more than 200 dwellings lower than the relevant published Local Housing Need figure will be expected to commence plan-making in the new plan-making system at the earliest opportunity to address the shortfall in housing need.”*

5. The proposed standard method would see SODC's and VoWH housing needs increase from 579 dpa to 1,179 dpa and 633 dpa to 937 dpa respectively and will require the council to prepare a new plan immediately. However, it is the HBF's experience that without an incentive to review a recently adopted plan these are rarely undertaken rapidly. Therefore, a strong review policy is required that set out clear dates as to when a new plan will be submitted, and the consequences should that plan not come forward in the agreed timescale. HBF would recommend a policy is included in the local plan along the lines of that adopted in the Bedford Local plan 2030 (reproduced in appendix A). This policy was included in the Bedford Local Plan in similar circumstances when the NPPF was amended in 2018 requiring the use of the Standard Method to assess housing needs and HBF would recommend a similar policy is included in this local plan.

#### **Duty to Co-operate**

6. Para 1.24 of the Duty to Co-operate Statement of Compliance sets out that the Councils are still preparing statements of common ground with its neighbouring authorities. Would

have expected these to have been produced prior to the consultation on the regulation 19 local plan and in order for those commenting on the local plan to have all the evidence available. The fact that no statements of common ground are available at this stage of plan making is concerning especially given that the inspectors examining the Oxford City Council local plan have found that the City Council failed to co-operate with its neighbours in Oxfordshire in the preparation of Oxford City Local Plan 2040.

7. In their letter to the Council the inspectors noted that there has in the past been close co-operation between the Oxfordshire authorities in assessing housing needs and in ensuring that housing needs across Oxfordshire were met in full. This led to the agreement of the Growth Plan with Government and the commitment to deliver at least 100,000 homes between 2011 and 2031 and the preparation of a Joint Spatial Plan for Oxfordshire. However, as noted by the inspectors this co-operation came to abrupt end in 2022 when the Joint Strategic Plan for Oxfordshire was abandoned.
8. This led directly to both Oxford and Cherwell progressing with their own local plans using the work already undertaken with respect to development needs, the Oxfordshire Growth Needs Assessment (OGNA). This work was updated with the publication of the Housing and Economic Needs Assessment (HENA) which, like the OGNA, considered not only the needs of Oxford City and Cherwell but for the county as whole. Given that Oxford City is a significant driver and focus for economic growth of the County but is constrained by both Green Belt and a tight boundary to its urban edge it seems to the HBF eminently sensible for such an approach to be taken, however, as can be seen from the examination of the Oxford City Local Plan the other authorities disagreed with such an approach following the decision to abandon the JSP.
9. What the inspectors note with regard to the HENA is the lack of evidence as to the commissioning of this work and the interaction between Oxford City and Cherwell with the other Oxfordshire planning authorities. It was considered by the inspectors that it was necessary for those authorities preparing the HENA to engage with the others effectively in the production of that evidence base given that it would have significant impact on those authorities. Without any evidence of engagement between these parties and, as highlighted in paragraph 29 of the Inspectors letter, the lack of any attempts to discuss how the residual unmet need beyond 2031 and 2036 would be addressed it was not possible to conclude Oxford City had fulfilled their duty to co-operate on the strategic matter of housing needs.

10. While this in reference to OCC failure to co-operate the inspectors' findings also points to the failure of both SODC and VoWH to consider the unmet needs arising from Oxford City over the period of the JLP. Even if there was a known disagreement with the approach, they were taking it is still beholden on SODC and VoWH to consider what these needs might be. It is evident from the level of supply proposed in the Oxford City Plan 2040, 481 dpa, that there would be unmet needs even using the minimum level of need arrived at using the standard method, currently 762 dpa. This level of need will also increase to 1,051 dpa should the changes proposed to national planning policy be adopted. Yet what is apparent from the hearings on the Oxford City Local Plan was that there appears to be no evidence of on-going discussions as to how the unmet needs of Oxford City will be addressed.
11. Paragraph 4.7 of the Housing Requirement, Affordable Housing and Gypsy and Traveller Topic Paper states that the reason for not including this is relating to the flaws in the assessment of housing needs and capacity for Oxford City. The Council does not in its evidence suggest that there will be no unmet needs arising from Oxfordshire and it appears as if the Councils are looking to defer any decision on such matters to a future plan review on the basis that no agreement has been reached about the precise level of need.
12. As the Councils will be aware paragraph 61-022 states with regard to co-operation in the preparation of local plans that "*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 or are not relying on the inspector to direct them*". Therefore, it is incumbent on the Councils alongside OCC to have active, constructive and ongoing engagement discussions to ensure as to what the unmet housing needs of Oxford is and how this can be addressed and for such decision not to be deferred. This has clearly not taken place and as such the Councils have failed in their duty to cooperate.
13. that Oxford cannot meet its housing needs in full even on and to make no allowance what so ever post 2031 and 2036 However, where SODC and VoWH fail with regard to this matter is that they have not engaged meaningfully with the issue of Oxford's unmet housing needs knowing full well that the constraints faced by the city council and the problems arising from insufficient supply to meet the City's needs for market and affordable housing. While the Councils acknowledge and continues to plan for the unmet needs that they committed to in previous local plans they provide no assistance beyond those agreements clearly looking to push any decision to future plan reviews.

14. HBF note that that the DtC Statement states that Reading contacted neighbouring authorities on 23 August 2024 regarding potential unmet housing needs of Reading and the ability to accommodate unmet needs, should they arise. It is not stated as to the level of unmet needs that are expected to arise in Reading. However, based on the proposed standard method of 1,023 dpa and the level of delivery set out in Reading's most recent local plan consultation of around 800 dpa unmet housing needs will be in the region of 200 dpa. This is a significant amount and the Council's will, if the changes to standard method are adopted, need to engage more closely with Reading, and other authorities bordering the city, than is currently the case.

### **Plan Period**

15. HBF do not agree with the Council's decision to use a plan period that starts in 2021, over three years prior to the local plan being submitted for examination. Such an approach fundamentally misunderstands the standard method which takes account of past supply through the affordability uplift to determine housing needs moving forward. The uplift in housing delivery will to some extent take into account past over supply in that it will have increased supply in the market potentially limiting increases in houses prices in SODC and VoWH and reducing the housing needs assessed using standard method.
16. Local plans are meant to look forward at what needs to be delivered with past delivery being taken into account through the standard method. This is clear from paragraph 2a-005 notes that when setting the baseline for the standard method the current year is used as the starting point for calculating growth. The standard method also requires the affordability adjustment to be the most recent data, for in this case it is the median affordability ratio for 2023 that was published in March 2024. This adjustment is to reflect the price signals in the market and ensure that housing needs are responding to these signals which suggests that the starting point for any plan should be the year to which the affordability ratio relates.
17. As such it is neither logical nor consistent with national policy for the plan period to start in 2020. It should start in 2024 the year in which the assessment was calculated. Most recently the Inspectors examining the West Berkshire Local Plan and North Norfolk Local Plan have, following similar concerns, required the plan period to be extended in response to paragraph 22 of the NPPF and for the starting point of the plan to be brought forward a year to reflect national policy with regard to the assessment of housing needs. In particular we would point

the council to paragraph 6 of the Inspector's post hearing note on the North Norfolk Local Plan which states in relation to a plan period starting in 2016 and ending in 2036:

*"Turning to the base date of the plan, this should correspond to the date from which the housing needs of the district are quantified. As set out in paragraph 12 below, this should be April 2024. The plan period should therefore be 2024-40."*

18. HBF believe the same approach should be taken with the plan period for the JLP. There is no justification for the plan starting a number of years prior to the point at which the housing needs for this local plan are calculated and the plan period should be modified to start from 2024. The Council should also consider extending the plan period by an extra year. The plan will need to be adopted by March 2025 if it is to look ahead for at least 15 years, as required by paragraph 22 of the NPPF. Given that local plan examinations are likely to last at least 18 months, but can be much longer, HBF would recommend extending the plan period by an extra year.

## **CE2: Net Zero Carbon Buildings**

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

19. The proposed policy position would require all new development to demonstrate net zero operational carbon onsite by ensuring total energy use intensity standard for all new dwellings of 35kwh/m<sup>2</sup>/year and space heating demand of less than 15 kwh/m<sup>2</sup>/year. In addition, new buildings would need to generate at least the same amount of energy as that demanded over a year. Where this cannot be achieved the Councils will expect any energy use to be offset through payments to local projects that save the equivalent amount of carbon. This would be calculated using an energy performance predictive modelling tools such as Passivhaus Planning Package or CIBSE TM54.
20. Whilst the HBF would agree with the Councils that there is a need to act to reduce carbon emissions we would disagree that this needs to be undertaken through the local plan given that there is already a national approach, the Future Homes Standard (FHS), being taken forward to achieve the same goal. Delivering these improvements through building regulations has a distinct advantage over delivering a variety of different approaches across the county, in that it provides a single approach that all developers understand and can be

rolled out at scale. This allows supply chains and skills to be improved prior to implementation and ensure that improvements to building standards are actually deliverable from the point at which they are introduced.

21. However, if the Councils chooses to go beyond current or future standards it must be done in a way that is consistent with national policy and robustly assesses its consequences and gives consideration as to how the requirements are consistent with the written ministerial statement (WMS) published on the 13th of December 2023. Before considering the content of the WMS itself it is important to note the High Court judgement from the 2nd of July 2024 ([2024]EWHC 1693 Admin). This judgement was on the challenge to the WMS made by Rights Community Action on three grounds, including that the WMS restricted exercise by local authorities of powers conferred on them.
22. The judgment made by Justice Lieven was that the claim failed on all three grounds. In coming to these judgements Justice Lieven importantly notes the intention of the Government at the time with respect to section 1(1)c of the Planning and Energy Act 2008, which allowed Local Authorities to set standards above those in building regulations. Paragraph 65 states:

*“With respect to the current section 1(1)(c) specifically, the Minister confirmed councils “can go further and faster than building regulations, but within the national framework”. The Minister also addressed the overall intention of clause 1(2) in the following terms:*

*“The intention was for local authorities, in setting energy efficiency standards, to choose only those standards that have been set out or referred to in regulations made by the Secretary of State, or which are set out or endorsed in national policies or guidance issued by the Secretary of State. That approach was taken with a view to avoiding the fragmentation of building standards, which could lead to different standards applying in different areas of the country. Although supportive of the hon. Gentleman’s Bill, that was not an outcome that we wanted to achieve.””*

23. It is therefore clear that the intention of the original legislation was to ensure that energy efficiency standards within local plans were to be set within the scope of building regulation to avoid a multiplicity of standard coming forward. The judgment goes on to note in paragraph 66 that the WMS does not stray from this purpose.

24. It is therefore clear that that not only is the WMS compliant with legislation but also the intention of Planning and Environment Act 2008 was to ensure that any policies seeking improved standards on those set out in Building Regulations must be set within the framework of those regulations. Local plan policies which seek to apply an alternative standard would not only be inconsistent with the WMS but also with the intentions of the legislation.
25. Moving to the WMS itself, the housing minister notes that “Compared to varied local standards nationally applied standards provide much-needed clarity and consistency for businesses, large and small, to invest and prepare to build net-zero ready homes” and that local standards can “add further costs to building new homes by adding complexity and undermining economies of scale”. After noting these concerns, the 2023 WMS goes on to state that any standard that goes beyond building regulations should be rejected at examination if the LPA does not have a well-reasoned and robustly costed rationale that ensures:
- That development remains viable, and the impact on housing supply and affordability is considered in accordance with the National Planning Policy Framework.
  - The additional requirement is expressed as a percentage uplift of a dwelling's Target Emissions Rate (TER) calculated using a specified version of the Standard Assessment Procedure (SAP).
26. HBF do not consider the approach set out in CN3 to be consistent with the WMS nor that the implications of such a policy have been properly assessed in the supporting evidence base. Our detailed points are set out below.
27. The approach proposed by the Councils based on energy use is inconsistent with the approach set out in the WMS and as such is unsound. It should be noted that the Government have considered whether it was appropriate to use a delivered energy metric such as the one being proposed in the policy position paper and have concluded that these do not offer any additional benefits to those being taken forward by Government. Therefore, if the Council are to require standards above those set out in building regulations they must be expressed as a percentage of the target emission rate and not as an energy use target in order to avoid fragmentation of the standards with different requirements being set in different areas which it must be recognised was not only an expectation of the WMS but also of the legislation that permits council to adopt higher standards in local plan in the first



place. As such the HBF do not consider the council to be justified in departing from either the WMS or the Planning and Energy Act (2008) and the section of the policy under the heading “*All New Residential Development*” and paragraph 4.27 and 4.28 should be deleted.

28. While HBF do not consider the policy to be consistent with national policy we are also concerned that the Councils has not properly considered the impact on viability or the deliverability of development. The Council will need to ensure the costs and deliverability of this policy are fully and robustly tested. In preparing its viability assessment HBF suggest the Council consider costs published by the Future Homes Hub (FHH) as part of their work to support and inform the implementation of the Future Homes Standard. The costs for similar standards to those being proposed can be found in the FHH report ‘Ready for Zero’. This study tests a number of archetypes against a range of specifications from the current standards set out in the 2021 Building Regulations through to standards that will achieve similar standards to those proposed by the Councils.
29. The various specifications and costs considered are summarised in Figure 8 of Ready for Zero and indicates that in order to deliver standards above the FHS on a three bedroomed end of terrace house (specifications CS3, CS4 and CS5 in the FHH report) would be around 15-19% higher than the 2021 Building Regs, around £17,000 to £22,000 more per unit. The council’s Viability Report the costs assessment from the Council’s Net Zero Carbon Study costs of achieving its proposed policy for a similar typology to be £6,391 above Part L 2021. Given that there is still significant uncertainty as to the cost of delivering the standards being proposed the Councils will need ensure that further sensitivity testing is undertaken in the viability study.
30. With regard to deliverability of zero carbon homes HBF would not disagree that the proposed standards are technically feasible. However, HBF are concerned as to the impact these requirements will have on the rates at which sites can deliver new homes on all types of sites. Given that the standards proposed are higher than those proposed by Government in the Future Homes Standard and will require higher levels of fabric efficiency, which in turn will require new skills and materials that may not be readily available, HBF are concerned this could slow delivery in the short to medium term as supply chains are developed.

31. It has been recognised by the FHH that to deliver higher standards will require phased transitional arrangements to enable a steady build-up of skills and ensure quality. The FHH also notes in its report Ready for Zero that even if a short transition period between current standards and those similar to the Councils are proposing that this would “... *create a high risk of quality problems, inflated costs and, potentially, stalled build programmes.*” However, HBF could find no evidence that the Council has considered whether its proposed standard will impact on the rate at which new homes can be built. The Council will need to speak directly to a range of housebuilders operating in SODC and VoWH to understand the impact of its policy on the rate at which homes will be delivered on its allocated sites. Without any consideration of delivery then the Council’s decision to go beyond what is required by building regulations is clearly unjustified
32. While HBF understands the desire for LPAs to go further current policy recognises that even where development can viably implement higher standards this must be within a consistent technical framework and approach to assessing building performance against those technical standards. Indeed, this has long been the case in planning policy with paragraph 159b of the NPPF stating that “*Any local requirements for the sustainability of buildings should reflect the Government’s policy for national technical standards*”.
33. If the Councils have the evidence to show that the policy is deliverable, they will need to ensure that all other policies in the local plan are consistent with delivering the levels of embodied carbon being proposed. The most energy efficient design will inevitably lead to less variety in the built form in order to reduce the surface area of the building. This will need to be reflected in design policies and any design codes that are produced to ensure that development is not refused for seeking to meet energy efficiency standards but, for example, not being designed in the character of the local area.
34. HBF would also recommend that that if a net zero policy is to be included in the local plan it should require a development to be net zero rather than for individual homes. As the council will be aware some homes, such as terrace houses and flats, are more intrinsically energy efficient and emit less carbon compared to detached homes and bungalows. As such it may be difficult for some individual homes to be net zero but where there is a mix of development the site as a whole to achieve the required standard.

### **CE3: Reducing embodied carbon.**

The policy is unsound as it is inconsistent with national policy.

35. HBF do not consider this requirement to be consistent with national policy. The Planning and Energy Act 2008 permits council to set energy efficiency standards to exceed to set out in building regulations, but it does not state that LPAs can set specific standards with regard to the embodied carbon in new buildings. Nor is it included as one of the optional technical standards set out in PPG that local authorities can choose to implement where there is supporting evidence. This is a new technical standard, and such standard should not be established on an ad-hoc basis through local plans. In addition, HBF is concerned that the requirement to undertake an accurate whole life carbon assessment is compromised by the lack of data across building material as to their embodied carbon. Until there is greater accuracy, we question whether the whole life carbon assessments can be sufficiently robust at present to be part of decision making.
36. As with reducing carbon emissions from operational energy use HBF considers it best that such matters addressed at a national level to avoid different approaches and standard being set in different areas. The housebuilding industry is working with the Future Homes Hub it to develop a roadmap to reducing embodied carbon and whilst Councils may want to go further faster HBF have concerns that this will impact on the deliverability of development with a disproportionate impact on SME developers.
37. Therefore, HBF consider the policy to be unsound and it should be deleted.

#### **CE7: Water efficiency**

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

38. The lower water standard of 100 l/p/d is not consistent with national policy which states that 110 l/p/d is sufficient in water stressed areas. Future water standards are being considered that will phase the introduction of lower standards and the council should not look to introduce lower standards ahead of these recognising that a consistent national approach is the best way of ensuring improved standards whilst maintaining the delivery of new homes. The only reason for a lower standard would be where the issue of water supply is inhibiting the potential adoption of the local plan and the delivery of new homes.

#### **CE8: Water quality, wastewater infrastructure and drainage**

Policy is unsound as it unjustified and not effective.

39. Part 1c of CE8 which states that development must maximise water efficiency unsound. National policy sets out the optional standard that must be applied and to ask for development to go further than this is unsound. It is also unclear to both the decision maker and applicant as to what maximise would mean given that a standard has already been applied in CE7. HBF recommends part 1c is deleted.
40. Part 6), 7) and 8) of CE8 outline that there must be adequate waste water infrastructure to serve development and that where capacity constraints are identified development must not commence until the delivery of sufficient new or upgraded infrastructure. HBF agrees that there must be sufficient waste water treatment capacity to serve new development however this is for the Council and water company to determine as part of the preparation of this local plan and the through the Water Resource Management Plan. It cannot be left to the development management process to assess on a case by case basis. If there is insufficient waste water treatment capacity to address the needs of development in future, then the only assumption must be that the plan is not deliverable over the plan period and as such unsound.
41. Under the Wastewater Infrastructure section of CE8 the Council will require applicants for major development to be supported by a sewage capacity assessment. HBF do not consider this to be necessary as the capacity of the sewage network are not a land use planning matter for consideration on an application by application basis as Water companies are subject to statutory duties under S37 and 94 of the Water Industry Act 1991 (WIA 1991). Section 37 of the Act, set out below, imposes a statutory duty on all water companies to provide and maintain adequate infrastructure and potable water supplies.

*“S37 General duty to maintain water supply system etc. (1) It shall be the duty of every water undertaker to develop and maintain an efficient and economical system of water supply within its area and to ensure that all such arrangements have been made— (a) for providing supplies of water to premises in that area and for making such supplies available to persons who demand them; and (b) for maintaining, improving, and extending the water undertaker’s water mains and other pipes, as are necessary for securing that the undertaker is and continues to be able to meet its obligations under this Part. (2) The duty of a*

*water undertaker under this section shall be enforceable under section 18 above— (a) by the Secretary of State; or (b) with the consent of or in accordance with a general authorisation given by the Secretary of State, by the Director.”*

42. Section 106 of the WIA 1991 confers a power to connect to a public sewer. Section 106(1) states that the owner of any premises or the owner of any private sewer which drains premises, shall be entitled to have its drains or sewer communicate with the public sewer of any sewerage undertaker and therefore discharge foul water and surface water from those premises or that private sewer.
43. Specifically, in relation to wastewater, the Supreme Court considered this matter in 2009 – see *Barratt versus Welsh Water* [2009] UKSC 13. Paragraph 23 of the decision is salient. Given its importance in the context of wastewater it is recited in full below:

*“The right to connect to a public sewer afforded by section 106 of the 1991 Act and its predecessors has been described as an “absolute right”. The sewerage undertaker cannot refuse to permit the connection on the ground that the additional discharge into the system will overload it. The burden of dealing with the consequences of this additional discharge falls directly upon the undertaker and the consequent expense is shared by all who pay sewerage charges to the undertaker. Thus, in *Ainley v Kirkheaton Local Board* (1891) 60 LJ (Ch) 734 *Stirling J* held that the exercise of the right of an owner of property to discharge into a public sewer conferred by section 21 of the 1875 Act could not be prevented by the local authority on the ground that the discharge was creating a nuisance. It was for the local authority to ensure that what was discharged into their sewer was freed from all foul matter before it flowed out into any natural watercourse.”*

44. Consequently, it is inappropriate to include a policy in the local plan requiring a housebuilder, or other applicants for development, to assess the capacity or otherwise of the water company to provide water supply and wastewater connections as they are an attempt to get applicants to do things for which they are not legally responsible. Rather it is the responsibility of water companies, working with local authorities and the Environment Agency, to plan for the future demand for water services relating to the development requirements proposed in local plans, not applicants. If the water company is unable to supply those needs, this needs to be disclosed in the Water Resource Management Plan

(WRMP). HBF recognises that this could represent a significant barrier to the delivery of the local plan, but it should not be addressed through capacity assessment by new development but through plan making and as such parts 6, 7 and 8 should be deleted.

## **HOU1 – Housing Requirement**

### Policy is unsound it is unjustified.

45. As set out earlier HBF do not consider the plan period to be sound and this should be amended in HOU1 to commence from the year in which the housing needs were calculated. It will also be necessary for the Councils to provide clarity as to the status of the growth deal and how many homes are still required to be delivered in order to meet the terms of this agreement. We understand that the Growth Deal remains in place with the final tranche of funding being agreed and provided to the county council and given that the Councils are proposing to significantly reduce their own housing requirement it is important to have clarity as to current position.
46. In addition to the HBF have some concerns as to how the Council have considered the potential for housing needs in South Oxfordshire and Vale, and indeed across Oxfordshire in general, to be higher than that arrived at using the standard method and the approach taken to the unmet needs of neighbouring areas.
47. Turning first to the unmet needs. The JLP maintains the commitment to meeting the unmet needs of Oxford City. For SODC this is 353 dpa between 2021 and 2036 and for VoWH it is 183 dpa. While HBF welcomes the fact the council are honouring the current commitment we are concerned that the Councils have not included any additional supply beyond 2031 for VoWH and 2036 for SODC. Paragraph 4.7 of the Housing Requirement, Affordable Housing and Gypsy and Traveller Topic Paper states that the sole reason for this is relating to the flaws in the assessment of housing needs and capacity for Oxford City. Given that no other reasons are cited it must be assumed that the principle of addressing Oxford City's needs in beyond the time periods set out in HOU1 are not being contested – it is purely on the basis of what those needs are. As set out earlier there has been a failure of the Councils to co-operate effectively with the city council to establish what those longer-term needs might be and are effectively pushing this down the road to a future plan review.

48. Moving on to the whether there are any circumstances where housing needs may be higher than the standard method the Council do not consider these circumstances to exist. The Council state in the Housing Requirement Topic Paper that the standard method will address expected demographic trends (paragraph 3.3) and that Joint Housing Needs Assessment confirms that there will be a balance between the number of workers in the area and the number of jobs means that no additional housing will be necessary to accommodate the projected growth in housing, when sustainable commuting patterns have been allowed for (paragraph 4.5). However, the HBF is concerned that the evidence presented does not appear to carefully consider the potential for economic growth within the two authorities producing the JLP, nor indeed across Oxfordshire as a whole.
49. A key part in any assessment of housing needs is ensuring that there will be sufficient homes to meet the growth ambitions for an area. This is established in paragraph 67 of the NPPF which states that the housing requirement “... *may be higher than the identified housing need if, for example, it includes provision for neighbouring areas or reflects growth ambitions linked to economic development or infrastructure investment*”. Paragraph 86 reinforces this position stating that planning policies should “...*seek to address potential barriers to investment, such as inadequate infrastructure, services or housing*”.
50. It has been long recognised that the supply of housing in and around Oxford is a key barrier to investment in the county with the NIC stating in its report on the Cambridge Oxfordshire corridor<sup>1</sup> “... *rates of house building will need to double if the arc is to achieve its economic potential*”. Given that Oxfordshire has one of the most dynamic economies in the country, and one that is globally recognised with regard to industries such as life sciences, it is clearly necessary for the councils to consider whether the outcomes of the standard method are consistent with the level of economic growth expected in future. Indeed, the importance of Oxfordshire was again recognised in the 2024 Autumn Budget which capital investment being identified to support East West Rail to connect Oxford, Milton Keynes and Cambridge in order to unlock land for new development and the economic potential of this area as whole.
51. At present there are statements that growth will be sufficient to meet the needs SODC and VoWH, but the HBF could not find any detailed assessment as to whether the levels of jobs growth are consistent with the economic growth potential for the area and whether the housing requirement being proposed will be a barrier to investment over the plan period. In

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<sup>1</sup>Partnering for Prosperity (National Infrastructure Commission) <https://nic.org.uk/studies-reports/growth-arc/>

particular there is no assessment as to the how the minimum housing requirement being proposed could impact on the level of investment in Oxford City as the focus for economic growth in the region and a vital part of the UK economy. The Councils must consider this issue in more detail alongside its neighbours prior to submission to ensure that what is being proposed is sound and to show the co-operation has maximised the effectiveness of plan making within SODC and VoWH.

52. Council's Housing Requirement Topic Paper refers in paragraph 4.8 of the topic paper to inspectors' examining the Oxford City Local Plan 2040 post hearing letter quoting the conclusion that: "*there is no justification for moving away from the standard method for identifying the local housing need for Oxford City*". While not disputing this quote it is important to note that the referenced sentence starts "*On the basis of the above and the evidence before us ...*" This does not mean that there is no justification for moving away from the standard method across Oxfordshire or in Oxford City itself, just that the inspectors examining the Oxford City Local Plan did not consider the HENA to provide the justification to do so.
53. What is notable is that the proposed standard method published for consultation in July would require the local planning authorities in Oxfordshire to deliver a minimum of 5,151 new homes – which is midway between the two economic growth scenarios proposed in the Oxford City/ Cherwell HENA. Whilst this method of assessing needs is based on an uplift to housing stock it does reflect the scale of housing that is needed to address the housing crisis in Oxfordshire and is clearly an indication of what is likely to be required to ensure that the investment needed to support economic growth across the country is maintained. HBF recognises that if the JLP is submitted in line with the transitional arrangements then they will not be assessed against the level of need set out in the new standard method, but it is necessary to have regard to the level of growth that the current government consider necessary to address the housing crisis which is particularly acute in Oxfordshire.

## **HOU2 Housing supply**

### Policy is unsound as it is unjustified.

54. Housing supply in SODC and VoWH across the plan period is expected to exceed needs by circa 3,500 and 5,200 homes respectively on the basis of the housing needs arrived at



using the current standard method. On the face of it this level resilience in housing supply is welcomed. However, as set out above HBF are concerned that the Council has failed to take account of the unmet needs of Oxford from 2031 and 2036 and has given insufficient consideration to the number of homes required to support economic growth on SODC and VOWH as well as across Oxfordshire.

55. With regard to the sources of supply in HOU2 and the trajectory in provided in Appendix 4, HBF would have expected further information to be provided on the expectations for each site. On the basis that the Council has broken down supply into broad categories this evidence must be readily available and is necessary for all parties to properly consider whether the rate of delivery on each site is justified. It is our experience that where site by site trajectories are not provided, they are asked for by inspectors in order to ensure effective scrutiny of the local plan. For more information on what is expected we would refer the Council to the Preliminary Questions published recently by the inspector examining the Bristol Local Plan<sup>2</sup>. Question 62 and Appendix 1 provide some indication of the detail required. Rather than wait to be asked we would suggest that such a trajectory as part of the evidence supporting the submitted local plan.

#### Smaller sites of less than 1 ha

56. HBF could not find any evidence to show that at least 10% of the Council's housing needs will be delivered on sites of less than one hectare as required by paragraph 70 of the NPPF. The delivery of such sites is important in ensuring that SME house builders are able to gain allocations within local plans and the certainty this brings with regard to its future development. The current Government continue to recognise the importance of this sector stating the recent consultation on the proposed reforms to national planning policy.

*“Small and medium sized builders are essential to meeting our housing expectations and supporting local economies. They also build out the majority of small sites. Their business models often rely on identifying and securing small sites and building them out quickly. The Government is concerned that SME housebuilders are not able to access the small sites that they need, and that local planning authorities are not bringing forward small sites in their plans to the level set out in the NPPF”.*

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<sup>2</sup> <https://www.bristol.gov.uk/residents/planning-and-building-regulations/planning-policy-and-guidance/local-plan/local-plan-review/local-plan-examination/local-plan-examination-library-inspectors-documents>

57. The Council must provide the necessary evidence showing the council meet the requirements of paragraph 70 of the NPPF. If it cannot meet this requirement, it must allocate more sites of less than one hectare in the local plan to ensure it is consistent with national policy on this matter.

### **HOU3 Affordable Housing**

The policy is unsound as it has not been justified and is ineffective.

58. This policy requires all qualifying sites to deliver 50% affordable housing in SODC and 40% and in VoWH. Both these levels of affordable housing are high with SODC requiring one of the highest rates of affordable housing in the country. HBF are concerned that this level of affordable housing will not be deliverable on many sites given the increasing build cost of delivering new development as well as other burdens being placed on new development through this local plan that have not been properly tested. As outlined above the costs relating to CE2 appear to have been under estimated and the evidence as to the cost of the 20% BNG is currently vague with no detail as to how these costs have been arrived at.
59. In addition to these concerns HBF note that the Viability Assessment (VA) uses a blended profit margin that in many cases is less than 15% of Gross Development Value despite PPG outlining that the accepted return to be used when assessing new development is between 15-20%. While the VA does use a profit margin of 17.5% of GDV this is only in relation to the open market housing. When the 6% return on affordable housing is taken in to account this reduce the profit margin to around 13% in many cases. While the VA does undertake sensitivity analysis with regard to various costs it does in isolation without looking at the cumulative impact of increased costs relating to BNG and build costs alongside an appropriate profit margin. HBF recommends that further assessment is needed in order to justify the rates of affordable housing set out in HOU3.
60. However, even on the basis of the costs applied in the VA it is notable that in Tables 8.11 to 8.124 a number of typologies that are either marginal or unviable as a result of the policies in the local plan. The VA suggests that these could be made viable by reduced policy costs, yet the Councils have not opted to include a variable affordable housing rate to reflect its evidence base. HBF would suggest that if the councils are to maximise delivery on

brownfield sites, a key aspiration of the Framework, then a lower rate for brownfield sites should be considered.

## **NH2 – Nature recovery**

### Policy is unsound as it is unjustified and ineffective

61. This policy will require all development in South Oxfordshire and Vale of White Horse must deliver at least a 20% biodiversity net gain, unless the development is not subject to the statutory framework for biodiversity net gain. HBF consider this requirement to be unjustified.

62. The latest guidance published by Government on the 14th of February and highlight the statement that:

*“... plan-makers should not seek a higher percentage than the statutory objective of 10% biodiversity net gain, either on an area-wide basis or for specific allocations for development unless justified. To justify such policies, they will need to be evidenced including as to local need for a higher percentage, local opportunities for a higher percentage and any impacts on viability for development. Consideration will also need to be given to how the policy will be implemented”.*

63. It is important to note that the starting point is that local plan should not seek a higher requirement. This is different to a permissive policy allowing local plans to seek a higher level of BNG where justified, and the HBF would argue that it should be considered a high bar with regard to the evidence required to justify such a policy. There must be very robust evidence that the area is significantly worse than the country as whole and that this decline is directly related to the new development being rather than for example changes in agricultural practices or industrial pollution. It is not sufficiently robust to highlight declines in species that whilst important are not necessarily as a result of new homes being built.

64. The HBF does not disagree with the broad thrust that the UK has seen a significant loss in biodiversity not just in recent past but previous centuries and as such recognise the importance of ensuring that the outcome of new development in future is that there is a net gain in biodiversity. However, it is important to recognise that in recent years new residential

development has not been the driver of declining biodiversity either locally or nationally and in particular over the last 50 years. The main drivers of declining biodiversity in England, as outlined in the State of Nature Report 2023 (State of Nature Partnership, 2023), as being *“Intensive management of agricultural land, largely driven by policies and incentives since World War II, has been identified as the most significant factor driving species’ population change in the UK”*. Therefore, whilst it is important for development to ensure that it improves the natural environment the main driver of biodiversity it is important to also recognise it is not currently a significant driver of biodiversity decline in SODC and VoWH.

65. The Council's evidence on biodiversity decline indeed shows an area where a number of species are in decline across the borough but recognises that the two particular reasons for this is intensive farming and climate change and not development, which has for some years now been required to ensure no net loss of biodiversity. Therefore, whilst species are in decline the HBF would suggest that it is not for new development to address the impact of other industries. HBF consider the 10% statutory requirement to ensure that the impact of new development on biodiversity is addressed as well as delivering improvements for the borough as whole.
66. With regard to the viability, it is not clear where the Council arrived at the costs relating the per units cost for BNG. The Viability Report states in table 6.10 that the costs of £850 to £2,020 per dwelling on green field sites and £0 to £711 for brownfield sites are based on research produced by the Council. However, we could not find this evidence in the Topic Paper or in the Assessments of Sites BNG potential. In many local plans, evidence on the cost of BNG is somewhat dated as it is based the Government's Impact Assessment that was published in 2019 and which, for example, severely underestimate the costs of credits at £11,000. It will therefore be necessary for the council to publish the evidence supporting the costs estimates used in the viability report.
67. HBF would suggest that the evidence represented by the council does not meet the high bar necessary to support a 20% biodiversity requirement. Instead, the council should work with developers to ensure that they can deliver the 10% requirement. This is still a new approach for both local councils and the development industry and they should be looking to ensure this works first before looking to go well beyond statutory minimums.
68. If the 20% requirement is considered to be sound it will be necessary for soundness that flexibility is included in the local plan with regard to the percentage of net gain required

above the statutory minimum. The policy should clearly state that where this is impacting the viability and deliverability of a development that any BNG requirement will be reduced to the 10% statutory minimum.

## **IN5 Cycle and Car Parking Standards**

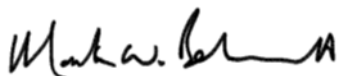
Policy is unsound as it is inconsistent with national policy.

69. Part 1 is unsound as it requires development to be in accordance with the county council's adopted standards. As the council will be aware it cannot accord the status of a planning policy on standards set outside of the local plan and that are not subject to the same level of scrutiny. If the council wishes to include this standard it should be included in the local plan itself. If not, the requirement should be deleted.

## **Conclusion**

70. At present we do not consider the plan to be sound, as measured against the tests of soundness set out in the NPPF. I can therefore confirm that the HBF would like to participate in any hearing sessions held at the examination in public on the matters raised in our representations and that we would like to be kept informed of the submission and examination of the local plan.

Yours faithfully



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## **Appendix 1: Review Policy from Bedford Local Plan 2030.**

### **Policy 1 - Reviewing the Local Plan 2030**

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*The Council will undertake a review of the Local Plan 2030, which will commence no later than one year after the adoption of the plan. An updated or replacement plan will be submitted for examination no later than three years after the date of adoption of the plan. In the event that this submission date is not adhered to, the policies in the Local Plan 2030 which are most important for determining planning applications for new dwellings will be deemed to be 'out of date' in accordance with paragraph 11 d) of the National Planning Policy Framework 2019.*

*The plan review will secure levels of growth that accord with government policy and any growth deals that have been agreed. The planning and delivery of strategic growth will be aligned with the delivery of planned infrastructure schemes including the A421 expressway, Black Cat junction, East West Rail link and potentially the A1 realignment.*

*The review will also serve to build stronger working relationships with adjoining and nearby authorities and may result in the preparation of a joint strategic plan based on a wider geography.*