

Planning Policy Team,
Planning Services,
Middlesbrough Council,
PO Box 500,
Middlesbrough,
TS1 9FT

SENT BY EMAIL

planningpolicy@middlesbrough.gov.uk

4/22/2025

Dear Planning Policy Team,

MIDDLESBROUGH LOCAL PLAN: PUBLICATION DRAFT

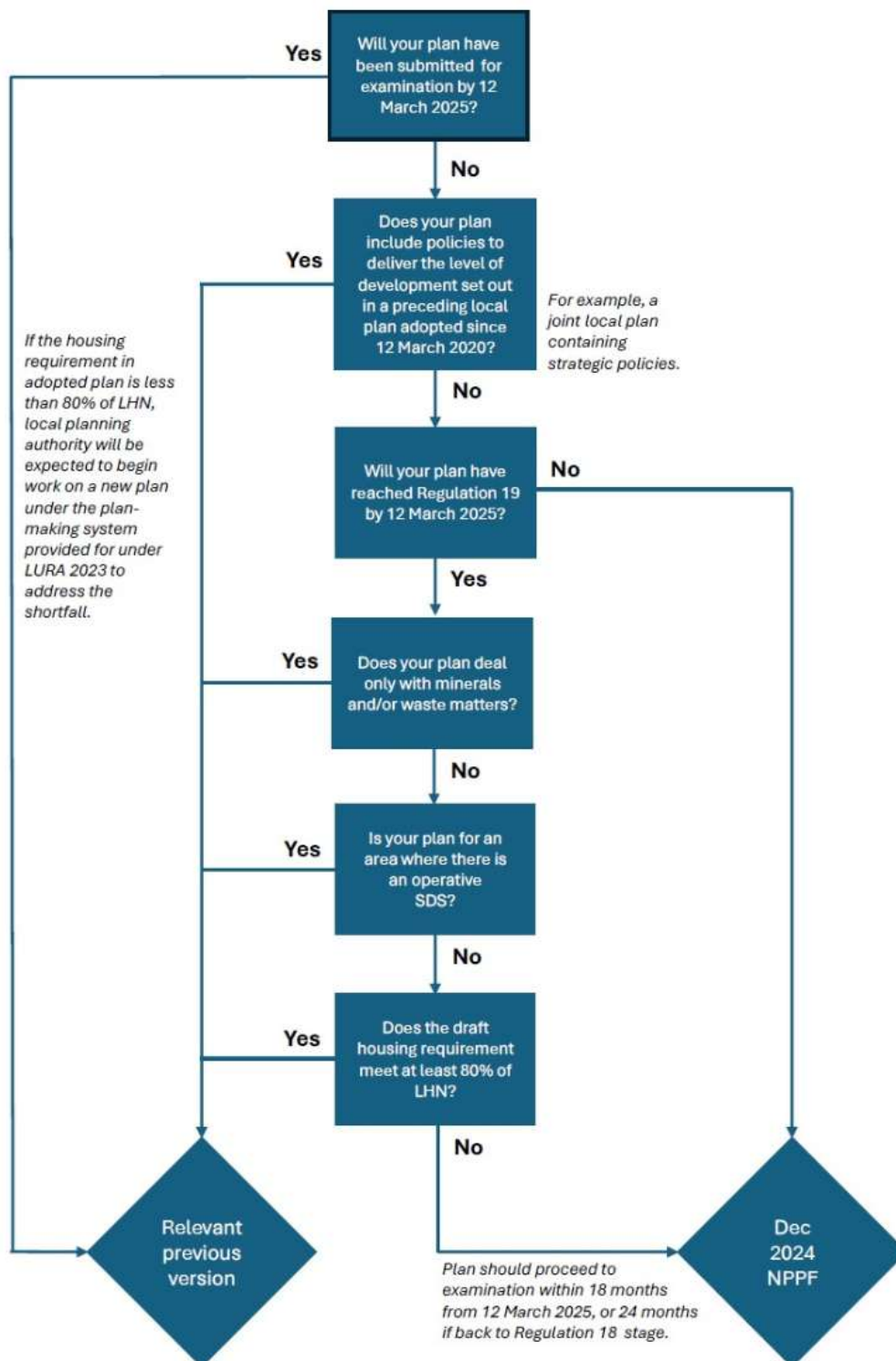
1. Thank you for consulting with the Home Builders Federation (HBF) on the Middlesbrough Local Plan Publication Draft.
2. The HBF is the principal representative body of the house-building industry in England and Wales. Our representations reflect the views of our membership, which includes multi-national PLC's, regional developers and small, local builders. In any one year, our members account for over 80% of all new "for sale" market housing built in England and Wales as well as a large proportion of newly built affordable housing.
3. The HBF notes a new NPPF and new standard method for calculating housing need has been published prior to this consultation on the Middlesbrough Local Plan, and that this may have implications for the production of the Plan and the policies it contains. The transitional arrangements set out in the NPPF¹ state that *'for the purpose of preparing local plans, the policies in this version of the Framework will apply from 12 March 2025 other than where one or more of the following apply: the plan has reached Regulation 19 (pre-submission stage) on or before 12 March 2025 and its draft housing requirement meets at least 80% of local housing need; . . .'* The Government Response to the proposed reforms to the NPPF and other changes to the Planning system consultation² provides a helpful flow diagram of the transitional arrangements, which is copied as Figure 1 below.
4. The HBF also notes that the 'Building the homes we need' the Written Ministerial Statement (WMS) from Angela Raynor on 30th July 2024 highlights the importance of everyone local authority having a development plan in place, and states that for plans at an advanced stage of

¹ NPPF 2024 paragraph 234

² <https://www.gov.uk/government/consultations/proposed-reforms-to-the-national-planning-policy-framework-and-other-changes-to-the-planning-system/outcome/government-response-to-the-proposed-reforms-to-the-national-planning-policy-framework-and-other-changes-to-the-planning-system-consultation#the-future-of-planning-policy-and-plan-making>

preparation (Regulation 19), allowing them to continue to examination unless there is a significant gap between the Plan and the new local housing need figure, in which case we propose to ask authorities to rework their plans to take account of the higher figure.

Figure 1: Transitional Arrangements



5. The Government's is clear that its overarching housing policy seeks to deliver 1.5 million new homes over the course of the Parliament and the introduction of the new stock-based standard method is intended to result in a significant uptick in the delivery of new homes. For new housing to be delivered within the Parliament, work to support this increase must start immediately. It is the HBF's understanding that the intention of the 80% allowance in the standard method was for it to be a test to be applied to Plans that were an advanced stage of preparation and were progressing and had already set a housing number. If, for these Plans, the housing figures were less than 80% of the new standard method the Council needed to revisit the housing figures but if was 80% or more, then the benefits of continuing with a plan and getting a plan in place, albeit with lower numbers, outweighed the disbenefits of not having a Plan. The 2024 NPPF clearly sets out that Plans at Reg 19 stage should be meeting **at least 80%** of the standard method, not be planning for 80% of the standard method. Other national policy in the NPPF, PPG and elsewhere is clear that the Government seeks to increase house building, and therefore, Plans that are only aiming to deliver 80% of their part of the national requirement cannot be consistent with the wider Government housing policy objectives.
6. We would like to submit the following comments upon selected policies within the Publication consultation document. These responses are provided to assist the Middlesbrough Local Plan Team in the preparation of the emerging local plan. The HBF is keen to ensure that Middlesbrough produces a sound local plan which provides appropriate policies for the area.
7. Whilst not a matter of soundness it would be helpful if the council could include clause / paragraph numbers within all of the policies. The numbering of each clause / paragraph within a policy will aid referencing for those making representations on the local plan as well as for applicants and decision makers following the adoption of the plan.

Plan Period

8. The Plan states that the Plan covers the period 2022 to 2041. The HBF considers that the Council should ensure that the Plan covers a period of 15 years from the adoption of the Plan. The NPPF³ states strategic policies should look ahead over a minimum 15-year period from adoption and that where larger scale developments form part of the strategy for the area, policies should be set within a vision that looks further ahead (at least 30 years), to take in account the likely timescale for delivery. To ensure that the Plan covers the full 15 years on adoption, this requires the Plan to be adopted in 2026. The HBF considers that this is unlikely, and the Plan period should be extended until at least 2042.

Vision and Objectives

9. The vision states that a range of high-quality housing will be developed through Middlesbrough. Whilst Objective D is to build high quality homes that help strengthen our communities. The HBF generally supports this element of the vision and Objective D and considers that

³ NPPF December 2024 Paragraph 22 / NPPF December 2023 paragraph 22

meeting the current and future housing needs should be a key part of the vision and objectives for the Plan.

Policy ST1 Development Strategy

Policy ST1 is not considered to be sound as it is not positively prepared, not justified, not effective and not consistent with national policy for the following reasons:

10. This policy states that the Council will put place-making at the heart of its planning decisions to meet the needs of residents of Middlesbrough. It suggests a positive approach that reflects the presumption in favour of sustainable development will be applied and goes on to state that development proposals should seek to deliver a wide range of housing to support the needs and aspirations of our residents with a focus on urban living.
11. The HBF considers that whilst the aspirations of this policy are generally laudable, the policy is more of a statement of intent than a policy that will guide development, and repeats elements that are contained within other policies. Therefore, the HBF does not consider that the policy is in line with the NPPF⁴ which looks for policies to contain policies where it is evident how a decision maker should react to development proposals and to serve a clear purpose avoiding unnecessary duplication. The HBF recommends that this policy is deleted or moved to general introductory text.

Policy ST2 Spatial Strategy

Policy ST2 is not considered to be sound as it is not positively prepared, not justified, not effective and not consistent with national policy for the following reasons:

12. This policy states that to meet the needs of Middlesbrough, development will be directed to the most sustainable locations in the borough with the aim of making the effective and efficient use of land. It goes on to state that for housing this means prioritizing development in the Town Centre and key regeneration areas including Middlehaven and Gresham; finding appropriate uses for vacant brownfield sites and underused buildings; developing sustainable greenfield sites within the urban area and creating sustainable communities on sites on the edge of the urban area.
13. The HBF would expect the Council to provide an appropriate settlement hierarchy which provides a logical hierarchy and allows for a suitable and sustainable spatial distribution of sites, provides an appropriate development pattern and supports sustainable development within all market areas.

Policy ST3 Middlesbrough Development Corporation Area

Policy ST3 is not considered to be sound as it is not justified, and not consistent with national policy for the following reasons:

⁴ NPPF December 2024 Paragraph 16 / NPPF Dec 2023 paragraph 16

14. The Middlesbrough Development Corporation (MDC) Masterplan aims to achieve 1,500 new homes within the area and 4,000 new jobs. It goes on to identify the sites that are identified for housing: Middlehaven (550 dwellings); Gresham (573 dwellings); Wood Street (100 dwellings); Church House (86 dwellings) and Union Village (145 dwellings), however, it also states that additional housing will be brought forward throughout the plan period on unallocated windfall sites to deliver the remaining balance of dwellings (46 dwellings).
15. The HBF does not wish to comment upon the acceptability or otherwise of individual sites. It is, however, important that all the sites contained within the plan are deliverable over the plan period, planned to an appropriate strategy and do not create an over reliance on one location or type of property. The HBF would generally recommend that windfall allowances are not included in the supply and instead form part of the flexibility in supply. However, the HBF recommends that if the Council intends to include an allowance for windfall that they have an appropriate evidence base to support this, this would be in line with the NPPF⁵ which states that where an allowance is made for windfall sites there should be compelling evidence that they will provide a reliable source of supply.

Policy CR2 General Development Principles

Policy CR2 is not considered to be sound as it is not positively prepared, not justified, not effective and not consistent with national policy for the following reasons:

16. This policy states that when assessing the suitability of development, all proposals will be required to accord with the policies, allocations and designations in the Local Plan. The HBF does not consider that the requirement to accord with the policies of the Plan is necessary and it does not need to be stated within this policy. The HBF considers that it could be considered contrary to planning law which requires that applications be determined in accordance with the development plan unless material considerations indicate otherwise.
17. The policy also goes on to state that all proposals will be required to incorporate energy efficiency measures into the fabric of the building. As set out in relation to other policies, the HBF considers that the Council should only be seeking to require proposals to incorporate energy efficiency measures in line with national policy and building regulations.

Policy CR4 Developer Contributions

Policy CR4 is not considered to be sound as it is not justified and not consistent with national policy for the following reasons:

18. This policy states that the level of developer contribution will be commensurate with the scale, nature and impact of the proposal. It highlights a list of examples for which contributions will be sought, these include affordable housing, health infrastructure, open space, education, highways and public realm.

⁵ NPPF December 2024 Paragraph 75 / NPPF Dec 2023 paragraph 72

19. Development can only be required to mitigate its own impact and cannot be required to address existing deficiencies in infrastructure or services. It is therefore essential for the Infrastructure Development Plan (IDP) to clearly show the existing and known deficiencies in the current infrastructure, before reaching any conclusion on the cumulative effects of new development, and any contribution that is needed from new development to mitigate any additional individual and/or cumulative impacts.
20. The HBF also suggests that the policy wording should include the opportunity for negotiation around policy requirements for site specific reasons, to reflect viability challenges identified in the Viability Assessment and as any sites whose circumstances fall outside the parameters of the typologies tested may already be unviable under the proposed Local Plan policies.

Policy CR5 Development Limits

Policy CR5 is not considered to be sound as it is not positively prepared, not justified, not effective and not consistent with national policy for the following reasons:

21. This policy states that development will generally be acceptable within development limits. However, beyond development limits development will be restricted to a defined list provided within the policy, including redevelopment of previously developed land.
22. The HBF recommends that the Council differentiates in terms of its land beyond development limits, for example there is a significant difference between land adjacent to settlements and settlement boundaries which may be sustainable and appropriate for development; or sustainable development in rural areas where it will enhance or maintain the vitality of rural communities; and sites which are located in isolated areas.

Policy HO1 Housing Strategy

Policy HO1 is not considered to be sound as it is not justified, not effective and not consistent with national policy for the following reasons:

23. This policy states that all new housing developments will be required to contribute to the creation of balanced and sustainable communities. It suggests that this will be done, through a number of elements including ensuring there are sufficient homes to support the economic aspirations of the borough; maximizing and prioritizing the re-use of previously developed land; providing a range of house types and tenures; and minimizing further development of new housing in greenfield suburban locations.
24. The HBF considers that this policy is more of a statement of intent than a policy, and that many of the elements of the policy are repeated within other policies in the Plan.
25. The HBF considers that whilst it is appropriate to support and maximise the use of previously developed sites and sites in and around the town centre this needs to be done in the right way and should not prevent the delivery of other sustainable sites or sustainable developments. The Council will need to be able to demonstrate with evidence that this strategy is deliverable

and developable over the Plan period, will meet the varied housing needs and will not lead to a shortage of homes being delivered.

Policy HO2 Housing Requirement

Policy HO2 is not considered to be sound as it is not positively prepared, not justified, not effective and not consistent with national policy for the following reasons:

26. This policy states that the Council will work with stakeholders to ensure that the Local Plan delivers: a minimum of 7,980 net additional dwellings in Middlesbrough between 2022 and 2041; and a five-year supply of deliverable housing land is maintained through the plan period. This equates to minimum requirement of 420 net additional dwellings per annum as set out in paragraph 5.10 of the Local Plan. The Plan also sets out that the LHNA identified a local housing need (LHN) using the Standard Method of 256 dwellings per annum (dpa), and that net housing completions over the last 11 years have average 520 dpa. It also highlights that the new Standard Method identifies a local housing need of 522 dpa.
27. The LHNA identified that the standard methodology identified a requirement for a minimum of 256dpa, however, it goes on to identify a need for 400dpa to support economic growth, although much of the evidence used to justify this is based on the SHMAs from 2016 and 2018. The LHNA also identifies an affordable housing need figure of 4,432 households (246 households per annum, or 251dpa).
28. The NPPF⁶ states that to determine the minimum number of homes needed, strategic policies should be informed by a local housing needs assessment, conducted using the standard method set out in the PPG. The NPPF⁷ also states that the 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. The PPG⁸ continues to state that '*an increase in the total housing figures included in the plan may need to be considered where it could help deliver the required number of affordable homes*'.
29. The HBF notes that the current standard method identifies a local housing need for Middlesbrough of 522 dpa. The HBF notes that this should be minimum requirement and that this should be the starting point for the Councils to determine their housing requirements. The HBF notes that the proposed overall housing requirement is equivalent to 80% of the current standard method. As set out previously, the transitional arrangements set out in the NPPF⁹ states that for the purpose of preparing local plans, the policies in this version of the Framework will apply from 12 March 2025 other than where one or more of the following apply: the plan has reached Regulation 19 (pre-submission stage) on or before 12 March 2025 and its draft housing requirement meets **at least** 80% of local housing need. The HBF is not clear why the Council has not sought to address the local housing need identified by the current standard

⁶ NPPF December 2023 Paragraph 61 / NPPF 2024 Paragraph 61

⁷ NPPF December 2023 Paragraph 67 / NPPF 2024 Paragraph 69

⁸ PPG ID: 2a-024-20190220

⁹ NPPF 2024 paragraph 234

method. The 522dpa it identifies is similar to the level of housing delivery the Council has already seen. This would suggest that the current standard method is achievable in Middlesbrough, and that it should have been the starting point for the Council in determining their housing requirement. The HBF is keen for the Council to ensure that their proposed housing requirement does not become a limitation to the housing delivery in the borough and would recommend that the Council seek to ensure that as far as possible they are doing everything possible to meet the housing need identified by the standard method.

30. The HBF also notes the significant level of affordable housing need which is 60% of the housing requirement, and recommends that an increase to the housing requirement is appropriate in order to help to deliver this need. This increase in the housing requirement would also see a greater proportion of the affordable housing need addressed.
31. The HBF is keen that the Councils produce a plan which can deliver against their housing requirements. To do this it is important that a strategy is put in place which provides a sufficient range of sites to provide enough sales outlets to enable delivery to be maintained at the required levels throughout the plan period. The HBF and our members can provide valuable advice on issues of housing delivery and would be keen to work proactively with the Council on this issue.
32. It is important that housing delivery is effectively monitored so that if housing monitoring shows delays to housing delivery across Middlesbrough, that action is taken to address this as soon as possible. The HBF suggests additional sites should be allocated so that they can be easily and quickly brought forward to address any under-delivery of housing supply. The Council will need to monitor the delivery of housing and publish progress against a published Housing Trajectory. Housing monitoring should be undertaken on a site-by-site basis.

Policy HO3 Housing Mix and Type

Policy HO3 is not considered to be sound as it is not justified, and not consistent with national policy for the following reasons:

33. This policy states that all residential development will be required to achieve the Space Standards in Policy HO7. It goes on to state that residential developments of 10 or more dwellings will be expected to provide a range of dwelling types, tenures and sizes that reflect identified housing need and demand in the local housing needs assessment, they will also be expected to include affordable housing where required by Policy HO5 and provide at least 10% of the dwellings as bungalows. The policy also states that the provision of dwelling types to meet the needs of older people will be encouraged on all suitable sites.
34. The HBF understands the need for a mix of house types, sizes and tenures and is generally supportive of providing a range and choice of homes to meet the needs of the local area. It is, however, important that any policy is workable and ensures that housing delivery will not be compromised or stalled due to overly prescriptive requirements, requiring a mix that does not

consider the scale of the site, does not consider the viability of the site, or requires the applicant to provide significant amounts of additional evidence. The HBF would expect the Council to ensure that the policy is applied flexibly and makes allowance for home builders to provide alternative housing mixes as is required by the market.

35. The HBF has concerns about the requirement for 10% of the dwellings to be provided as bungalows and the evidence for this need, and the potential impact it will have on site viability and deliverability
36. The setting of residential density standards should be undertaken in accordance with the NPPF¹⁰ where policies should be set to optimise the use of land. The NPPF suggests that plan policies should include the use of minimum density standards for city and town centres and other locations that are well served by public transport. The HBF would recommend that the Council includes the indicative densities within the Plan policy and that the Council ensures appropriate flexibility is provided by this policy to allow developers to take account of the evidence in relation to site specific conditions, market aspirations, deliverability, viability and accessibility. The HBF would request that the Council ensures that any densities proposed are realistic deliverable and viable. The HBF notes the interaction between policies on housing size and type and density. Therefore, the Council will also need to consider its approach to density in relation to other policies in the plan. Policies such as open space provision, SuDs, tree provision, biodiversity net gain, cycle and bin storage, housing mix, residential space standards, accessible and adaptable dwellings, energy efficiency and parking provision will all impact upon the density which can be delivered upon a site.
37. Part 3 and 4 of the policy look for at least 10% of the total number of dwellings to achieve building regulation M4(2), and for developments of 100 or more dwellings to provide at least 2% of dwellings to achieve building regulation M4(3) wheelchair adaptable dwellings.
38. The HBF is generally supportive of providing homes that are suitable to meet the needs of older people and disabled people. However, if the Council wishes to adopt the higher optional standards for accessible, adaptable and wheelchair homes the Council should only do so by applying the criteria set out in the PPG.
39. PPG¹¹ identifies the type of evidence required to introduce such a policy, including the likely future need; the size, location, type and quality of dwellings needed; the accessibility and adaptability of the existing stock; how the needs vary across different housing tenures; and the overall viability. It is incumbent on the Council to provide a local assessment evidencing the specific case for Middlesbrough which justifies the inclusion of optional higher standards for accessible and adaptable homes in its Local Plan policy. If the Council can provide the appropriate evidence and this policy is to be included, then the HBF recommends that an appropriate transition period is included within the policy.

¹⁰ NPPF December 2024 paragraph 130

¹¹ PPG ID: 56-007-20150327

40. The PPG also identifies other requirements for the policy including the need to consider site specific factors such as vulnerability to flooding, site topography and other circumstances, this is not just in relation to the ability to provide step-free access.
41. The Council should also note that the Government response to the Raising accessibility standards for new homes¹² states that the Government proposes to mandate the current M4(2) requirement in Building Regulations as a minimum for all new homes, with M4(1) applying in exceptional circumstances. This will be subject to a further consultation on the technical details and will be implemented in due course through the Building Regulations. M4(3) would continue to apply as now where there is a local planning policy in place and where a need has been identified and evidenced.
42. The HBF considers that if the Council has the evidence to introduce this policy, it may want to consider the most appropriate way to deliver the homes they require to meet their needs. The HBF considers that this may not always be in the form of M4(3) homes, and may need further consideration.
43. Part 5 of the policy states that in accordance with Policy HO11 residential developments of 200 or more dwellings will be expected to make at least 1% of the dwellings available as self-build or custom build plots to meet the demand identified on the Council's self-build register.
44. The HBF would be keen to understand the evidence to support the need for custom and self-build housing in Middlesbrough, and how it has informed the requirements of Policy HO3 and HO11. The PPG¹³ sets out how custom and self-build housing needs can be assessed. The LHNA (2021) suggests that the Council's Self & Custom Build Register currently only has 1 active registration.
45. The HBF does not consider that the Council has appropriate evidence to support the requirement for developers on sites of 200 dwellings or more to provide 1% of all new homes as service plots for custom or self-build housing. The HBF is concerned that as currently proposed this policy will not assist in boosting the supply of housing and may even limit the deliverability of some sites and homes. The HBF considers that the Council's own evidence shows that there is not a demand from custom and self-builders.
46. The PPG¹⁴ sets out how local authorities can increase the number of planning permissions which are suitable for self and custom build housing. These include supporting neighbourhood planning groups to include sites in their plans, effective joint working, using Council owned land and working with Home England. The HBF considers that alternative policy mechanisms could be used to ensure a reliable and sufficient provision of self & custom build opportunities

¹² <https://www.gov.uk/government/consultations/raising-accessibility-standards-for-new-homes/outcome/raising-accessibility-standards-for-new-homes-summary-of-consultation-responses-and-government-response#government-response>

¹³ PPG ID: 67-003-20190722

¹⁴ PPG ID: 57-025-20210508

across the Borough including allocation of small and medium scale sites specifically for self & custom build housing and permitting self & custom build outside but adjacent to settlement boundaries on sustainable sites especially if the proposal would round off the developed form.

47. The final part of this policy states that dwelling types to meet the needs of older people will be encouraged on all suitable development sites. The HBF is generally supportive of providing homes that are suitable to meet the needs of older people and disabled people. Whilst there is general support for such development, the HBF would recommend that the Council should be more proactive in working with providers of this type of development to identify appropriate sites for allocation. This approach would provide far more certainty to the council that the need for such accommodation will be met in full. The HBF considers that the Council should note the difference between homes suitable for older people and specialist housing for older people, and the difference in need and demand for these types of homes.

Policy HO4 Housing Allocations

Policy HO4 is not considered to be sound as it is not positively prepared, not justified, not effective and not consistent with national policy for the following reasons:

48. This policy identifies housing allocations for residential development in Middlesbrough. The HBF has no comments on the proposed individual housing allocations in Policy HO4 and these representations are submitted without prejudice to any comments made by other parties. The HBF considers that the Council will need to consider an appropriate balance of development, to ensure that all of their housing needs are met in terms of types and tenures; locations and markets, and to ensure that the Plan can deliver against its housing requirements. Although HBF does not comment on individual sites or allocations, we believe that the Plan should provide for a wide range of deliverable and developable sites across the Borough in order to provide competition and choice to ensure that housing needs are met in full.
49. The HBF also notes that the NPPF¹⁵ requires Local Plans to identify land to accommodate at least 10% of the housing requirement on sites no larger than one hectare, unless there are strong reasons why this cannot be achieved. The HBF has undertaken extensive consultation with its small developer members. One of the chief obstacles for small developers is that funding is extremely difficult to secure without a full, detailed, and implementable planning permission. Securing an implementable planning permission is extremely difficult if small sites are not allocated. Without implementable consents lenders are uneasy about making finance available or the repayment fees and interest rates they set will be very high. Small developers, consequently, need to invest a lot of money and time up-front in the risky business of trying to secure an allocation and a planning permission, and this is money that many small developers do not have. The HBF would therefore wish to see the 10% small sites allowance delivered through allocations (and not windfall). Such sites are important for encouraging the growth in SME housebuilders who will tend to develop these sites but rarely see the benefits that arise from the allocation of sites in a local plan. Up until the 1980s, small developers accounted for

¹⁵ NPPF December 2023 Paragraph 70 / NPPF 2024 Paragraph 73

the construction of half of all homes built in this country resulting in greater variety of product, more competition, and faster build-out rates. Since then, the number of small companies has fallen by 80%. The HBF also notes that support for small and medium builders need not be limited to only small sites of less than 1Ha. SMEs also deliver on other types of non-strategic sites (for example up to 100 units). The inclusion of additional non-strategic allocations would expand the range of choice in the market, and (possibly most importantly), be of a scale that can come forward and make a contribution to housing numbers earlier in the plan period.

50. The Plan's policies should ensure the availability of a sufficient supply of deliverable and developable land to deliver Middlesbrough's housing requirement. This sufficiency of housing land supply should ensure that the Council can meet the housing requirement, ensure the maintenance of a 5-year housing land supply and achieve the Housing Delivery Test. The HBF also strongly recommends that the plan allocates more sites than required to meet the housing requirement as a buffer. This buffer should be sufficient to deal with any under-delivery which is likely to occur from some sites and to provide flexibility and choice within the market. Such an approach would be consistent with the NPPF requirements for the plan to be positively prepared.
51. The HBF believes that the Plan should provide for a wide range of deliverable and developable sites, including a buffer and small site allocations in Middlesbrough in order to provide competition and choice to ensure that housing needs are met in full.

Policies HO4a – HO4r

52. The HBF has no comments on these allocation policies other than to say the proposals must be deliverable, and it is important that housing delivery is effectively monitored so that if housing monitoring shows delays to housing delivery across the Borough action is taken to address this as soon as possible.

Policy HO5 Affordable Housing

Policy HO5 is not considered to be sound as it is not positively prepared, not justified, not effective and not consistent with national policy for the following reasons:

53. This policy states that within the area shown in Figure 4 in the Plan proposals for major residential developments of 10 or more homes will be required to provide a minimum 15% of the homes as affordable housing. It states that the type of affordable housing provided should seek to meet the needs identified in the Local Housing Needs Assessment and meet the requirements of the NPPF.
54. The policy goes on to state that all major residential developments of 10 or more homes will be required to deliver the minimum level of affordable home ownership in accordance with the NPPF. The 2023 NPPF¹⁶ is clear that where major development involving the provision of

¹⁶ NPPF Dec 2023 Paragraph 66

housing is proposed, planning policies and decisions should expect at least 10% of the total number of homes to be available for affordable home ownership.

55. The HBF supports the need to address the affordable housing requirements of the borough. The NPPF¹⁷ is, however, clear that the derivation of affordable housing policies must not only take account of need but also viability and deliverability. The Council should be mindful that it is unrealistic to negotiate every site on a one-by-one basis because the base-line aspiration of a policy or combination of policies is set too high as this will jeopardise future housing delivery.
56. The HBF also notes the significant viability challenges that are identified within section 10 of the Local Plan Viability Assessment (Dec 2024). The HBF notes that the Mid Area, Lower Value Area, North and brownfield typologies in the Higher Value Area, South are all identified as bring unviable, with a significant proportion of the remainder of the High Value Area also remaining only marginally viable. The Viability Report itself is clear that *'it will still be necessary to be cautious in assuming brownfield development of Build to Rent development would come forward, as these are not likely to be delivered'*.
57. The HBF is concerned that the Plan as proposed will not meet the affordable housing need, as set out in the LHNA. The HBF considers that the Council should consider increasing the housing requirement to help to address this need as set out in the PPG¹⁸. The HBF also recommends that the Council looks again at their Plan and spatial strategy, for example, if more sites were allocated in areas where the viability is greater, this would help to increase the level of affordable housing provided.

Policy HO7 Space Standards for Residential Uses

Policy HO7 is not considered to be sound as it is not justified and not consistent with national policy for the following reasons:

58. This policy states that all new residential development will be required to ensure that the internal layout and size are suitable to serve the amenity requirements of future occupiers and will be expected to comply with the nationally described space standards (NDSS).
59. The NDSS as introduced by Government, are intended to be optional and can only be introduced where there is a clear need and they retain development viability. As such they were introduced on a 'need to have' rather than a 'nice to have' basis. PPG¹⁹ identifies the type of evidence required to introduce such a policy. It states that 'where a need for internal space standards is identified, local planning authorities should provide justification for requiring internal space policies. Local planning authorities should take account of the following areas: Need, Viability and Timing. The Council will need robust justifiable evidence to introduce the

¹⁷ NPPF December 2023 Paragraph 35 / NPPF Dec 2023 Paragraph 34

¹⁸ PPG ID: 2a-024-20190220

¹⁹ PPG ID:56-020-20150327

NDSS, based on the criteria set out above. The HBF considers that if the Government had expected all properties to be built to NDSS that they would have made these standards mandatory not optional.

60. The HBF considers that standards can, in some instances, have a negative impact upon viability, increase affordability issues and reduce customer choice. In terms of choice some developers will provide entry level two, three and four-bedroom properties which may not meet the optional nationally described space standards but are required to ensure that those on lower incomes can afford a property which has their required number of bedrooms. The industry knows its customers and what they want, our members would not sell homes below the enhanced standard size if they did not appeal to the market.
61. The HBF would also encourage the Council to consider the implications of the NDSS on the density of development and the land required to meet the housing requirement.

Policy HO11 Self-Build and Custom Build Housing

Policy HO11 is not considered to be sound as it is not positively prepared, not justified, not effective and not consistent with national policy for the following reasons:

62. This policy states that on sites of 200 dwellings or more at least 1% of the housing plots should be made available as self-build or custom build plots to meet the demand identified on the Council's self-build register. The policy goes on to suggest that the plots are to be made available at market value to self-builders or custom builders for a period of not less than 12 months.
63. The HBF has set out its concerns in relation to this requirement in Policy HO3, and as such has not repeated them here. However, it seems unnecessary for both policies to contain this requirement, and the HBF would suggest that the requirement could be removed from HO3, to avoid unnecessary duplication.

Policy NE1 Green and Blue Infrastructure

Policy NE1 is not considered to be sound as it is justified and not consistent with national policy for the following reasons:

64. This policy states that development should incorporate trees within their designs and ensure new streets are tree lined and contribute to nature recovery through delivering and implementing the priorities identified in the Tees Valley Local Nature Recovery Strategy, the Green and Blue Infrastructure Strategy and by achieving Biodiversity Net Gain, amongst other criteria.
65. The HBF is concerned by the need to ensure new streets are tree lined, it is noted that whilst the NPPF looks for policies to ensure new streets are tree lined, it does allow that in specific cases there may be clear, justifiable and compelling reasons why this would be inappropriate. The HBF considers that the Council should amend this policy to make clear that in some specific circumstances this requirement may not always be appropriate. The HBF suggests that this could include the potential implications in terms of viability of the development, not only

due to the tree provision costs but also in terms of efficient land use, site layout and highways considerations. The HBF also considers that this flexibility should be applied to other elements of the policy too, to ensure that they are appropriate. The HBF considers that it will be important for the Council to gather appropriate evidence in relation to this policy that considers its practical implementation, and how it sits alongside other plan requirements.

Policy NE7 Delivering Biodiversity Net Gain

Policy NE7 is not considered to be sound as it is not justified, not effective and not consistent with national policy for the following reasons:

66. This policy states that Biodiversity Net Gain (BNG) shall be secured and delivered in accordance with the statutory framework. It goes on to state that proposals should seek to deliver BNG onsite wherever possible, where ecologically appropriate BNG is not deliverable on site the applicant shall prioritise the delivery of BNG off-site in accordance with the hierarchy: within Middlesbrough on designated wildlife sites; elsewhere in Middlesbrough; within the wider Tees Valley Local Nature Recovery Strategy Area (LNRS); and finally within a neighbouring Local Nature Recovery Strategy Area.
67. The HBF notes the introduction of Biodiversity Net Gain (BNG) which came in for large sites on February 12th, 2024, and for small sites from 2nd April 2024. It is therefore important for this policy to fully reflect all the new legislation, national policy and MHCLG and DEFRA guidance.
68. The HBF has been involved in a significant amount of work, being led by the Future Homes Hub, on BNG preparedness for some time, including feeding into the BNG Planning Practice Guidance and the DEFRA BNG Guidance. The HBF notes that this represents a lot of new information that the Council will need work through and consider the implications of, in order to ensure that any policy on Biodiversity Net Gain policy complies with the latest policy and guidance now it has been published. It should also be noted that the PPG²⁰ is clear that there is no need for individual Local Plans to repeat national BNG guidance.
69. It is the HBF's opinion that the Council should not deviate from the Government's requirement for 10% biodiversity net gain as set out in the Environment Act. Therefore, the reference to being in accordance with the statutory framework is generally supported. However, the HBF considers it may provide certainty for developers and others if the justification text or the BNG policy is clear that therefore the requirement is a fixed 10% figure. The HBF considers that it is also important to note that for large and complex sites where the development is phased, the guidance is clear that the 10% must be delivered at the end of the development, and this may not result in 10% BNG on each phase. Additional advice on phased development has been provided in the BNG PPG²¹.

²⁰ ID: 74-006-20240214

²¹ ID: 74-054-20240214 & ID: 74-056-20240214

70. The Viability Assessment includes a cost assumption in relation to BNG of 0.2% of build costs for a greenfield site and 0.7% for brownfield sites. This is based upon the: Net biodiversity gain costs based on the DEFRA Impact Assessment Biodiversity net gain and local nature recovery strategies IA. The HBF notes the viability challenges set out within the Viability Assessment. The HBF considers that there are significant additional costs associated with biodiversity net gain, which should be fully accounted for in the Council's viability assessment, some of which remain unknown at this time. It is important that BNG does not prevent, delay or reduce housing delivery. The costs relate both the financial costs and also land take, which will impact on densities achievable if BNG is provided on site.
71. As this is still a new policy area and the market for off-site provision is not yet known, any figure used for BNG costs will need to be kept under review as BNG implementation progresses and a greater understanding of actual costs become available. The Viability Assessment must clearly set out how it considered the implications of mandatory BNG and how it was arrived at using the most up to date BNG costs information available.
72. The HBF notes that the policy suggests that BNG should maximise opportunities for the enhancement of ecological networks within Middlesbrough and / or the Tees Valley Local Nature Recovery Strategy and that the policy includes a locational hierarchy that includes these Local Nature Recovery Strategies (LNRs), the HBF considers it is appropriate for the policy to consider the relationship between the plan and the LNRs. However, the LNRs should not be used to restrict development or to limit the requirements of the BNG and metric being met. As the LNRs emerge it will be important for this Local Plan to be kept under review and further public consultation on the interaction between the two documents and/or changes to Local Plan policy and/or its implementation, to reflect the LNRs may be needed. The Government recently²² published additional Guidance²³ on how Local Nature Recovery Strategies should be integrated with/feed into Local Plan Making. We would encourage the Council to review the new guidance and fully consider its implications for this Plan.
73. The HBF also notes that there seems to be significant potential for confusion around environmental hierarchies, and suggest particular care is needed to avoid any confusion between the well-established mitigation hierarchy, the BNG hierarchy and the locational hierarchy set out in this policy. There is need for the policy wording and/or supporting text to be clearer about the differentiation between the mitigation hierarchy (which seeks to avoid harm in the first place, then mitigate and only then compensate it in relation to protected habitats) and the BNG delivery hierarchy (which prioritises on-site BNG delivery, then off-site units and finally allows for statutory credits) and this locational hierarchy for Middlesbrough which provides a more local context. There seems to be significant potential for confusion between the different hierarchies. The HBF therefore suggests that the Council should take particular care to explain how the requirements of the two-part BNG hierarchy work in different ways and that they seek to achieve different aims.

²² 19/02/2025

²³ See <https://www.gov.uk/guidance/plan-making> and <https://www.gov.uk/guidance/natural-environment#local-nature-recovery-strategies>

74. The HBF recommends that that Council work closely with the HBF, PAS, DEFRA and others with expertise in BNG to ensure that the policy is amended appropriately to reflect the latest position.

Policy NE8 Nutrient Neutrality Water Quality Effects

Policy NE8 is not considered to be sound as it is justified, not effective and not consistent with national policy for the following reasons:

75. This policy states that proposals for developments that will result in additional overnight accommodation, or would otherwise increase the discharge of nitrogen into the River Tees, will be required to achieve Nutrient Neutrality. Any mitigation for Nutrient Neutrality must be provided 'in perpetuity'.
76. The Notice of Designation of Sensitive Catchment Areas 2024²⁴ identifies the Teesmouth and Cleveland Coast SPA / Ramsar as a nitrogen sensitive catchment area. The notice identifies that *'in designated catchments water companies have a duty to ensure wastewater treatment works serving a population equivalent over 2,000 meet specified nutrient removal standards by 1st April 2030. Competent authorities (including local planning authorities) considering planning proposals for development draining via a sewer to a wastewater treatment works subject to the upgrade duty are required to consider that the nutrient pollution standard will be met by the upgrade date for the purposes of Habitats Regulations Assessments. A limited exemption process will be completed by 1 April 2024, when wastewater treatment works exemptions will be confirmed, which may affect the levels of nutrient mitigation that development must secure for specific wastewater treatment works in some catchments. It is important that planning decisions continue to be taken based on material planning considerations'*. Therefore, the HBF considers that the need for mitigation in perpetuity is no longer appropriate, and should be limited to 2030.
77. The Planning and Infrastructure Bill is currently being considered by Government, it includes provisions for a scheme administered by Natural England for a nature restoration levy payable by developers to bring forward Environmental Delivery Plans. The Nature Restoration Fund establishes an alternative approach for developers to meet certain environmental obligations relating to protected sites and species. The guidance note which accompanies the Bill suggests that providing mitigation at the level of an individual development requires developers to pay for localised and often costly mitigation measures, only to maintain the environmental status quo; it is often the case that such interventions are sub-optimal in terms of the environmental outcomes they secure. It goes on to highlight that delays can slow housing delivery, with accompanying burdens on developers and local authorities and that for local authorities these delays can result in challenges meeting their local housing need. The HBF considers that the Council will need to ensure that this policy contains a level of flexibility to ensure that it re-

²⁴ <https://www.gov.uk/government/publications/notice-of-designation-of-sensitive-catchment-areas-2024/notice-of-designation-of-sensitive-catchment-areas-2024#effect-of-this-notice>

mains in line with the Planning and Infrastructure Bill as it comes forward. The HBF recommends that the Council includes reference to the emerging Bill and the potential for the Nature Restoration Fund to address this issue in the future.

78. The HBF notes that the Viability Assessment has included a range of costs in relation to this policy these are based on the Natural England Nutrient Neutrality credits, the costs assume 1 credit per dwelling on brownfield sites, 0.09 credits for greenfield agricultural sites and 1.3 credits for non-agricultural greenfield sites, with a cost in November 2024 of £2,700 per credit. The HBF considers that these will need to be kept under review as the costs of credits have been increasing, and it may not always be possible to rely on this Natural England scheme. The Viability Assessment may also need to consider the potential implications of the Nature Restoration Fund and developer levy as it comes forward.
79. The HBF would also suggest that the Council may want to further consider the role of the water industry in the protection of water resources and nutrient neutrality. This policy places a lot of emphasis on the development industry to protect water quality, to ensure water resources, to protect the environment and to create nutrient neutrality, whereas most of the actual responsibility for these elements will be reliant on the work of the water industry.

Policy NE9 Climate Change

Policy NE9 is not considered to be sound as it is not justified and not consistent with national policy for the following reasons:

80. This policy states that to meet the challenge of mitigating and adapting to the effects of climate change, a comprehensive approach to delivering sustainable development and reducing carbon emissions is required.
81. The HBF supports the Council in seeking to reduce carbon emissions. However, the HBF considers that the Council should ensure that this policy is only implemented in line with the December 2023 Written Ministerial Statement²⁵ which states that ‘a further change to energy efficiency building regulations is planned for 2025 meaning that homes built to that standard will be net zero ready and should need no significant work to ensure that they have zero carbon emissions as the grid continue to decarbonise. Compared to varied local standards, these nationally applied standards provide much-needed clarity and consistency for businesses, large and small, to invest and prepare to build net-zero ready homes’. It goes on to state that ‘the Government does not expect plan-makers to set local energy efficiency standards for buildings that go beyond current or planned buildings regulations. The proliferation of multiple local standards by local authority area can add further costs to building new homes by adding complexity and undermining economies of scale. Any planning policies that propose local energy efficiency standards for buildings that go beyond current, or planned building regulations, should be rejected at examination if they do not have a well-reasoned and robustly costed rationale’. The HBF considers as such it is appropriate to make reference to the Future Homes

²⁵ <https://questions-statements.parliament.uk/written-statements/detail/2023-12-13/hcws123>

Standard and the Building Regulations as the appropriate standards for development, and to seek to use these standards to reduce energy use and improve energy efficiency.

Policy IN6 Health and Wellbeing

Policy IN6 is not considered to be sound as it is not justified, and not consistent with national policy for the following reasons:

82. This Policy requires all development proposals for 100 or more dwellings to be supported by a Health Impact Assessment (HIA).
83. The HBF generally supports plans that set out how the Council will achieve improvements in health and well-being. In preparing its local plan the Council should normally consider the health impacts with regard to the level and location of development. Collectively the policies in the plan should ensure health benefits and limit any negative impacts and as such any development that is in accordance with that plan should already be contributing positively to the overall healthy objectives of that area.
84. The PPG²⁶ sets out that HIAs are 'a useful tool to use where there are expected to be significant impacts' but it also outlines the importance of the local plan in considering the wider health issues in an area and ensuring policies respond to these. As such Local Plans should already have considered the impact of development on the health and well-being of their communities and set out policies to address any concerns. Consequently, where a development is in line with policies in the local plan a HIA should not be necessary. Only where there is a departure from the plan should the Council consider requiring a HIA. In addition, the HBF considers that any requirement for a HIA should be based on a proportionate level of detail in relation the scale and type of development proposed. The requirement for HIA for all development proposals for 100 dwellings or more without any specific evidence that an individual scheme is likely to have a significant impact upon the health and wellbeing of the local population is not justified by reference to the PPG. Only if a significant adverse impact on health and wellbeing is identified should a HIA be required, which sets out measures to substantially mitigate the impact.

Appendix 1: Monitoring Framework

85. The Monitoring Framework includes Indicators, Targets, Baseline and the Source.
86. The HBF supports the Council in including a monitoring framework which sets out the monitoring indicators along with the relevant policies, the data source, the existing baseline and the targets that the Plan is hoping to achieve, the HBF considers that it would also be useful to include the actions to be taken if the targets are not met. The HBF recommends that the Council provide more details as to how the plan will actually be monitored, and identifies when, why and how actions will be taken to address any issues identified.

Viability Concerns

²⁶ PPG ID:53-005-20190722

87. The HBF considers that it is important that all of the policies in the Plan allow for flexibility to take into account the viability challenges in Middlesbrough. The HBF notes that the Viability Assessment already highlights the significant viability challenges in Middlesbrough. However, the HBF is concerned that the Viability Assessment does not consider all of the additional costs facing developer at this time.
88. The HBF recently wrote to the Chancellor²⁷ to express concern over the impact of the proposed Building Safety Levy on housing delivery and to request that Government reassess its approach. This has seen the implementation timeline for the Building Safety Levy pushed back to Autumn 2026 with the levy regulation expected to be laid in Parliament later this year. This means that sites that were acquired several years ago will now become liable for another tax, which is likely to cause significant delay in housing delivery as scheme viability is revisited and has the potential to reduce the delivery of housing including Affordable Housing as a result. The Building Safety Levy: Technical Consultation Response²⁸ sets out the levy for Middlesbrough is £6.80/m² for previously developed land and £13.59/m² for greenfield sites. This is an additional cost to be considered in the Viability Assessment. The HBF recommends that this is recognized in the Viability Assessment.
89. Other factors that need to be taken into account include increasing costs of materials and labour due to inflation and the costs of mandatory BNG, which are still emerging as the off-site market is yet to be established. HBF members are reporting costs of £20-30k per off-site BNG unit. Although the initial price of statutory credits is now known this national fallback option has been deliberately highly priced to discourage their use. Whilst this intention is understandable, at present the lack of functioning local markets for off-site credits causes viability problems because HBF members' experience to date suggests that any scheme that needed to rely on statutory credits would become unviable. The Planning and Infrastructure Bill also has potential to increase costs faced by developers in relation to the developer levy towards the Nature Restoration Fund.

Future Engagement

90. I trust that the Council will find these comments useful as it continues to progress its Local Plan. I would be happy to discuss these issues in greater detail or assist in facilitating discussions with the wider house building industry.
91. The HBF would like to be kept informed of all forthcoming consultations upon the Local Plan and associated documents. Please use the contact details provided below for future correspondence.

²⁷ <https://www.hbf.co.uk/news/home-builders-federation-calls-for-suspension-of-the-planned-building-safety-levy/>

²⁸ <https://www.gov.uk/government/consultations/building-safety-levy-technical-consultation/outcome/building-safety-levy-technical-consultation-response#:~:text=As%20part%20of%20the%20Remediation,in%20Parliament%20later%20this%20year.>

92. At present the HBF does not consider that the Plan is sound, as measured against the tests of soundness set out in the NPPF, and as set out in our representations above. The HBF would therefore like to participate in any hearing sessions associated with the examination of the Middlesbrough Local Plan and related to our representations, as this will allow the HBF to represent the industry and to address any relevant points raised at the examination. The HBF would like to be kept informed of the submission and examination of the Local Plan.

Yours sincerely,



Joanne Harding
Planning Manager – Local Plan (North)

Email: joanne.harding@hbf.co.uk

Phone: 07972 774 229