

01/07/2025

Dear Sir/ Madam

## **DRAFT BUILDING A BETTER FUTURE LOCAL PLAN**

1. Thank you for consulting with the Home Builders Federation (HBF) on the draft local plan (DLP) for Havant.
2. HBF is the principal representative body of the house-building industry in England and Wales. Our representations reflect the views of our membership, which include 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.

### **Strategic policies.**

3. The National Planning Policy Framework (NPPF) states in paragraph 21 that plans should explicitly state which policies are strategic policies with footnote 13 stating that these should be clearly distinguished from non-strategic policies. The DLP does not make this distinction, and the next iteration should ensure that it is clear as to what policies are strategic and which are not strategic.

### **Viability study**

4. The Council have published an initial viability analysis for the affordable housing options set out in the DLP. This indicates that the policies the local plan are considered to be viable, however HBF are concerned that the cost of developing new homes in Havant has not been fully considered. Firstly, the viability assessment (VA) does not take into account the impact of the Building Safety Levy. For Havant this will cost £17.41 per sqm for development on Previously, Developed Land (PDL) and £34.38 on non-PDL. This is a significant additional cost and will need to be factored into the next iteration of the viability assessment.

5. Secondly, HBF are concerned that the cost of meeting BNG has been underestimated. We note that the VA uses the DEFRA Impact Assessment from 2019. This is of some vintage and makes some very broad a general assumption as to the cost of delivering BNG. For example, the cost of securing an offsite credit is set at £11,000, which is significantly lower than the £30,000 to £40,000 pr unit we are being told by our members the current price being paid for most types of offsetting<sup>1</sup>. We note that the VA uses scenario C from the DEFRA IA, which assumes all net gains are delivered offsite. Whilst this is the worst case scenario, with some net gains likely to be delivered on site, HBF would still recommend that a greater allowance is made in the VA to take account of the higher cost of delivering BNG offsite.
6. HBF would also encourage the Council to ensure the Local Plan fully considers the new BNG requirements in relation to site allocations. Th is necessary as the actual cost of delivering a 10% increase in net gain in biodiversity will vary considerably from site to site. ON some site achieving a 10% net gain can be relatively simple where as other with a relatively unique habitat that is more difficult to deliver elsewhere, the cost may be significantly higher. Therefore, some understanding of the baseline is needed when considering the viability of allocated sites and their ability to meet the other policy requirements of the local pan. This is particular important as the costs of mandatory BNG are non-negotiable and as such will result in other policy requirements being reduced.

### **Policy 1: Spatial Strategy**

7. HBF's first concern with policy 1 is that it has restricted growth without having the necessary evidence at this stage to take such a position. Policy 5 shows that the spatial strategy being proposed by the Council leads to a shortfall in housing delivery against assessed needs of some 530 dwellings per annum. HBF recognises that the geographical constraints in Havant will likely mean that housing needs are not met in full but given the significant shortfall it is essential that all opportunities to increase housing supply are fully explored. As such HBF are concerned that the proposed spatial strategy does not include any housing allocations on Hayling Island. The reason for this is summarised in paragraph 2.24 as primarily being due to:
  - the flood risk to the single access road on and off the island; and
  - that development on the island would not be consistent with the strategic aim of ensuring development is accessible to non-car modes of transport.
8. However, HBF could not find the justification for this decision nor any indication as to whether the Council has considered and tested options to address the issue of access to Hayling Island. No transport assessment has been published to support the Council's assumptions. The SA does include an assessment of a higher level of delivery in option 4 but no mention is made of Hayling Island. Therefore, it is not clear if development on Hayling Island has been considered in the SA or potential mitigation that would be required to ensure such a strategy was sustainable and the benefits the delivery significant infrastructure improvements resulting from new

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<sup>1</sup> Though this increases significantly for offsetting that is more difficult to deliver.

development would have to the existing 17,000 residents on Hayling Island.

9. Without the necessary evidence supporting the Council's approach the only conclusion HBF can reach is that the spatial strategy proposed is unjustified. The Council have made the assumption that further development on Hayling Island is not possible without providing evidence to support those assumptions or even testing options that would address the concerns raised by the Council. HBF assume that the necessary transport assessment required to support the local plan is currently being prepared. This work should not only examine the impact from new development on the access road to Hayling Island and the impact of flooding on this road but also the potential infrastructure improvements that would be necessary to support further development on Hayling Island if a severe impact is identified through the transport assessment. Any improvements should be fully costed and consideration given as to sources of funding. If there is potential to mitigate any impacts of development, then these will need to be considered through the Sustainability Appraisal (SA) as a reasonable alternative. A failure to consider these options would mean that the SA lacks the necessary robustness to support the local plan, increasing the risk that it will be found unsound at examination.
10. Secondly, Criterion e) states that development will be encouraged on sites with good access to public transport and where such access can be improved significantly. As the Council will be aware development can only be required to address its own impacts and that any requirements placed on it are necessary in planning terms and are fairly and reasonable related to the development. The suggestion in criterion e) is that development will be expected to significantly improve access to public transport rather than simply addressing its own impacts is therefore inconsistent with national policy and unsound. In order for the policy to be made sound the HBF the following changes will need to be made:

*e) A pattern of development and improvements to the transport network which move the Borough towards lower car dependency, with housing development encouraged on sites where ~~with~~ good access to public transport routes and/or services and facilities, ~~or where such access can be achieved~~ improved significantly.*

#### **Policy 4: Infrastructure and Environmental Mitigation to Support Development.**

11. HBF is broadly content with the approach set out in Policy 4. However, we do have some specific concerns relating to part n) on transport mitigation and the more general need for viability considerations within decision making relating to infrastructure delivery. Part n) states that a road and/or active rail link will be required to serve Allocation 1 at Southleigh with exact requirements to be determined. This does not provide sufficient flexibility should it be demonstrated that these are not required. As paragraph 57 of the NPPF states, infrastructure should only be required where it is necessary, it is directly related to the development and is fairly and reasonable related in scale and kind to the development. Should it be shown that the proposed infrastructure

does not meet these tests then it should not be seen as a requirement by the council. As such we would suggest part n) is amended to:

*‘A road and/or active travel link to the southwest if required to serve Southleigh (BL5) (exact requirements and need to be determined through transport and for the Local Plan and the site)’.*

12. HBF recognises that infrastructure that is required to make development acceptable in planning terms will be a priority for the Council. However, there may be circumstances where the provision of infrastructure in combination with all the other policy requirements in the local plan will make development unviable. Therefore, HBF would recommend that a new paragraph is included in Policy 4 which states that:

*Where the provision of required infrastructure will make development unviable, the Council will work proactively with the developer to identify viable solutions and/or amend other policy requirements to secure the delivery of new development.*

#### **Policy 5: Amount of housing**

13. This policy makes provision for at least 7,218 homes over the plan period of 2023 to 2043 – an average of 361 dwellings per annum (dpa). This is a 531 dpa shortfall on the number of homes the Council are expected to plan for using the standard method. The Council have considered 4 options for the SA alighting on option 2 and rejecting one lower growth option and two higher growth options which would have supported housing growth of 7,981 and 9,594 new homes over the plan period. HBF recognise that Havant is both physically constrained being a relatively small authority as well as having a significant number of other constraints, which are set out in the Havant Constraints Study, and we would agree that these will make meeting housing needs in full, difficult. However, this situation also means that the Council must explore all potential opportunities and seek to proactively overcome barriers to delivery wherever possible.
14. For example, we note that site EM05 was rejected on the basis that it is currently designated as a local green space (LGS). Whilst recognising LGS is recognised as a footnote 7 constraint it is also the case that the development of land under this designation should be consistent with Green Belt. As such the Council will need to consider whether there are exceptional circumstances to support the development of local green space in line with paragraphs 145 to 147 of the NPPF. HBF does not promote sites and uses this discounted site purely as an example where further considerations as to its suitability for development may be necessary given the significant shortfalls against development needs.
15. It is noted in paragraph 2.85 that Winchester City Council have agreed to accommodate 1,330 dwellings of Havant unmet housing need. Whilst this additional supply from Winchester is welcomed it still leaves a sub-

stantial shortfall in housing needs and the Council will need to work proactively with LPAs across South Hampshire to ensure these needs are addressed elsewhere. In seeking to address these needs HBC will need to robustly challenge authorities to consider and test strategies that address some of HBC's unmet needs. It cannot take a passive stance on these matters if it is to secure the necessary co-operation required to ensure these needs are met in full.

16. Also, in relation to Winchester the Council should seek to identify which sites will be expected to address Havant's unmet needs. This is to ensure that Havant can monitor the delivery of those homes which will meet some of their needs and ensure that as part of any local plan review undertaken by Winchester it is clear what homes are being built to meet Havant's needs. This is particularly important given that Winchester will be required to undertake an immediate review of their plan to meet a far higher housing target. In securing specific sites to meet Havant's needs in Winchester it will then be clear to all parties the specific sites that are meeting Havant's needs in future and avoid these being used to meet Winchester's higher housing needs in future.
17. HBF would also disagree with the plan period of 2023 to 2043. The standard method is a forward looking assessment of need which takes into account past under supply. As such the plan period in relation to housing needs should be taken from the point at which needs are assessed in the plan submitted for examination – in this case the start of the based period used which is 2025/26. Whilst this has little impact on this plan as it cannot meet needs in full and the housing requirement is based on capacity, HBF still considers it important that there is consistency with the approach to assessing housing needs established in PPG and recommends that plan period start from 2025/26.

## **Policy 8: Health and Climate Change**

18. Part I of policy 8 requires all development of 40 or more dwellings or 1,000 sqm of non-residential development to submit a Health Impact Assessment. HBF does not consider it necessary for allocated sites to submit an HIA given that the impacts on health and well-being will have been considered through the preparation of this local plan as required by paragraph 53-005 of PPG which states, "*Plan-making bodies will need to discuss their emerging strategy for development at an early stage with NHS England, local Clinical Commissioning Groups, Health and Wellbeing Boards, Sustainability and Transformation Partnerships/Integrated Care Systems (depending on local context), and the implications of development on health and care infrastructure*". As such, development allocated in this plan and which is consistent with its policies must be considered as addressing any negative impacts on health. HBF would agree that where larger unallocated development come forward then an HIA should be a requirement, but it should not be blanket requirement on larger development as is being proposed by the council. HBF would recommend the following amendment.

*"Unallocated development proposals for residential developments of 40 or more dwellings (gross) and non-residential development over 1000sqm (gross) will be required to submit a Health Impact*

### **Policy 13: Housing Density**

19. The Council recognise in paragraph 4.21 that the other factors will be considered to be considered by developers. However, it is also necessary, as set out in paragraph 129 of the NPPF for decision makers to also take into account these factors and indeed others such as viability and local market conditions. HBF considers that in order for this policy to be effective it must set out in the policy itself that there will be circumstances where these densities cannot be achieved. HBF would also suggest that the final paragraph should be deleted. If a development meets the requirements of this policy, then there is no reason why it should submit an additional study setting out why it could not do more. The Council should only be seeking justification from a development should it fail to meet the minimum density standard set out in Policy 13.

### **Policy 15: High Quality New Homes**

20. HBF recognise that there is a need for some new homes to be made more accessible to support the needs of those with mobility difficulties. However, there will be circumstances where the proposed standards cannot be met in full, most notably in flatted developments where it is not possible to provide lift access. In such circumstances there must be flexibility for decision makers not to require this standard to be met in full. Such situations are recognised in PPG which states in paragraph 56-010 that where step free access in non-lift served multi-storey development the neither of the optional requirements in Part M should be applied. HBF therefore considers it necessary for the policy to state that both parts c) and d) begin with “*Where practical and viable ...*”.
21. With regard to Nationally Described Space Standards HBF does not consider it sound to refer to future equivalent standards. This could lead to a situation where higher standards that require further justification are applied by the Council without having been properly tested through the examination of the local plan. It cannot be assumed that an alternative standard will have no impact on development. The only way for new standard to be applied is through an amendment to the local plan.

### **Policy 15: Low Carbon Development**

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

22. The proposed policy position would require all new development to demonstrate a total energy use intensity standard for all new dwellings of 40kwh/m<sup>2</sup>/year and space heating demand of less than 30 kwh/m<sup>2</sup>/year. In addition, the remaining energy demand is met through on site renewable energy generation. Where there is a remainder the council will expect any energy use to be offset through the carbon offsetting fund. This would be

calculated using an appropriate methodology that is proven to accurately predict a buildings actual energy performance.

23. 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.
24. It is also notable that the standards being proposed by the Council are very similar to the levels of space heating and energy efficiency achieved by FHS - as can be seen from the chart below which was published by Winchester Council as part of the evidence supporting their local plan. This chart also relates to detached and semi-detached housing with the performance of the FHS relating to terrace and flats being significantly better. For example, the in the Future Homes Hub report Ready for Zero sets out in figure 119 that an end of terrace house would achieve a space heating standard of 28 kwh/m2/yar and a mid-floor low rise apartment 16 kwh/m2/year. This evidence would suggest that there is no need to set an additional standards given that new homes delivered through this local plan will achieve high levels of energy efficiency.
25. 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.
26. The judgment made by Justice Lieven was that the claim failed on all three grounds. In coming to these judgments 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.””*

27. It is 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.
28. It is also 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.
29. 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).
30. HBF do not consider the approach set out in Policy 15 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.
31. The approach proposed by the Council 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. The WMS is also clear that any assessments undertaken using SAP. Whilst the Council do not rule out, the use of SAP the phrase in paragraph 4.76 requiring an assessment methodology that is “... *proven to accurately predict a buildings energy performance*” would suggest that an alternative to SAP must be used. This is not consistent with the WMS and should be deleted. SAP, or its proposed successor the Homes Energy Model, are considered by the



Government appropriate for assessing building performance with regard to carbon emissions and alternative approaches cannot be required by the Council.

32. 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).
33. Turning to the viability of the policy the Council have included a 5% uplift to take account of the impact of this policy. Given that it would appear to be similar to what is being proposed in the FHS a 5% uplift would seem to be appropriate and aligns with evidence produced by the Future Homes Hub for their Ready for Zero Report. However, we note that the Viability Assessment indicates that a higher performance standard was also being considered. Figure 8 in Ready for Zero suggest that these higher standard would increase the cost of building a new end of terrace house by between 15% and 19% which could have a significant consequence for the deliverability of new homes, and in particular affordable housing, in Havant.
34. 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*”.
35. If the Councils have the evidence to show that the policy is deliverable, they will also need to ensure that all other policies in the local plan are consistent with delivering the levels of 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.
36. Finally, it is not clear whether the standards in point b and c relate to individual units or the development as a whole. HBF would 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 outlined above 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.

37. With regard to this policies approach to energy efficiency HBF does not consider the approach to be consistent with national policy or justified, and the Council must delete parts b), c) and d) from this policy.
38. With regard to whole life carbon assessments (WLCA), HBF recognises the need to reduce embodied carbon resulting from new development. We support the general principles noted in Policy 15 to design to reduce the embodied carbon from buildings and carrying out a WLCA for large scale development. However, we would note that this requirement needs to be specific to the detailed stage of applications, it is likely the level of information required to prepare an informed WLCA will not be available at the outline application stage.

#### **Policy 17: Sustainable construction method, Materials and Waste**

39. HBF recognise the need for the development industry to increase the use of sustainable materials in its construction however, in part c the council is requiring development to optimise the use of the green walls and roofs, rain water harvesting and grey water recycling – none of which have been factored into the Council’s viability assessment. It may not be possible for development to deliver any of these yet in requiring their optimisation the Council are suggesting that it will be possible to deliver all of these elements. In order to be sound, the Council should therefore amend the policy to state that development should “*Consider the use of sustainable construction materials ... where feasible and viable*”

#### **Policy 19: Biodiversity Net Gain**

40. Part d) ii states that offsite delivery should prioritise contributing to nearby habitat recovery and creation strategies. This is already a priority for the development industry given that the cost of providing offsite BNG increases when offsite delivery is outside of the Borough due to the spatial risk multiplier. However, the council must recognise that it may not be possible to deliver offsite BNG in nearby areas. HBF would therefore suggest that the sentence opens with “*Where possible ...*”. This will provide clarity to the decision maker that whilst this is a priority it is not always possible to deliver offsite BNG in the manner suggested in part d) ii.

#### **Policy 32: Affordable Housing**

41. As set out above the Council will need to update the costs in the stage 2 assessment to take account of the additional cost not already considered. With regard to the policy itself HBF welcomes the decision to reduce the affordable housing requirement for previously developed land and for flatted development in order to support the delivery of these sites. However, HBF notes that no reference is made in policy to reducing the affordable housing requirement should a change in circumstances render a site unviable. While the Council outlines its position in paragraphs 4.333 to 4.337, we would suggest that a statement is made in Policy 32 itself with regard to reducing the affordable housing requirement where comprehensive evidence is provided to show that this will make a development unviable.

42. Given the funding challenges faced by Registered Providers many HBF members are finding it very difficult to find buyers for S106 affordable housing – a situation that has been set out by the HBF in the recent report Bid Farewell<sup>2</sup>. This has a significant impact on the viability of development as the sale of affordable units is likely to come much later, if at all, in the development. The policy needs to be flexible to response to these circumstances, allowing a cascade approach to be taken by decision makers with regard to tenure mix that ensure homes are sold and occupied rather than standing empty.

### **Policy 33: Housing Mix**

43. HBF has no objections to the policy itself which requires developers to provide a mix of homes that reflects local need. However, in the supporting text at paragraph 4.347 the Council state a combination of 3 and 4 person two bedroomed homes as defined by NDSS should be provided. This is a more specific requirement that does not appear to be supported by evidence and seems to counter the aim of the policy to provide a mix of new homes and should be deleted.

### **Policy 36: Self and Custom Build Housing**

44. HBF welcomes part c of the policy outlining when unsold plots will return to the developer. However, we would suggest that for the sake of clarity the final sentence is amended to “*After a total period of 12 months ...*”. This will avoid any confusion that the monthly period of marketing is in addition to the 12 months period not part of it. The policy should also state that the provision of self-build housing does not relate to flatted development where it is self-evidently not possible to provide separate plots for self-builders.

### **Policy 54: Community New Development Officers**

45. This policy requires developments for 40 (gross) or more dwellings to contribute towards a network of Community New Development Officers, to help residents in the development to integrate into the wider community, build community cohesion and promote neighbourhood identity. HBF does not consider this policy to be consistent with the tests for developer contributions set out in the CIL Regulation 2010 and paragraph 58 of the NPPF in particular that such a contribution is necessary to make a development acceptable in planning terms. The need for liaison between the developer and the planning department should be undertaken by the case officer and not through a third party. We would also suggest that there is little need for the council to have a dedicated officer to support new residents and help them integrate. Many will already live in Havant and as such will have no need for such support. Even new residents will have limited need for such a service and certainly no more than any other new person or family moving to Havant. While we understand that planning authorities are often under resourced it is not for the developer to address this through a developer contribution.

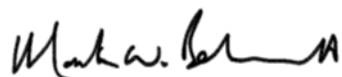
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<sup>2</sup> <https://www.hbf.co.uk/research-insight/bid-farewell/>

## **Future Engagement**

46. 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 housebuilding industry.
47. 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.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Mark Behrendt'.

**Mark Behrendt**

**Regional Planning Manager – SE and E**

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