

Dear Sir/ Madam

THREE RIVERS LOCAL PLAN

1. Thank you for consulting with the Home Builders Federation (HBF) on the Three Rivers Local Plan.
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.

Plan period

3. The Council are proposing a plan period of 2025 to 2041. In order to be consistent with paragraph 22 of the NPPF the plan will need to look ahead for at least 15 years from adoption. In order for this to be achieved the plan will need to be adopted before April 2026. Given that this is impossible the Council will need to extend the plan period. HBF would recommend that it is extended by at least two years to allow for a regulation 19 consultation and the examination in public. HBF note that the Council in there LDS expects to undertake the regulation 19 consultation in February and March and submit in April with the examination and adoption achieved within 7 months. This is overly ambitious. In our experience HBF would expect the period from submission to adoption to be at least 18 months. Whilst it can be done more quickly, most recently West Suffolk took a relatively uncontroversial local plan from submission to adoption in 14 months, this is a rarity and to ensure the plan is consistent with national policy the plan period should be extended to 2043.

Sites

4. HBF does not comment on specific sites. However, we note that if all the proposed allocations were to be included these would deliver 3,805 homes, well short of the additional 11,500 dwellings that are required to ensure housing needs are met in full. As such the Council will need to identify more sites, both in the urban area and Green Belt, to increase housing supply over the plan period. If the Council cannot meet its housing needs in full it will need to work with neighbouring areas to identify land that can be developed elsewhere to ensure Three River's housing needs are met.

Small sites

5. Paragraph 73a of the NPPF requires 10% of housing requirement to be on sites of less than one hectare identified in the local plan or brownfield register. Supply in the LAA indicates that 1,926 homes will be delivered on sites

of less than once hectare, circa 500 fewer than the council is required to plan for. The Council must identify further sites either in the local plan itself or the brownfield register in order to ensure the requirement paragraph 73a is met. In seeking to meet this need the Council cannot rely on windfall sites.

6. It is important to recognise that the allocation of small sites is a priority and stems from the need to support small house builders by ensuring that they benefit from having their sites identified for development either through the local plan or brownfield register. The effect of an allocation is to take some of the risk out of that development and provide greater certainty that those sites come forward. This in turn will allow the SME sector to grow, deliver homes that will increase the diversity of the new homes that are available as well as bring those homes forward earlier in the plan period.
7. The Council should also recognise that allocating small sites and supporting SME house builders not only ensures a stronger supply in the short term but also improves the diversity of choice within local housing markets, support local and regional supply chains and are often pivotal in bringing forward innovation and supporting jobs growth locally, with 1 in 5 of the SME work force being comprised of apprentices. A failure to allocate small sites will contribute to the continued decline in small and medium sized house builders. Recent research by the HBF has found that there are 85% fewer small house builders today than there were 20 years ago and that of a survey of SME house builders 93% said that planning was a major barrier to SME growth. Whilst this decline is due to a range of factors, more allocations of small sites would ease the burden on many SME developers and provide more certainty that their scheme will be permitted, allowing them to secure the necessary finance that is often unavailable to SMEs until permission is granted.
8. However, in order for the plan to be consistent with national policy the Council should not just seek to maximise delivery from the small sites through allocations but to actively promote these through development management policies. Paragraph 73d of the NPPF state that LPAs should support the development windfall sites through their policies and decisions and as such HBF would suggest that a specific policy supporting small sites is included in the local plan.

Additional Policy Options

Biodiversity

9. In part 2 of the policy the Council state that offsite measure will only be considered where it can be demonstrated that after following the mitigation hierarchy all reasonable opportunities to achieve net gain on site have been exhausted. The Council need to be careful in their reference to the mitigation hierarchy as this is not the same as the BNG Hierarchy which does not apply to irreplaceable habitats as these cannot be compensated for by using BNG. Like the mitigation hierarchy the BNG hierarchy requires the developer to seek to avoid the adverse impacts in the first place for habitats that have a medium, high or very high distinctiveness. However, if the development cannot be achieved without adversely impacting on these habitats the BNG hierarchy allows this either on site or offsite. However, what is clear in PPG is that this approach does not apply to irreplaceable

habitats or protected species which are considered under the mitigation hierarchy (as set out in part 7 of this policy). The two are separate assessments and this separation should be maintained in policy to avoid confusion. Some suggested changes are set out below. This change will also require some explanation in the supporting text to ensure sufficient clarity for decision makers.

“On-site biodiversity net gain should be prioritised and undertaken wherever possible. Off-site measures will only be considered where it can be demonstrated that, ~~after~~ following the ~~mitigation~~ biodiversity net gain hierarchy, all reasonable opportunities to achieve measurable net gains on-site have been exhausted or where greater gains can be delivered off-site where the improvements can be demonstrated to be deliverable and are consistent with the Local Nature Recovery Strategy. As a last resort and following the submission of robust and justified evidence that on-site or off-site biodiversity provision will not achieve 10% biodiversity net gain, the Council will consider allowing the developer to purchase statutory biodiversity credits as an alternative approach”.

10. When considering BNG within the viability study they should be specified as a single specific item, not combined into a generic s106 costs item. We would also recommend that the Council investigate the costs faced by development in their area and not rely on generic national data that has been used in the DEFRA Impact assessment from 2019. This is old and out of date and cannot be relied on to support a viability assessment. 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 are still unknown at this time. It is important that BNG does not prevent, delay or reduce the delivery of new homes. The costs relate both the financial costs, time delays, and also land take- which will impact on densities achievable if BNG is provided on site.
11. As this is still a new policy area and the market for off-site provision is still developing, any figure used for BNG costs will also need to be kept under review as BNG implementation progresses and a greater understanding of actual costs become available.
12. HBF would also request that the Local Plan allocation policies fully consider the issue of delivering against the new BNG requirements. This should include undertaking an assessment of the baseline to support the allocation to enable an understanding the BNG requirements for a site to be allocated and the impact this may have on viability and other policy requirements and considerations. It will be important to understand the BNG costs of mandatory BNG as this is non-negotiable and as such may impact on the viability of the site and its ability to deliver against other policy requirements such as affordable housing or other s106 asks.

Net Zero

13. HBF accepts that the Planning and Energy Act 2008 allows local authorities to set higher standards than those set out in building regulations. However, the Written Ministerial Statement on Local Energy Efficiency Standards published on the 13th of December 2023 has established that these 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 and that 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).

14. HBF considers Policy X A part A1.1 which is based on TER to be consistent with national policy. However, the council has not yet published any evidence to consider the cost of this policy, as well as part A1.2, whether this in combination with all the other policies in the local plan will impact on the viability and delivery new homes in Three Rivers. HBF would recommend using the costs set out by the Future Homes Hub in their report Ready for Zero¹ which provides an unbiased assessment that takes on board evidence from across the industry.
15. Part A1.2 of the policy sets out an alternative approach that development may wish to take to reduce carbon emissions based on reducing energy use. HBF does not consider policies that based on total energy use and space heating demand to be consistent, the Written Ministerial Statement. However, this part of the policy is not a requirement but an alternative approach which if used the Council will give positive weight to when consider applications for new development. Setting an alternative approach that the Council considers to be acceptable in meeting the overarching aim of delivering net zero emissions is not unsound. What is unsound is stating that "positive weight" will be given to development proposals that meet this standard. Firstly, no indication is provided in policy as to what extra weight meeting part A1.2 means. Would it allow a developer to reduce its affordable housing contribution in order to achieve this standard or would it be considered a key component considering in a very special circumstances for the amendment of Green Belt boundaries? Without clarification of where and why the application of A1.2 of this will make a difference in decision making it is inconsistent with paragraph 16 of the NPPF as it is ambiguous, lacks clarity and does not provide clear guidance as to how a decision maker should react. Secondly, this lack of clarity as to what positive weight is could lead to decision makers considering development that meets part A1.1 negatively. To avoid these outcomes HBF would suggest that Policy X A is amended as follows:

~~A1.1 – Part L% improvement~~ A1 – Fabric improvements

To improve energy efficiency and reduce carbon emissions the Council will accept either of the following improvements:

1) At least a 63% improvement (reduction) on Part L 2021 TER (Target Emissions Rate) from energy efficiency measures.

2) Heat pumps are to be calculated as an energy efficiency measure, rather than a renewable energy measure.

3) As a measure in aid of this TER target, achieve an improvement (reduction) on Part L 2021 TFEE (Target Fabric Energy Efficiency) as follows:

- *End terrace: at least a 12% improvement*

¹ <https://www.futurehomes.org.uk/>

- *Mid terrace: at least a 16% improvement*
- *Semi-detached: at least a 15% improvement*
- *Detached: at least a 17% improvement*
- *Bungalow: at least a 19% improvement*
- *Flats/ apartments: at least a 24% (weighted average, whole block) improvement*

All of the above should be calculated using SAP10.2 or later version, or the Home Energy Model (HEM, once it has been implemented)

In the event national building regulations exceed the requirements of this policy, the national standards (i.e. the higher standards) would apply.

Or –

4) ~~Positive weight will be given to~~ The Council will also support development proposals which can demonstrate that the following absolute energy metrics are met:

- *Total energy use: 35 kWh/m²/year*
- *Space heating demand: 15 kWh/m²/year*

Performance against ~~these~~ the targets in part 4) of this policy must be evidenced using a methodology that accurately predicts buildings' operational energy use. Suitable methodologies include the Passive House Planning Package (PHPP). Where a building achieves Passivhaus certification, it will be deemed to have complied with these targets.

16. Part 15 of the policy on reducing the performance gap requires an assured performance method to be implemented throughout all phases on construction. Given that the performance measures are set out in other parts of this policy, HBF do not consider this part to be necessary and should be deleted.

Policy X D – Embodied Carbon and Minimising Waste

17. HBF does not support part D2 which sets a standard for embodied carbon emissions as there is still significant uncertainty with regard to the consistency and availability of data. Aecom on behalf of MHCLG² have undertaken a research report on the practical, technical and economic impacts of measuring and reducing embodied carbon in new buildings. They highlight issues with the lack consistency in reporting on carbon assessment outputs, the quality of carbon assessments, large gaps in the availability of both product specific EPDs and generic data, the variation in product carbon results for similar building products, lack of consistency across carbon tools. They also highlight issues with the uptake of lower embodied carbon materials and products due the costs, risks and insurance, the need to upskill the industry and access to carbon tools. Whilst this report makes recommendations as to how all of the challenges they identify can be addressed, they have not been

² <https://www.gov.uk/government/publications/consideration-of-embodied-carbon-in-new-buildings>

addressed yet and are not likely to be addressed in the short term. The HBF is therefore concerned that there are significant challenges with introducing a policy in relation to WLC, for many of the reasons identified in this research and that the policy should not include a specific target with regard to embodied carbon.

Future Engagement

18. 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.
19. 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', with a stylized flourish at the end.

Mark Behrendt

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