

Dear Sir/ Madam

HASTINGS LOCAL PLAN

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

Draft National Planning Policy Framework

3. HBF recognise the draft NPPF will have no weight until it is formally adopted. However, consideration will need to be given as to how the new NPPF, when it is published later this year, impacts on the soundness of policies in the local plan.
4. On the basis of paragraph 4 and 8 in Annex A of the draft NPPF this local plan, which the Council propose to submit under the current plan making process, will be examined under the NPPF24. However, it is also notable that in relation to decision making Annex A also states that from the date the new NPPF is published local plan policies that are "*...any way inconsistent with national decision making policies in this Framework should be given very limited weight, except where they have been examined and adopted against this Framework*". Therefore, should this new iteration of the NPPF be adopted unchanged the Council will need to have regard to national policies for decision making given that any inconsistency would effectively render many of the development management policies proposed in this consultation that are not consistent with the new Framework redundant as soon as the local plan is adopted.
5. It is clear from the draft NPPF, and the decision to establish national policies for decision making, that the Government are seeking to limit the number of development management policies in local plans that seek to gold plate policies and go beyond national standards which place significant burdens on applicants as well as their own officers. The Council have noted that it will need to review development management policies following publication of a new NPPF. HBF agree and it is our contention that any policies which are inconsistent

with the new framework should be deleted in order to avoid unnecessary and length discussions on an application by application basis as to the weight that should be attached to the policies in the adopted local plan.

Duty to Co-operate.

6. The publication of the Housing and Planning Minister's Written Ministerial Statement on Reforming Local Plan Making published on the 27th of November states that the Government has decided not to save the Duty to Co-operate. Therefore, once the relevant regulations have been enacted local planning authorities will no longer be under a legal duty to co-operate.
7. While the legal duty to co-operate will therefore not apply to this local plan this does not remove the requirement in the NPPF that in order to be considered sound a local plan must be "*based on effective joint working on cross-boundary strategic matters that have been dealt with rather than deferred, as evidenced by the statement of common ground*". The only difference arising from the removal of the duty is that a failure to co-operate effectively is a soundness matter and as such the Council will need to be able to show that they have co-operated effectively on strategic matters such as unmet housing needs.

SP1: Directing growth – a Spatial Strategy

8. It is not clear why the Council considers it necessary to set out the housing requirement in both SP1 and then the following policy SP2. HBF considers it unnecessary to repeat the requirement and would recommend that it is deleted from SP1 and retained in SP2. HBF would also suggest that the reference to prioritising brownfield land is unnecessary given that the Council cannot meet its housing needs in full. The proposed wording could suggest to a decision maker that *brownfield* land should be delivered head of greenfield sites which is not a sound or consistent with national policy. Site selection may look to prioritise brownfield land over greenfield sites, but where both are required to meet the needs of an area one should not be prioritised over the other within policy.
9. The text in opening sentence in clause 1 of SP1 should therefore be amended to "~~*The delivery of 3,141—3,373 net new homes will be focused*~~ *Focus the delivery of new homes upon a sustainable pattern of distribution across the Borough, with priority given to the regeneration of brownfield sites*".

SP2: New and Affordable Housing

10. Cause 1 of this policy sets out the housing requirement for Hastings as a range of between 3,141 and 3,737 homes over the plan period. This is unsound as it does not provide sufficient clarity for decision makers, as is required by paragraph 16 of the NPPF, as to which it should be. This is particularly important in relation to calculating five-year land supply. It could be possible for the council to have a five-year land supply against one but not the other and therefore the Council must provide a single figure setting out the minimum number of homes that the Council will seek to deliver.

11. It is also necessary for the Council to set out in the policy that there is shortfall of over 9,400 homes against assessed needs and that the Council will seek to secure the delivery of additional dwellings in neighbouring area to address these unmet needs. It is vital that the scale of the issue is recognised in the plan so that this can inform the actions of the Council both in terms of decision making but also in challenging neighbouring areas to do more to address Hastings's unmet needs given its significant constraints. At present the approach taken to address unmet needs has been to write to Council's in neighbouring areas asking if they had capacity. The inevitable answer to all these letters, was no. HBF does not consider this to be an effective approach to ensuring unmet housing needs are met. The Council needs to be more challenging – interrogating the plans of other areas and their claims that they cannot meet needs in full. They will need to be proactive in seeking to have their needs met elsewhere, setting out the negative consequences of housing needs not being met not just to Hastings and its residents but to neighbouring areas. Tackling the Borough's housing crisis is a top priority¹ however, without other areas addressing the pressing need for new homes arising in Hastings the Council will inevitably fail in its objective. Only through more strategic action to secure development beyond its tightly drawn borders will it be able to address the ongoing issues around, affordability, the delivery of affordable housing and the rising costs of temporary accommodation.
12. Clause 3 of the policy on windfall is unnecessary as it simply repeats clause 2 in SP2. This policy should be deleted.
13. Clause 5 and table 2 set out the proposed affordable housing requirements that development should deliver. Firstly, it is not possible to comment on whether these requirements are justified as the Viability Study was not available as part of the evidence base. In preparing this evidence the Council will need to ensure that all the costs facing development are accounted for and accurate. In particular the Council will need to:
 - Recognise that build costs are increasing rapidly and that BCIS costs will not reflect the situation faced by developers. This must also be reflected in the cost of delivering infrastructure and any payments relating to S106 agreements.
 - Include the cost of paying the Building Safety Levy which in Hastings will add £15.11 per square meter on the cost of developing homes on PDL and £30.21 on greenfield sites.
 - Use up to date costs for delivering BNG. Many studies continue to use costs from the DEFRA Impact Assessment published in 2019. Of particular concern is that this costs off site provision at £11,000 per biodiversity unit. Evidence from providers is that this can range from between £30,000 to £150,000 depending on the type of biodiversity to be offset. Given that Hastings is seeking to maximise delivery of PDL, the need to offset delivery may be more frequent and as such the costs must be accurately reflected. HBF would also recommend that on strategic sites an assessment is made as to the baseline habitats to better understand the costs of delivering 10% net gains in biodiversity.

¹ <https://www.hastings.gov.uk/news/latest/continuing-tackle-housing-crisis/>

- Fully recognise the costs of meeting all the additional costs of policies in this local plan. In particular HBF are concerned that the full cost of meeting the far higher energy efficiency standards set out in SC3. These are highlighted in our comments on SC3.
- Ensure that the additional costs facing developers of older people's housing are included. There are a number of reasons for this including: less efficient net to gross ratios than general purpose housing; the inclusion of extensive communal areas, providing care and other ancillary uses; different net to gross ratios, typically of 70% compared with 85% for low rise general purpose flatted blocks; specialist housing developments for older people tend to have longer sales periods, as purchasers prefer to view the flat they intend to buy which results in very little off-plan buying during construction; and sales and marketing budgets are typically higher as a result of the lengthier sales period. These additional costs are likely to make it impossible to viably deliver such development while also providing affordable housing. Where evidence does show this to be the case then the policy should respond to this and state that such development will be exempt from providing affordable housing. More detailed evidence on the costs is available in "*Community Infrastructure Levy and Sheltered Housing/Extra Care Developments*" published by the Retirement Housing Group².

14. Secondly, table 2 in clause 5 intimates that the Council will be seeking contributions from development of between 0 and 9 homes. As the Council be aware paragraph 65 of the NPPF states that the provision of affordable housing should not be sought for residential developments that are not major developments. It is therefore unsound, regardless of viability considerations, for the Council to set such a requirement and the next iteration of the plan should not include such a requirement. This will also require clause 9 in ID1 to be deleted.

SP5: Meeting the challenge of climate change.

15. HBF recognises the challenge we all face in seeking to reduce carbon emissions. The NPPF specifically notes this in paragraph 161 which outlines that the planning system should help to shape places in ways that contribute towards radical reduction in greenhouse gases. However, what this policy asks are for new development to make no contribution towards climate change. HBF does not consider this to be consistent with the NPPF and should be amended to state that development should be supported where it contributes towards ensuring reductions in the emission of greenhouse gases. For the same reason Clause 1 should also be amended to "*Be designed to ensure that they support reductions in Green House gas emissions*".
16. Clause 4 requires development to meet Passivhaus Premium or an equivalent standard. The 2023 Written Ministerial Statement (WMS) on local energy efficiency standards states that any local standard that is set should be based on Total Emission Rate as set out in building regulations. In seeking introduce an alternative standard, his policy is inconsistent with that WMS. In addition, the policy is requiring development to meet standard that are set outside of the local plan. This standard may change in future, placing additional costs and requirements on a development that has not been tested to ensure the plan remains viable and deliverable as would be required

² <https://retirementhousinggroup.com/resources/>

should a policy in the local plan be amended. As such clause 4 must be deleted. We make furthermore detailed comments on the council's approach to technical standards and energy efficiency in relation to policy SC3.

SP6: Renewable and Low Carbon Technologies

17. HBF do not consider part 1 to be provide sufficient flexibility where such measures cannot be achieved. The policy should be amended to read "*Seek to ensure, where practicable and viable, as much of the annualised energy demands of a new development as possible are met through onsite renewable energy and storage.*".

SP11: Healthy and safe communities.

18. HBF considers it unjustified to require development of 10 or more dwellings to undertake a screening for a Health Impact Assessment (HIA). While there are clearly health issues to be addressed in Hastings, HBF considers that this is for the plan to address through its policies not for development to screen through the application process. Developments that are consistent with the policies in the plan should by dint be supporting the objectives of the plan to encourage a healthy lifestyle. Ergo there is no need for development to undertake an HIA screening, or indeed a full HIA. There may be justification for much larger sites that are not allocated in the local plan to undertake a screening process and potentially an HIA, but otherwise clause 2 should be deleted.

SC2: Housing Mix, Accessibility and Adaptability.

19. Clause 3 a does not need to include the space standards within the policy as these are set out in national policy. They should also be referred to as Nationally Described Space Standards to ensure clarity and consistency.
20. Clause 4 a requires all homes to be built to part M4(2) and 10% of affordable homes to be built to M4(3) for wheelchair accessible homes. The cost of the policy will need to be recognised in the viability study and costings justified. This will need to not only take account of the costs of building to these higher standards but also the reduction in the number of homes that can be delivered on each site to meet this standard. There will also be a conflict with seeking to maximise the delivery of development on sites, as required by SP1, and the ability to meet higher access standards. HBF would suggest that rather than require all homes to be M4(2) the Council reduces tis to 40% in line with HO5 of the draft NPPF. The policy also needs to recognise, as highlighted in paragraph 56-008 of PPG, that there will be times when it is not possible or viable to deliver homes to part M4(2) or M4(3).

SC3: Sustainable design and construction

21. This policy sets out a significant number of technical standards that the Council will require from new development – including a requirement for residential development to be constructed to Passivhaus Classic standard, specific space heating and energy use standards and two embodied carbon targets. HBF does not consider this approach to be consistent with current policy and is wholly at odds with the approach set out in PM13 of the draft NPPF.

22. As set out at the start of our comments, while very little weight can be attached to the current consultation on the NPPF careful attention will need to be given to the outcomes of the consultation and the final document that is adopted. With regard to standards related to carbon emission and energy efficiency standards consideration will need to be given to PM13 which states that other than standards for accessibility, water efficiency and nationally described space standards local plans should not cover matters already addressed in building regulations. In addition, it is also notable that the latest consultation on the NPPF proposes to amend the Planning and Energy Act 2008 in relation to the setting of local energy efficiency standards that go beyond building regulations to make clear that local plans should not set higher energy efficiency standards for residential development. Once adopted the NPPF would also replace the 2023 Written Ministerial Statement (WMS) ‘Planning – Local Energy Efficiency Standards Update’. As such If PM13 remains this policy would be inconsistent with national policy from the point at which the new NPPF is adopted with limited weight being given to these policies with decision making. In such a situation HBF would suggest that policies such as SC3 are deleted.
23. However, until the new NPPF is adopted our comments are based on current policy and legislation established in the Planning and Energy Act 2008 and the 2023. Both these work together and allow local planning authorities to set standards that are higher than building regulations.
24. Turning to the specific elements of this policy. Clause b. requires development to achieve Passivhaus Classic or an equivalent standard. As set out in our comments on SP5 the Council cannot require development to meet a standard established outside of the local plan. As such part b. must be deleted.
25. Part d. requires development to achieve the maximum energy usage in new residential development for space heating of 30kwh/m2/annum and total energy usage of 40kwh/m2/annum. HBF does not consider this approach to be consistent with national policy.
26. The approach to setting standards is established with the WMS which 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 setting out these concerns, the 2023 WMS does go on to state that any standard that goes beyond building regulations should be rejected at examination unless 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).
27. Firstly clause d. is inconsistent with the approach set out in the WMS and as such is unsound. The intention of the WMS and the Planning and Energy Act was to enable local authorities to go beyond building regulations but not to set wholly new standards. This was noted in by Justice Lieven’s decision which referred to statement by

the Minister at the time where the minister confirmed that councils “*can go further and faster than building regulations, but within the national framework*” and that 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 ...*”.

28. It should also be noted that the Government have considered as part of consultation on the Future Homes Standard whether it was appropriate to use a delivered energy metric such as the one being pro-posed in the policy position paper and have concluded that these do not offer any additional benefits to those being taken forward by Government. Therefore, if the Council are to require standards above those set out in building regulations they must be expressed as a percentage of the target emission rate and not as an energy use target in order to avoid fragmentation of the standards with different requirements being set in different areas which it must be recognised was not only an expectation of the WMS but also of the legislation that permits council to adopt higher standards in local plan in the first place. HBF are aware that planning inspectors examining other local plans have considered it to be justified to depart from the national policy, but we do not consider there to be a justification for departing from either the WMS or the Planning and Energy Act (2008) in setting a wholly different standard to that re-quired by Building Regulations which places an unreasonable burden on developers to assess performance against a wholly different performance standard.
29. Secondly, with regard to the costs of this policy to new development HBF note that that Council is yet to publish a viability assessment. Broadly it would appear the Council are looking at standards that broadly align with option 1 of the future homes standard – which includes the use of PV so costs relating to this policy are likely to be similar – around a 4% increase in building costs based on the 2021 Building Regulations - and these must be reflected in the viability study. However, going beyond these standards can increase costs significantly. Work undertaken by the Future Homes Hub considers a range of higher specifications in their report “*Ready for Zero*”. This shows that in order to delivery standards beyond those required by the FHS would be around 15-19% higher than the 2021 Building Regulations, around £17,000 to £22,000 more per unit.
30. However, in addition to considering viability the Council will also need to provide evidence as to the potential impact on the affordability of new homes and the ability of the development industry to meet these standard when the plan is adopted. To start, HBF would not disagree that the proposed standards are technically feasible. However, HBF are concerned as to the impact these requirements will have on the rates at which sites can deliver new homes on all types of sites. Given that the standards proposed are higher than those proposed by Government in the Future Homes Standard and will require higher levels of fabric efficiency, which in turn will require new skills and materials that may not be readily available, HBF are concerned this could slow delivery in the short to medium term as supply chains are developed. When considering the ability of the industry to meet the proposed standard and its potential impact on delivery in the short term, the commitment to delivering 1.5 million new homes by 2030 must be given significant weight.

31. It has been recognised by the FHH that to deliver higher standards will require phased transitional arrangements to enable a steady build-up of skills and ensure quality. The FHH also notes in 'Ready for Zero' that even if a short transition period between current standards and those similar to the Councils are proposing that this would "... create a high risk of quality problems, inflated costs and, potentially, stalled build programmes". However, HBF can find no evidence that the Council has considered whether its proposed standard will impact on the rate at which new homes can be built. The Council will need to speak directly to a range of housebuilders operating in Hastings to understand the impact of its policy on the rate at which homes will be delivered on its allocated sites. Without any consideration of delivery then the Council's decision to go beyond what is required by building regulations is clearly unjustified
32. While HBF understands the desire for LPAs to go further it must be recognised that current policy outlines that even where development can viably implement higher standards this must be within a consistent technical framework and approach to assessing building performance against those technical standards. Indeed, this has long been the case in planning policy with paragraph 159b of the NPPF stating that "*Any local requirements for the sustainability of buildings should reflect the Government's policy for national technical standards*".
33. If the Council has the evidence to show that the policy is deliverable, they will need to ensure that all other policies in the local plan are consistent with delivering the levels of embodied carbon being proposed. The most energy efficient design will inevitably lead to less variety in the built form in order to reduce the surface area of the building. This will need to be reflected in design policies and any design codes that are produced to ensure that development is not refused for seeking to meet energy efficiency standards but, for example, not being designed in the character of the local area.
34. Clause j. requires residential development to achieve upfront embodied carbon targets of less than 500kgCO₂/m² and total operational carbon of less than 800 kgCO₂/m². As with clause d, this policy is inconsistent with PM13 on the draft NPPF and if this remains in the national policy it will need to be deleted.
35. However, even on the basis of current national policy HBF does not consider such policies to be sound. Firstly, it must be noted that there is nothing in NPPF to support policies that require developers to undertake whole life carbon assessments and to achieve specific requirements. These are significant changes to the way homes that must be built and should not be introduced on the basis of what the NPPF doesn't say.
36. Secondly, the information available to accurately assess the embodied carbon of a development over its life time is not available. This means that there can be significant inconsistencies in the outcome of any assessment due to the fact that not all products will have Environmental Product Declaration (EPD). This makes it difficult for consistent assessments to be undertaken across all developments coming forward in the district and for decision makers at a district level using alternative variables leading to development being refused.
37. Thirdly, there may be impacts on the rate at which new homes can be built that have not been taken into account. Supply chains for lower carbon alternatives, such as bricks, are still in their infancy and may not be able to

supply house builders at the scale necessary to meet housing needs. In order to maintain delivery higher carbon alternatives may be required but which would mean failing this policy.

38. Fourthly, the policy will need to be properly costed. There is limited evidence as to how much it will add to build costs to achieve this standard as it will vary significantly depending on the developer, the site and the type of home being built. As such evidence will need to be provided to justify any assumptions made as to the cost of imposing such a strict requirement in relation to embodied carbon.
39. Finally, the need to meet specific standards of embodied carbon are often not compatible with other requirements relating to renewable energy. The requirements to use solar panels for example will lead to significant increases in embodied carbon and make it impossible to achieve the levels of embodied carbon suggested by the Council. Similarly, the use of low embodied carbon materials may be inconsistent with materials required to ensure development is in keeping with the character of an area.
40. HBF recognises the need to reduce the embodied carbon of buildings, and our members are leading the way in identifying ways of reducing embodied carbon in new homes. However, at present it is too early to set standards in planning policy and as such the policy is not effective. There is insufficient information on the embodied carbon of specific products to support consistent decision making on such matters. In addition, there is no evidence provided as to the impact of these standards on the viability and deliverability of new homes in Hastings. This is not to say that developer should not be encouraged to reduce embodied carbon. For example, as part of a planning statement the Council could ask development to show how the materials they use reduce the level of embodied carbon in the construction of new homes.
41. Finally, clause n. is unsound as it is not consistent with national policy which sets a lower optional technical standard for water consumption of 110 litres per person per day. The Council's justification for going below policy is that it is an objective of Southern Water to reduce consumption. This is insufficient justification. The only reason for going below 110 lppd is where development would be prevented from being built without a lower water use standard (for example where it would impact on a protected habitat). This is not the case here and as such the lower standard allowed for in national policy should be used.

SC10: Habitat Protection, Biodiversity and Net Gain

42. Given that biodiversity net gain (BNG) is a statutory requirement and must be delivered it is not really necessary for it to be included in a local plan policy. However, if reference is made, we would recommend that part d and e are deleted and reference made in part c to meeting 10% biodiversity net gain as required by the Environment Act.

SC11: Trees and Woodland

43. HBF does not consider clause 3, which requires a 3 to 1 tree replacement to be justified. Firstly, why should a single tree be replaced by three more. Where replacement is required, it should be on a one to one basis. It is

also the case that the loss of tree may not be due to development but because the tree is diseased and/or dangerous. There should be no requirements to replace such trees where they would be lost for other reasons. This must be recognised within the policy.

SC13: Urban Greening Factor

44. HBF does not consider the requirement in part a for major development to calculate and achieve a specific urban greening factor (UGF) to be effective. It is possible for development to provide the necessary green infrastructure without having to resort to specific standards. The use of such standards simply removes any flexibility of the developer to respond effectively to the site and its context. A more appropriate approach would be for development to be required to deliver on site green infrastructure that is proportionate in scale to the development and takes into account the context of the site.

Future Engagement

45. 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.
46. 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,



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