

Sent by email to: myharlow@harlow.gov.uk

06/07/2018

Dear Sir/ Madam

Response by the House Builders Federation to the Harlow Local Development Plan

Thank you for consulting the Home Builders Federation (HBF) on the Harlow Local Development Plan. The HBF is the principal representative body of the housebuilding industry in England and Wales and our representations reflect the views of discussions with our membership of national and multinational corporations through to regional developers and small local housebuilders. Our members account for over 80% of all new housing built in England and Wales in any one year.

Plan period

Duty to Co-operate

There has clearly been a significant level of co-operation between Epping Forest and those other authorities in the East Herts and West Essex Housing Market Area (HMA). The four authorities forming this HMA have worked together to identify the housing needs for the area and then agreed a distribution between each authority. This distribution places significant emphasis on growth in and around the Harlow area, a similar approach to that identified in the East of England Regional Spatial Strategy.

Whilst we welcome the level of co-operation that has been achieved between the four authorities in the HMA, we remain concerned regarding the approach taken in assessing the level of housing needs for the HMA and the subsequent approach taken to distributing needs across each LPA. In summary we consider that there the Council's within the HMA have underestimated their housing needs by unjustifiably reducing the demographic starting point and taking insufficient account of market signals. We consider that there is a need to allocate further sites across the HMA in order to meet needs. However, in relation to Harlow we recognise the limited ability to increase delivery given the tightly bounded nature of the Council's boundary. A brief appraisal of the Council's assessment of housing needs is set out below.

Assessment of Housing Needs

The Council set out in policy a housing requirement for 9,200 new homes between 2011 and 2033. This requirement is greater than the OAN identified in the SHMA due to the redistribution of housing needs agreed between the four authorities that comprise the

HMA. For Harlow the housing requirement has been determined by the duty to co-operate and the fact that it is considered a more appropriate location for development within the HMA. Whilst such joint working is positive it is important to ensure that the additional capacity which has been identified by the Council is based on a sound evidence base. We are concerned that the additional capacity in Harlow for further development is a result of a SHMA that underestimates OAN for Harlow, and indeed across the HMA. This would mean that whilst Harlow would appear to be meeting its housing needs we do not consider the authority to have additional capacity to meet development needs arising in the rest of the HMA. Our two key concerns regarding the SHMA is the use of a ten-year migration trend and the level of uplift being proposed to address market signals.

10-year migration trend

We would agree with the Council that the 2014 based Sub National Population Projections and Household Projections, published by ONS and DCLG respectively, are the starting point for assessing housing needs. However, the Council considers the five-year migration trend used in the preparation of both these datasets to overestimate the level of migration in future. The Council deems that a 10-year trend better reflects future trends and that the five-year migration trend is an “unprecedented”¹ representation of migration when considered against the context of the last 25 years.

When considering the use of longer term migration trends, it is important to note that the Government considers the Sub National Population Projections and the Household Projections to be robust and based on nationally consistent assumptions. This position is not only established in paragraph 2a-017 of PPG but also in the recent consultation on the Standard Methodology. In this consultation the Government reiterate their stating paragraph 16 that:

“The Office for National Statistics’ projections for numbers of households in each local authority are the most robust estimates of future growth.”

However, we recognise that PPG allows plan makers to test the official projections and to consider alternative assumptions that relate to their specific circumstances. However, PPG states that any local changes must be “*clearly explained and justified*”. Whether or not this position is justified has led to significant debate at recent EIPs in this region as to the advantages and disadvantages of using either a 10-year migration trend or a 5-year migration trend. Whilst there has been some support for the 10-year trend the HBF still considers the official household projections to provide the most appropriate and, importantly, consistent baseline for considering OAN.

Those that favour the 10-year migration trend outline that it provides a smoother long-term trend that remove the peaks and troughs of migration when using shorter trends. However, those that favour the five-year trend outline that projecting migration from a 10-year trend can fail to take into account new and significant changes in migration patterns as well as including past trends that are no longer relevant. In particular we are concerned that the 10-year trend in this scenario will take into account the low levels of housing

¹ Paragraph 2.16 Establishing the OAN (2017)

delivery seen in across the HMA, which will inevitably suppress household growth, and fail to recognise increasing pressure from the capital as a result of poor delivery and high housing costs.

A 10-year migratory trend will also consider a period where migration from London has been lower than it has been in previous years. The GLA expects this trend to change and migration patterns to revert to those seen before the recession in 2008. This position is considered by the GLA to be reflected in their central projection (which also uses a 10-year migratory trend) which shows an increase in households for Harlow of 7,296 for the plan period 2011 to 2033. Whilst lower than the DCLG 2014 based household projections of 7,653 it is also 776 more households than is projected in the Council's baseline growth estimates. There is also good reason to suggest that those trends showing higher levels of migration, particularly in areas surrounding the capital, are to be expected. Given the pressure that is building within London resulting from poor delivery and very high housing costs there is more likelihood of higher migration trends and population growth suggested by both the official projections and those produced by the GLA than is being put forward by the Council's SHMA.

Evidence from the monitoring report for the London Plan shows that London boroughs are failing to meet their housing requirements which in total come to 42,000 dpa. However, the latest monitoring report published by the GLA indicates delivery of conventional housing (self-contained flats and houses) for the 2015/16 period as being 32,919². This level of delivery is also significantly less than the 64,935 homes the Mayor states is the proposed annual housing requirement for the Capital in order to meet its needs. Delivery will have to be boosted significantly to achieve this level of development and whether this is achievable is still open to much debate. For example, Enfield, Waltham Forest and Redbridge, from which Harlow see significant in-migration³, will need to increase delivery from 2,783 dpa to 5,649 dpa. This is a total 28,660 new homes in ten years. Given that these London Boroughs have stated in a collective response to the new London Plan, attached at Appendix A, that they have *"grave doubts as to the realism and achievability of these figures based on past performance"* it would seem that the needs of these three Boroughs, and other across the north eastern area of London, as established in the London Plan will not be met. This will inevitably lead to continued pressure for homes outside of London. In addition the London Plan is seeking to prevent Green Belt releases by London Borough which will hamper the ability of the London Plan to increase delivery significantly and there must be significant doubt as to the ability of London to meet its own needs.

We would therefore suggest that there is sufficient evidence to support the migratory patterns set out in the DCLG official projections and given that these are favoured by Government and considered to be robust they should form the demographic starting point for considering OAN. However, the Council have not looked to justify their position other than to state that it is their favoured approach. At present the Government supports the use of the official projections, which uses a five-year trend, and without further and

² Para 2.21 London Plan Annual Monitoring Report 2015/16 (July 2017).

https://www.london.gov.uk/sites/default/files/amr_13.pdf

³ Census data shows net in-migration from these boroughs of 218 people between 2010 and 2011 compared to a net outmigration of 50 to the other Boroughs in the HMA.

compelling evidence as to why a different trend should be used the official projections should be considered robust.

National Consistency

As there is a difference of opinion as to which projection provides the most robust position it is important to remember that the Government prefers data based on a “nationally consistent” set of assumptions. By stating in paragraph 2a-017 of PPG they consider the official statistics to be robust the Government are clearly supporting the assumptions made within these datasets. These consistently applied assumptions ensure that estimates of household growth are consistent across the Country allowing for more effective cross border planning not just of housing needs but also health services, school places and social services. Therefore, to move away from the official projections requires a robust justification as to why an area is unlikely to see the levels of household growth forecast. PPG sets out examples of these such as growth arising from an urban extension, the relocation of a major employer to the area or an expansion of education facilities.

However, the decision by the Council to use the ten-year trend would appear to be a preference on the basis that it provides a smoother trend. There is limited explanation as to why the effect of recent increases in migration have occurred and why their effect should be reduced through the application of the ten-year trend. We note that there was a spike in migration in 2013/14 but the SHMA does not seek to explain why this specific increase in migration occurred. In particular the SHMA should have considered whether this was an issue relating to every authority or to just one or two of the authorities in the HMA before making the decision to apply a ten-year migratory trend.

Conclusions on the 10-year migratory trend

The impact of using the 10-year migration trend is significant. For Harlow, the baseline household growth for the plan period is reduced from 7,653 to 6,520 and for the HMA as a whole sees household growth reduce 50,707 to 45,507. This not only means that, even with an uplift to take account of market signals, the HMA is essentially meeting the level of household growth expected by the DCLG projections. This cannot be considered to be the boost to housing supply required by paragraph 47 of the NPPF.

Given the impacts from using the 10-year trend we do not consider this decision can be left to a matter of preference. Unless a more reasoned justification for the use of a longer-term migration trend is provided, as required by PPG, we do not consider the current approach to be sound.

Market signals

Since the publication of the PPG, the approach taken to market signals and the degree to which Councils have responded to these signals has varied considerably. The PPG provides no detail as to the how much of an uplift is necessary in relation to the nature of market signals in area. The only statement made in PPG at paragraph 2a-020 is that any increase in planned supply should be:

“... by an amount that on reasonable assumptions and consistent with the principles of sustainable development, could be expected to improve affordability.”

However, this lack of clarity on market signals will be addressed with the introduction of the standard methodology as set out in the draft NPPF and PPG published earlier this year. Whilst this consultation and the methodology cannot be given any weight there we it does signal that the Government do not consider the current approach being taken by many local authorities to have been sufficient. If it had then this change in approach would not have been necessary. Whilst the methodology will not be used to assess this plan it is helpful to understand the changes being made and why.

The standard methodology requires uplift to be applied where affordability ratios show house prices to be more than four times local salaries then an uplift should be applied. The Government clearly considers that where house prices are more than four times salary then this is when house prices start to become unaffordable. The standard methodology proposes a formula that requires an uplift of 2.5% above the demographic base for every 1 point above the baseline affordability ratio. The baseline ratio was set at 4 and would mean that, for example, an area where the median workplace to house prices affordability ratio was 8 would be required to provide an uplift of 25% on its base demographic projections. However, the formula has been capped so that those areas with the worst affordability would not be required to provide more than a 40% uplift over demographic projections of household growth. This would suggest that even where uplifts of 20% have been adopted these were much lower than the Government's expectations. This approach is more in line with the approach suggested by the Local Plan Expert Group rather than the relatively limited response that has been made in many SHMAs since the introduction of PPG.

However, as stated above, we cannot consider the standard methodology when examining plans submitted up to 6 months after the publication of the draft NPPF. But it is important to consider the expectations of Government in relation to the quantum of housing it wants to see delivered each year in future. In his 2017 Autumn Budget Statement the Chancellor announced the Government's target for house building across the country stating:

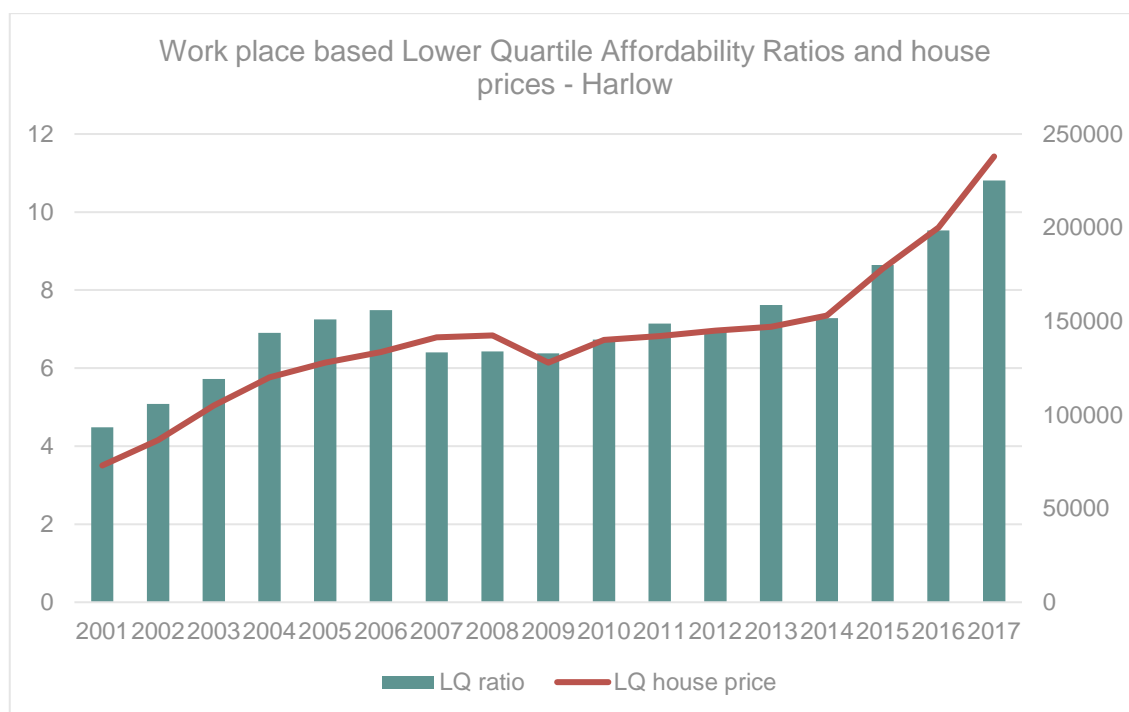
“I'm clear that we need to get to 300,000 units a year if we are going to start to tackle the affordability problem, with the additions coming in areas of high demand.”

If the Government are to achieve its aims of delivering this level of housing, which it considers will improve affordability, it is clear that market signals uplifts need to be much higher than have so far been applied across the Country. In particular those areas with the worst affordability will need to see much higher uplifts if increased delivery is to be expected to improve affordability.

In establishing what level of uplift is required to improve affordability the PPG has set out a range of indicators to be examined and stated that:

“A worsening trend in any of these indicators will require upward adjustment to planned housing numbers...”

The market signals for Harlow shows that there is a worsening trend in a number of indicators. For example the figure 1 below shows that there has been as significant worsening with regard to the lower quartile house price to income ratio since the turn of the century. This ratio has increased from 4.48 in 2001 to 10.81 in 2017. What is most striking is that affordability is now significantly worse in Harlow now than it was prior to the recession in 2008 when the affordability ratios 7.49. House prices have also seen significant increases. Lower quartile house prices have increased from 73,000 to 238,000 since 2001 with over half of this substantial increase taking place between 2013 and 2017. Taken on their own such evidence would suggest the need for a substantial market signals adjustment of at least 20%.



Source: ONS

Despite the worsening affordability seen across the HMA it is surprising that the decision was taken to reduce the Council's response to market signals. The decision for this has clearly not been made on the basis of the evidence. Paragraph 3.24 of Establishing the Full Objectively Assessed Needs (2017) the Council has seemingly decided to limit the uplift to match the 2016 based projections produced by the GLA. In paragraph 3.27 of the 2017 SHMA update it is stated that there is no justification for assuming any higher levels of migration. However, market signals and the lack of housing delivery in London, as outlined earlier, would suggest that there are sufficient drivers for increased migration from London into the HMA alongside the need to improve rates of household formation resulting from population growth within Harlow.

Conclusions on OAN

We do not consider the Council's housing requirement to be based on a sound evidence base. The use of the 10-year migration trend and the market signals uplift of 14% are not justified and do not provide the necessary boost to housing supply across the HMA required by paragraph 47 of the NPPF. We would suggest that a 20% uplift is made to the latest household projections, as adjusted for vacancy and second homes⁴, to give an overall OAN for Harlow of 9,483 at 431 dpa. In relation to Harlow's local plan we would therefore consider that the housing need has been underestimated and that the capacity to support delivery elsewhere in the HMA has been over estimated. It will be necessary for other LPAs in the HMA to increase delivery rates to offset this situation.

HS1 Housing delivery

The policy is not sound as it is not justified or consistent with national policy

Paragraph 7.6 states that the Council must ensure that there is sufficient supply to meet Harlow's objectively assessed housing need of 7,400 dwellings. As we have set out above we do not consider this to be based on a sound evidence base and the Council's housing requirement should reflect this position. However it must be recognised that compared to the other Borough's in the HMA Harlow is constrained by the tight boundary which broadly reflects its urban area. This will inevitably limit its ability to deliver further new development. If the Council is not able to allocate further sites to meet this level of housing need it will be necessary for the other authorities in the HMA, who have sought to rely on Harlow to meet their own needs, to come forward with further development opportunities.

Recommendation

Given that development opportunities within Harlow are more limited due to its tightly drawn boundary we would suggest that the Council work with its partners in the HMA to identify additional allocations across the other three authorities to ensure that housing needs are met in full.

PL3 Sustainable design construction and energy usage

The policy is unsound as it is not consistent with national policy

It is not clear what this policy is trying to achieve. Our reading of the policy is that the Council will support applications that meet existing standards required by building regulations in relation to energy efficiency. However, whether or not a building meets existing building regulations is not a planning matter and as such cannot be considered as part of an application for planning permission. Our concern is that the policy could be used erroneously to refuse planning permissions that the Council determines are insufficiently sustainable. We therefore consider that this policy is not consistent with the principles, established in paragraphs 17 and 154 of the NPPF, that any policy within the

⁴ 7,903 dwellings as set out at paragraph 2.2 of Establishing the Full Objectively Assessed Need.

plan should ensure that decision making is predictable and provide a clear indication as to how the decision maker should react to a development proposal.

Recommendation

The policy PL3 and its associated paragraph 13.13 to 13.19 are deleted.

PL10 Water Quality, Water Management, Flooding and Sustainable Drainage

Part 4(c) of this policy is unsound as it is not consistent with national policy.

Part 4(c) of this policy states that post development run off rates should be the equivalent of greenfield run off rates. On many brownfield sites it may be impossible to achieve this level of run off. Guidance by Defra⁵ on this matter also suggests that brownfield development must achieve close as is practicable to greenfield run off rates. This recognises that in some situations a development will not be able to deliver green field run off rates but that it should seek an improvement over the current site. Given the Government's focus on delivering more development on brownfield sites we would suggest it is essential that greater flexibility is provided in this policy.

Recommendation

That the policy is amended to read:

“(c) Post-development run off rates should be reduced as far as practicable below existing run off rates for that site.”

H5 – Accessible and adaptable housing

This policy is unsound as it has not been justified

In considering whether to implement the optional technical standards on accessibility PPG sets out in paragraph 56-007 that local planning authorities must take into account the likely future needs for such homes, the type of homes needed to meet evidenced need, the accessibility of existing stock, how needs vary and the overall impact on viability. With regard to need it cannot be considered an appropriate interpretation of Government policy that all new homes should be built to their higher optional standard. Had this been the case then the Government would have made these standards mandatory. The Council's limited evidence solely reflects national concerns regarding an ageing population and as such provides no unique circumstances that warrant all new homes to be built to Part M4(2). It must also be remembered that the majority of the existing elderly and disabled population will already live in the Borough and are unlikely to want to move home. As such to require all new homes to be built to such standards would be inappropriate and largely ineffective in addressing the needs of those requiring

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https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/415773/sustainable-drainage-technical-standards.pdf

a more accessible home. Whilst we recognise that there may be a need for some new homes to be built to M4(2) the evidence does not show that there is a need for all the new homes to be built to this standard.

With regard to Part M4(3) the Council indicates within the policy that a proportion of all homes on major development sites should be built to part M4(3) on the basis of the proportion set out in the latest SHMA. This proportion is then set out in paragraph 14.25 of the Local Plan. Firstly, we would disagree that the proportion will be based on the latest SHMA. The impact of this standard on the cost of delivering new homes is significant and cannot be varied on the basis of a new SHMA. The proportion of new homes built to this standard must be set out in policy and if they need to be amended should only be through a review of the local plan and subject to the correct process and scrutiny. Secondly, paragraph 14.25 states that 10% of market housing should be built to M4(3). This is inconsistent with PPG which states at paragraph 56-009:

“Local Plan policies for wheelchair accessible homes should be applied only to those dwellings where the local authority is responsible for allocating or nominating a person to live in that dwelling.”

Recommendation

- The requirement for all homes to be built to part M4(2) be substantially reduced
- The requirement for market homes to be built to part M4(3) be deleted from paragraph 14.24
- Any requirement for affordable homes to be built for part M4(3) be included within the policy and the final sentence of the second paragraph of policy H5 be deleted.

H6 – Housing Mix

The policy is unsound as it is ineffective, unjustified and inconsistent with the NPPF

Whilst we recognise that the Council will require a range of different types and tenures of housing to be provided within the Borough, it is essential that any policy allows for sufficient flexibility on the basis of both the viability of delivering the Council's required mix of housing. At present the Council will require a very specific mix of development on the basis of figure 14.1 in the local plan. Whilst the viability study concludes that the local plan is broadly viable it does recognise that for more mixed developments viability is not as strong. Whilst this largely relates to the impacts of flatted developments it does show that housing mix can impact significantly on the viability of a development. The NPPF is clear that plans should be viable (paragraph 173) and flexible (paragraph 14) and at present we do not consider this policy to be consistent with these two aims. In order to ensure that this policy is sound it needs to be less rigid in the housing mix required and made more flexible and allow for viability concerns to be considered when agreeing the appropriate mix of housing on any site.

Recommendation

The policy be amended to read:

“The Council will seek a range of housing types and sizes, across a range of tenures, on all major residential sites that will reflect the needs of the Borough any site specific concerns regarding viability and feasibility.”

H8 – Affordable housing

The affordable housing policy is unsound on the basis that it is ineffective and not consistent with national policy.

We consider the policy H8 to be unsound as it sets out a minimum level of affordable housing that the Council expects and as such does not provide a clear statement as required by both Paragraph 17 and 154 of the NPPF. In setting out this target as a minimum the Council are creating unnecessary uncertainty for the house building industry. Developers should be able to cost schemes with a high degree of predictability and this policy does not support this position. At present this policy could be considered to be the starting point of a negotiation and that the Council will seek higher contributions.

Recommendation

In order to make this policy sound we would recommend that the words “at least” be removed from the policy.

H9 Self and Custom Build Housing

This policy is unsound as it has not been justified and is inconsistent with national policy

Whilst we support the encouragement of self-build housing through the local plan we do not consider the requirement for sites of over 50 to provide up to 5% service plots for self and custom house building to be justified or consistent with national policy.

Firstly, we could find no analysis as to how many homes are likely to be required based on the self-build register in order to justify the proportions set out in the policy. Based on the allocations to be made in the plan this would deliver around 170 self-build plots however, it is not clear whether this will meet needs or be a significant over provision. Secondly, whilst we recognise that Local Planning Authorities now have a duty to promote self-build housing we do not consider the Council to have looked at sufficient options with regard to how it can provide plots to support self-builders. Paragraph 57-024 of the PPG sets out a variety of approaches that need to be considered – including the use of their own land. This is reiterated in para 57-14 of the PPG which sets out the need for Council's to consider how they can support the delivery of self-build plots through their housing strategy, land disposal and regeneration functions. We cannot find any evidence as to the Council's consideration of other reasonable approaches to delivery as suggested in PPG. Without such consideration it would appear that the Council is seeking to place the burden for delivery of self-build plots on larger sites without looking sufficiently at other delivery mechanisms as set out in national guidance.

We also consider the policy to be inconsistent with the third bullet point of paragraph 57-025 of PPG. This outlines that the Council should engage with landowners and encourage them to consider self-build and custom housebuilding. The approach taken by the Council moves beyond encouragement and requires land owners to bring forward plots.

Recommendation

That the policy be deleted and replaced with a policy that seeks to encourage the provision of self-build plots.

L3: Development involving the provision, relocation or loss of public art

Part 1 of this policy is unsound as it is unjustified and inconsistent with national policy

Planning Practice Guidance sets out the situation with regard to existing legislation on planning obligations. In particular it states that:

“Planning obligations assist in mitigating the impact of unacceptable development to make it acceptable in planning terms. Planning obligations may only constitute a reason for granting planning permission if they meet the tests that they are necessary to make development acceptable in planning terms, directly related to the development and fairly and reasonably related in scale and kind” (Ref: 23b-001-20161116).

The Council have not established within the plan or the supporting evidence base how it considers public art to meet any of these tests. Whilst we recognise that public art can play a role in making interesting and exciting public spaces if the Council is to require all major developments to have public art it must have evidence to show how this policy meets the required tests in relation to all such sites.

Recommendation

Part of this policy should be deleted

IN3 Parking standards

The policy is unsound as it is not consistent with national policy

The Council does not set out in this policy, or elsewhere in the local plan, what is required by an applicant with regard to the actual parking standards. The approach taken by the Council is therefore unsound for two reasons. Firstly it does not comply with legislation that prevents the Council from setting policy in supplementary planning documents, or any other guidance document, which cannot be challenged through an Examination in Public. This principal was most recently tackled in [William Davis Ltd & Ors v Charnwood Borough Council \[2017\] EWHC 3006 \(Admin\)](#) (23 November 2017) where supplementary planning document strayed into an area that should be considered by a development plan document. This decision quashed an SPD that contained policies that clearly

encouraged and imposed development management policies against which a development could be refused. Policy can only be established through the Local Plan.

Recommendation

Parking standards should be included within the local plan and reference to the Essex Vehicle Parking Standards should be removed.

IN4: Broadband development

The policy is unsound because they are unjustified and contrary to national policy.

Following the Government's *Housing Standards Review*, the Written Ministerial Statement of 25 March 2015 announced that local planning authorities preparing Local Plans "*should not set any additional standards or requirements relating to the construction, internal layout or performance of new dwellings*". In terms of the construction, internal layout and performance of new dwellings local planning authorities are only allowed to adopt the three optional technical standards, subject to evidence of need and viability. Council's should not seek higher standards than Building Regulations on any other technical standard – including Part R1 Physical infrastructure for high speed electronic communications networks.

Recommendation

The policy should be deleted.

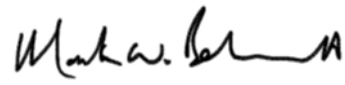
Conclusion

At present we do not consider the plan to be sound, as measured against the tests of soundness set out in paragraph 182 of the NPPF, in the following key areas:

- Due to under estimating the housing needs for each local authority the OAN for the HMA will not be met in full as required by paragraph 47 of the NPPF
- Policy on sustainable design and construction does not set out a clear position for the decision maker and as such inconsistent with national policy
- Policy H8 on accessibility standards has not been justified as required by PPG
- Policy H9 on self and custom build housing has not be justified and is inconsistent with PPG
- The requirement for development to provide of public art as set out in policy L3 is inconsistent with policy and legislation relating to the use of planning obligations
- The parking standards require by IN3 must be set out within the plan rather than a supplementary document
- Requirements on developers to ensure broadband is provided in developments as established in IN4 is unjustified and contrary to national policy.

We hope these representations are of assistance in taking the plan forward to the next stage of plan preparation and examination. I would also like to express my interest in attending any relevant hearing sessions at the Examination in Public. Should you require any further clarification on the issues raised in this representation please contact me.

Yours faithfully

A handwritten signature in black ink, appearing to read 'Mark Behrendt', with a stylized flourish at the end.

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