

## BROXBOURNE LOCAL PLAN EXAMINATION

### Matter 8: Housing Development Management Policies

#### Issue 8.1: Affordable Housing

#### **162. (a) Is the definition of “affordable housing” in policy H1 consistent with current national planning policy? (b) Would inclusion of the definition in the policy be likely to make it ineffective if national policy were to change?**

Rather than define affordable housing within the local plan we would suggest that the Council relies on the definition established in the revised NPPF. The glossary in the latest Framework sets out the Government’s definition of affordable housing and as such it is unnecessary to repeat this within the local plan. If the definition should be amended again then the Council will not need to update their local plan. We would recommend that the definition set out in the local plan is deleted to ensure the plans future consistency with national policy.

#### **163. Is the requirement in policy H1 for 40% of dwellings on all sites of more than 10 units or 1,000 sqm justified having regard to evidence about housing need and economic viability?**

No. As set out in our matter 1 statement the Council have not tested the cumulative impact of all policies in the local plan as part of a comprehensive viability assessment. The only evidence that the Council have produced is the Local Plan Deliverability Report which was published in June 2018, some considerable time after the plan was prepared. This document provides limited evidence to support the consideration that the cumulative impacts of the policies in the plan will not have an impact on viability. In fact, the conclusion of this study states in paragraph 5.3 on page 14:

*“The one Development Management policy that is a challenge is Policy H1 that seeks 40% of units to be affordable with a housing split of 65/35 between social/affordable and intermediate products. Broxbourne Council has operated this policy for many years and has found it to be an essential benchmark for establishing a target that will be applied in the absence of a viability appraisal to demonstrate that it is not affordable.”*

This paragraph suggests that despite the Council recognising that this level of affordable housing will be challenging for the Council it will continue to base its policy at this level due to it having been used previous local plans and is considered to provide a benchmark for viability. However, this approach is one that places the entire burden on the developer and is fundamentally inconsistent with a plan led system. The Council must ensure that

it has assessed the cumulative impact of all the policies in the local plan on development and ensure that this will not make development unviable. This places the emphasis on ensuring the plan does not, for the majority of schemes, make development unviable. The Council must have undertaken the necessary testing of its policies to show that the majority of development will continue to come forward without the need for negotiation on the affordable housing requirement, or indeed any other policy requirements.

As stated in our response to issue 1.6 the evidence supporting the local plan does not provide the necessary justification to support a 40% affordable housing requirement as set out in policy H1. As such the policy cannot be conceded sound.

**164. Is the requirement in policy H1(VI) for any financial contributions towards off-site provision of affordable housing to be “in accordance with” the Council’s “Affordable Housing Strategy”, bearing in mind that the content of that strategy will not be subject to statutory independent examination?**

The soundness of the approach taken by the Council will depend on whether the proposed guidance will be used by the decision maker in assessing whether or not to grant a permission. Recent case law indicates that where a guidance is used as part of the decision making process then it must be set out within the development plan document and not in supplementary guidance. Given that the Council have stated in part iv of H1 that contributions will be “in accordance” with guidance documents suggests that they will form part of the decision making process and an application could be refused on that basis. The level of contributions that would be required should be based on transparent approach that must be independently examined, and that any changes to this approach will also require an independent 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 to ensure these cannot be amended without the required consultation and examination in public.

**Issue 8.2: Housing Mix**

The Council’s response to Preliminary Question 19 [EXAM3A] provides an explanation for policy H3(II) relating to accessible and adaptable homes.

**165. (a) Is policy H3(II), which requires 5% of dwellings on schemes over 20 units to meet Building Regulations M4(2) relating to accessible and adaptable dwellings justified having regard to national guidance. (b) If so, is the policy likely to be effective in meeting identified needs?**

Whilst we recognise that this is a small proportion of overall development it must be remembered that all new homes will be built to part M4(1) of the building regulations and will provide significantly improved accessibility than the majority of those homes within

the Borough. The Government considers part M4(1) to meet the majority of home owners needs as the age and mobility decreases with the optional standards meeting more severe mobility difficulties. As such we consider a 5% requirement to be reasonable and effective, especially if these are focussed within social housing. The key issue we have with this and other policies that add financial burdens on the development industry in this local plan is that they have not been effectively tested. National policy requires the testing of the cumulative impact of policy burdens something the Council has failed to undertake and which undermines the soundness of this local plan.

**Issue 8.5: Potential Main Modifications**

**170. What specific changes are needed to ensure that the housing development management policies are sound?**

The Council needs to undertake an effective assessment as to the impact of the local plan on new development. At present this is limited and whilst we appreciate that evidence must be proportionate we would argue that development viability is one of the key principles of plan making and as such should be effectively evidenced. Without this evidence the plan cannot be amended to make it sound.

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