

Sent by email to: [localplan@tmbc.gov.uk](mailto:localplan@tmbc.gov.uk)

19/11/2018

Dear Sir/ Madam

## **Response by the House Builders Federation to the Tonbridge and Malling Local Plan**

Thank you for consulting the Home Builders Federation (HBF) on the Pre-submission publication local 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.

**We would like to submit the following representations on the Local Plan and we would welcome, in due course, participating in hearings of the Examination in Public.**

### **Duty to co-operate**

**The plan is unsound as the Council has provided no justification to support the legal and policy requirements necessary as part of the duty to co-operate.**

Tonbridge and Malling Borough Council (TMBC) have provided minimal evidence as to what the cross boundary and strategic issues are with regard to this local plan and how they have engaged effectively with the appropriate bodies as required by the Localism Act. The only statements we can find are set out in the latest Authority Monitoring Report and in paragraph 1.3.7 of the Local Plan. Both these brief statements set out that the Council has had meetings to discuss cross border and strategic issues and that the Strategic Housing Market Assessment (SHMA) was jointly prepared with Maidstone and Ashford Borough Council. What is evident with regard to the joint commissioning of the SHMA is that the updates to this evidence with regard to the implications of the 2014-based household projections was commissioned unilaterally by the Council and not with partner authorities. It would appear the joint working has not been the continuous process envisaged by the National Planning Policy Framework (NPPF) and Planning Practice Guidance (PPG) and it is not clear what the outcomes of the Council co-operation has been. The PPG is clear that the duty to co-operate should extend beyond the process of consultation and engagement. In particular paragraph 9-010-20140306 states that when testing compliance with the duty to co-operate they will assess:



*“... the outcomes of co-operation and not just whether local planning authorities have approached others”*

Paragraph 9-011-20140206 provides further detail with regard to the Government's expectations on co-operation stating that:

*“... effective co-operation is likely to require sustained joint working with concrete actions and outcomes. It is unlikely to be met by an exchange of correspondence, conversations or consultation between authorities alone.”*

From what little evidence is provided by the Council it would appear that the Council has approached other authorities but that there were no outcomes arising from this work. Given that there are clear cross boundary issues with regard to housing needs being met within the Sevenoaks, Tonbridge and Tunbridge Wells Housing Market Area (HMA) in particular it is surprising that there is no evidence as to how this issue has been considered in depth by the relevant authorities let alone what outcomes that have resulted from this co-operation.

Outside of those Boroughs we are also concerned that there appears to have been very limited discourse with those authorities in London that make a significant contribution to migration in this area. The development of the high speed rail link to this area has improved the accessibility of this area to the capital and will have inevitably increased the level of migration since its completion in 2009. Given that paragraph 9-007 of PPG states that *“Cooperation between the Mayor, boroughs and local planning authorities bordering London will be vital to ensure that important strategic issues, such as housing delivery and economic growth, are planned effectively”* we consider it essential that evidence is provided as to how the Council has looked to work with authorities in London to ensure housing needs are met.

To conclude, there is insufficient evidence provided by the Council to show that it has co-operated effectively as required by the Localism Act, NPPF and PPG. It seems that the Council's actions with regard to co-operation have been an exchange of information but very little else. If the Council has undertaken such activities, they are required under paragraph 09-11-20140306 of PPG to submit robust evidence of the efforts they have made to co-operate and that this could be in the form of a statement. For this plan to be found sound the Council must submit such a statement setting out its activities in relation to duty to co-operate and how it will, in partnership with its neighbouring authorities, ensure the housing needs of both HMAs within which the Council sites will be addressed.

## **Plan period**

### Plan period is unsound as it is inconsistent with national policy

We have concerns regarding the approach taken by the Council in setting their plan period. At present the plan period runs from 2011 to 2031 which will mean that on

adoption this plan would have less than 11 years left. Such a short time period is contrary to the 15 year time frame for plans recommended in paragraph 157 of the NPPF. This plan period also means that any delays in the delivery of the strategic allocations in the local plan will lead to the Council being unable to meet its long term housing needs. In order to plan effectively for longer term needs the Council must look at adopting a plan of at least 15 years from the point of adoption.

### **LP3: Housing provision**

This policy is unsound as the housing requirement is not justified and consistent with planning policy

The Council's evidence on housing needs is set out in its Strategic Housing Market Assessment published in 2014, which was subsequently updated in 2015 and 2016. The assessments established the Council's OAN of 13,920 dwellings between 2011 and 2031 (696 dpa). We do not consider this assessment of housing need and as such we do not consider the housing requirement set out within this policy to be justified. A more detailed consideration of the Council's objective assessment of housing needs is set out below.

#### Demographic starting point

The most recent update to the SHMA, published in 2016, provides the Council assessment of needs using the 2014-based sub national population projections using established headship rates as set out in figure 5 of the SHMA. This results in household growth of 596 dpa. The figure has then been adjusted to take account of the local vacancy rate which establishes the baseline growth for Tonbridge and Malling as being 619 dpa. No other adjustment has been made to the demographic starting point. However, analysis in the SHMA shows that there was a decline in the household formation rates for the population in their 20s and early 30s. This group were particularly hard-hit by the recession and as such the HRRs are likely to have been significantly depressed. Indeed by 2014 the proportion of 25 to 34 year olds who were home-owners had dropped significantly from a decade earlier. Such a fall in this cohort suggests that delivery of new homes has been below what is needed and that many people are now entering the housing market until much later than previous generations. PPG is clear in paragraph 2a-015-20140306 that where such evidence exists and there is evidence of under supply with the HMA then the household projections may require adjustment. We would suggest that consideration should be given to adjusting the household formation rates to support improved formation in this cohort or alternatively, a more significant adjustment in relation to market signals would also address this concern.

#### 2016 based household projections

When preparing its evidence PPG sets out that Councils should use the latest available information with regard to the household projections. The latest available information with regard to the household growth are the 2016-based projections that were

published in September 2018. As has been widely reported these projections showed a substantial fall for many areas in relation to household growth and led to the Government stating in its revised guidance on housing needs assessment that it would review the standard methodology following further consideration of the 2016-based household projections.

The Government have now provided some clarity on its position regarding the latest household projections in the latest consultation on its revised approach to the standard methodology<sup>1</sup>. This consultation continues to state the Government's aspiration to increase delivery to 300,000 dwellings per annum by the mid-2020s. The document also recognises that this will not be achieved if the Government uses the latest household projections. It is proposed in the consultation that when assessing housing needs:

- the 2014 based projections will provide the demographic baseline;
- that the lower numbers in the 2016 based projections do not qualify as exceptional circumstances to depart from the standard methodology

Whilst we recognise that the principles set out in the consultation document have been made in relation to the standard method, they provide a clear statement from Government that the 2016 based projections should not be used for assessing housing needs. Indeed, bullet point 2 of paragraph 27 of the consultation document recognises that whilst the Government generally recommends the use of the latest data in producing assessments of housing need, in this case there are such significant changes to the method that suggest these should not be used in the short term. The Government state in paragraph 27 of the consultation document that they:

*"...would like to see the new method settling down before making a decision on whether this data provides the best basis for planning."*

Therefore, the only approach we consider to be sound, given the Government's position as set out in the consultation on the standard methodology, is for the continued use of 2014-based household projections.

### Market signals

The need to make a market signals uplift to address problems of housing affordability is one that is supported by the Council. The Council through their SHMA propose to uplift the household projections by 12.5% in response to the market signals present within the Borough. The question therefore is whether the uplift is in conformity with PPG guidance on the scale of uplift required by paragraph 2a-020 which states:

*"In areas where an upward adjustment is required, plan makers should set this adjustment at a level that is reasonable. The more significant the affordability constraints (as reflected in rising prices and rents, and*

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<sup>1</sup> [www.gov.uk/government/consultations/changes-to-planning-policy-and-guidance-including-the-standard-method-for-assessing-local-housing-need](http://www.gov.uk/government/consultations/changes-to-planning-policy-and-guidance-including-the-standard-method-for-assessing-local-housing-need)

*worsening affordability ratio) and the stronger other indicators of high demand (e.g. the differential between land prices), the larger the improvement in affordability needed and, therefore, the larger the additional supply response should be.*

*Market signals are affected by a number of economic factors, and plan makers should not attempt to estimate the precise impact of an increase in housing supply. Rather they should increase planned supply by an amount that, on reasonable assumptions and consistent with principles of sustainable development, could be expected to improve affordability, and monitor the response of the market over the plan period.”*

We would suggest that this response is insufficient given the worsening trend outlined in the SHMA. The evidence on affordability within TMBC shows that affordability within the Borough has worsened considerable in both the short and the long term. Since 2001 the lower quartile affordability ratio has increased from 5.99 to 13.65 with lower quartile house prices increasing from 92,500 to 260,000 over the same period. It is also concerning that affordability is now significantly worse than it was prior to the recession in 2008 when affordability ratios peaked at 11.02 and shows that poor delivery in this period has had a significant impact that needs to be counteracted though a higher market signals uplift.

In arriving at this figure paragraph 10.5 of the SHMA points to the decisions made in Eastleigh in 2015 and Uttlesford in 2014. The inspectors examining these plans indicated that a 10% uplift was sufficient to improve affordability as required by the NPPF. However, it must be noted that since these plans were examined consideration of market signals by local authorities and by inspectors has seen support for significantly higher uplifts.

In the last year the inspector examining the Waverly Local Plan supported an uplift of 25% and most recently the Inspector examining the Vale of Aylesbury Local Plan suggested in his interim report<sup>2</sup> an uplift of “*at least 20% and probably 25%*” was required to improve affordability. Considering this was in a Borough where the work place based lower quartile affordability ratio is much lower at 11.96, suggests that a 12.5% uplift is insufficient. Looking at similar authorities where a 20% uplift has adopted by the Council or suggested by and inspector it would seem that TMBC clearly face similar pressures and as such should look at including a similar degree of uplift if affordability is to improve. Figure 1 below shows how TMBC compares to other authorities where a 20% to 25% uplift in response to market signals has been applied.

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<sup>2</sup>[https://www.aylesburyvaledc.gov.uk/sites/default/files/page\\_downloads/ED166%20Interim%20findings%2029%20August%202018%20.pdf](https://www.aylesburyvaledc.gov.uk/sites/default/files/page_downloads/ED166%20Interim%20findings%2029%20August%202018%20.pdf)

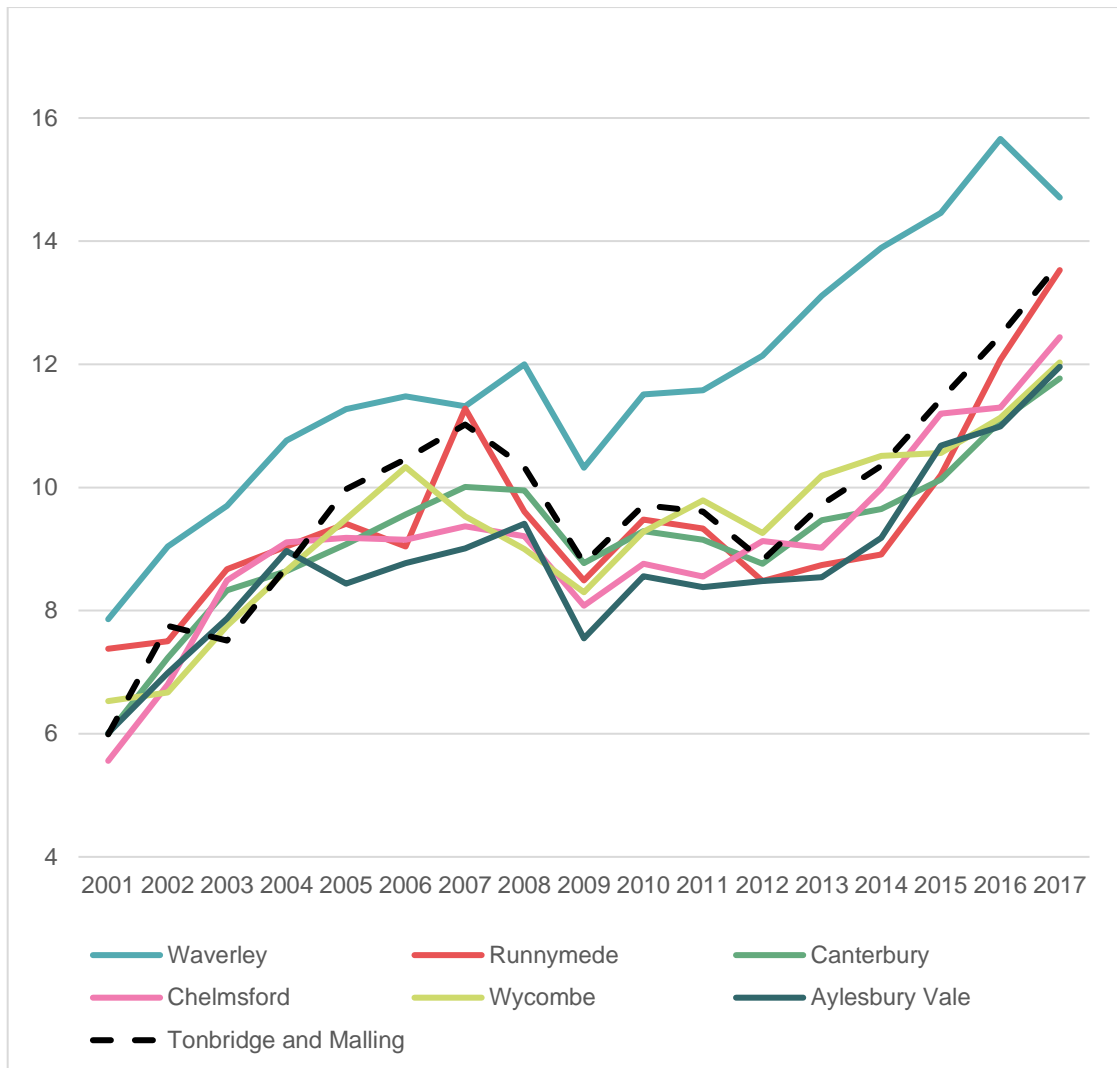


Figure 1: Comparison of affordability ratios between TMBC and local authorities with a market signals uplift of 20% or more.

What can be seen from this table is that TMBC has seen a similar trend to these other authorities, but in addition now has much worse overall levels of affordability with regard to lower quartile house prices with the exception of Waverley. This would suggest that a similar degree of uplift is required for TMBC if it is to have any impact on affordability.

Affordable housing need

Paragraph 2a-029-20140306 of PPG states that:

*“An increase in the total housing figures included in the local plan should be considered where it could help deliver the required number of affordable homes.”*

Whilst we recognise that it may not be possible for every authority to meet affordable housing needs, it is important for Councils to consider this paragraph in PPG and whether the level of affordable housing needs warrants an uplift to OAN. The Council

state in paragraph 10.7 of the 2016 SHMA update that their need for affordable housing is 277 dpa which would require annual delivery to be 693 dpa based on 40% of all homes being delivered are affordable. If this proportion is to be delivered however would need every development to provide this proportion of the units delivered on site as affordable housing. Given that the proposed policy in the local plan is consistent with the Government's threshold for contributions and the viability evidence shows that a 40% requirement is not possible across much of TMBC means that more homes overall would be required to meet identified needs for affordable housing. We would suggest that this need for affordable homes and the Councils potential difficulties in meeting these needs is a further indicator that a higher uplift is required.

### Conclusions and recommendation on OAN and the housing requirement

We do not consider the Council assessment of housing needs and its housing requirement set out in policy LP3 to be sound. Despite a worsening trend with regard the affordability of accommodation within the Borough the Council have made only a 12.5% uplift to take account of market signals. We do not consider this to be sufficient to improve affordability as required by PPG and the proposed housing requirement does not boost housing supply as required by paragraph 47 of the NPPF. In order for this plan to be found sound a more substantial uplift is required. We would recommend that a minimum uplift of 20% is applied to the housing need projection of 619 dpa set out in table 22 of 2016 update to the SHMA. This would lead to a housing need assessment of 743 dpa. We would therefore suggest that the Council housing requirement should be a minimum of 743 dpa between 2011 and 2031, a total of 14,860 homes across the plan period.

### **Housing delivery**

The Council sets out its supply position within the Strategic Housing Land Availability Assessment published in March 2018. On the basis of the Council housing requirement set out in policy LP3 it would appear that they have a healthy land supply following a recent call for sites exercise. On the basis of the trajectory in this plan the Council can show that on adoption it will have a five year housing land supply. However, as set out above we do not consider the proposed housing requirement to be a sound basis against which housing needs should be planned for and further sites.

It is also important to remember that the Council will not just be tested against its five year housing land supply but also against the housing delivery test. To ensure that sufficient homes come forward it will be important that all Councils have a wide range of sites both in terms of location and size to ensure that delivery meets expectations. If development is focussed on one area, or there is an over reliance on large strategic urban extensions and new settlements then there is a greater risk that delivery will not come forward as expected. For example, high levels of delivery in one area could slow the market in area and as such slow delivery. By spreading delivery across the Borough will mean that the Council is supporting a wider range of markets and will allow for higher rates of development and ensures that any delays in the delivery of strategic sites are offset by delivery elsewhere in the Borough.

### **LP34: Employment sites and land**

#### The policy is unsound as it is not effective

Part 3 of policy LP34 states that development of the sites listed in this policy for non-employment uses will only be permitted where there is “... *no reasonable prospect of the site being used of its identified purpose*”. Whilst we support the principle of this we do not consider the policy provides sufficient detail as to the circumstances that would qualify under this policy. In order to make this policy effective we would suggest a reference to the marketing period after which a site will be considered as surplus to the economic requirements of the borough.

#### Recommendation

Part 3 being amended to read:

*“Development of the sites listed in this policy for non-employment uses will only be permitted where the site has been vacant for more than 12 months and has during that period been marketed at a reasonable rate. Any alternative use would need to be of an acceptable design to the locality and does not result in unacceptable impacts on the highway network, air quality and the amenity of the area and where it complies with the other policies in the Local Plan.”*

### **LP39: Affordable housing**

#### The policy is unsound as its is not justified

National policy is clear at paragraph 173 that the cumulative impacts of plan policies on development should not be at such a level as to threaten viability. PPG continues in the same vein outlining in paragraph 10-008-20140306 that:

*“Plan makers should not plan to the margin of viability but should allow for a buffer to respond to changing markets and to avoid the need for frequent plan updating.”*

In addition, paragraph 10-005-20140306 outlines the need for a finer grained consideration in areas of known marginal viability stating:

*“Greater detail may be necessary in areas of known marginal viability or where the evidence suggests that viability might be an issue ...”*

The Council has responded to policy and guidance by setting a policy that uses an area based approach to affordable housing requirements, with sites in the lower value area in the north east of the authority being required to provide 10% fewer affordable homes on site than those in the rest of the Borough. However, whilst the need to



differentiate between the two areas is evidenced in the Viability Study we would suggest that the evidence indicates that some sites may still struggle and that the Council should state that the policy will only be applied where it is viable. Whilst we welcome the inclusion of some flexibility in part 5 with regard to commuted sums it is important to recognise that in order for a site to be deliverable may take a reduction in the requirement or an amendment to the tenure split. Both these options should be recognised within the policy.

### Recommendation

That part 5 of the policy includes a provision to reduce the overall level of affordable housing to be provided and amend the tenure split where it is shown that the policy will make a development unviable.

### **LP43: Internal Space Standards**

The policy is unsound as it has not been justified.

Paragraph 56-020-20150327 of PPG sets what is required of a local authority in order to adopt internal space standards. This paragraph states:

*“Where a need for internal space standards is identified, local planning authorities should provide justification for requiring internal space policies. Local planning authorities should take account of the following areas:*

- *need – evidence should be provided on the size and type of dwellings currently being built in the area, to ensure the impacts of adopting space standards can be properly assessed, for example, to consider any potential impact on meeting demand for starter homes.*
- *viability – the impact of adopting the space standard should be considered as part of a plan’s viability assessment with account taken of the impact of potentially larger dwellings on land supply. Local planning authorities will also need to consider impacts on affordability where a space standard is to be adopted.*
- *timing – there may need to be a reasonable transitional period following adoption of a new policy on space standards to enable developers to factor the cost of space standards into future land acquisitions.”*

Whilst the Council have tested the impact on viability arising from the introduction of space standards no evidence has been provided in relation to the needs for such homes and whether this could impact on the deliverability of starter homes. Small homes for first time buyers form an essential part of delivery that will improve the affordability of homes for younger people who, as the Council’s evidence shows, are forming households far later than previous generations. It is important therefore

important that any potential impacts in relation to needs is considered and without this evidence the Council cannot justify the inclusion of this policy

#### **LP45: Accessibility and Adaptability Standard**

The policy is unsound as it is not justified in line with planning guidance

Paragraph 56-007 requires local authorities to demonstrate the need for these requirements to be applied to new homes. This evidence should include the likely future need for housing for older and disabled people, the accessibility and adaptability of existing stock, the different needs across tenure and the overall impact on viability. It is therefore incumbent on the Council to provide a local assessment evidencing the specific case for Tonbridge and Malling which justifies the inclusion of optional higher standards for accessible / adaptable homes in policy LP45. Whilst the impact of the accessibility standard on viability has been tested, we could find no evidence, as required by PPG, with regard to, for example, the existing housing stock and needs within different tenures.

#### Recommendation

Without the required evidence to support this policy the Council should not adopt this optional standard.

#### **LP46: Self Build and Custom Housebuilding**

The policy unsound as it is inconsistent with national policy and unjustified

Whilst we support the encouragement of self-build custom housebuilding through the local plan we do not consider the requirements in LP46 to be justified or consistent with national policy. Firstly, we could find no information on the level of demand for such homes. The Council refer to this register in the Local Plan and in the Council's most recent Authority Monitoring Report but provide no indication as to how many people have registered an interest. There is clearly concern that there may be an over provision of such sites within the Borough given the Council's decision to reduce the requirement on strategic sites. If the Council is to have a requirement for sites to provide plots for self-builders, this must be based on evidence that there is a realistic chance that such plots will be taken up.

The 2014 SHMA to some degree supports the concerns regarding the actual demand for self-builds plots. paragraph 9.79 of the SHMA outlines that demand for such plots will be limited and that this is a niche sector. Given that the likely demand for such plots will be limited we would suggest that rather than require their provision on sites over 20 units the Council would be best served by seeking alternative approaches to their delivery. In fact, we consider Government guidance on this issue to be more focussed on engaging with land owners to identify appropriate sites rather than requiring plots to be provided on by the housing building industry for self-builders. Paragraph 57-025 of PPG, for example, 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. As such we consider the policy to be inconsistent with current guidance.

In addition, 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 custom housebuilding plots through their housing strategy, land disposal and regeneration functions. We could not find any evidence that the Council have examined these options and have instead looked to place the burden of their duty on to the house building industry.

### Recommendation

We recommend that the policy is amended to outline that the Council will work with land owners and developers to encourage the provision of land and plots to support self-build and custom housebuilding.

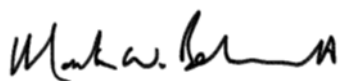
### **Conclusion**

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:

- The Council have not provided the necessary evidence to show that they have fulfilled their duty to co-operate on strategic and cross boundary issues;
- The housing requirement will not provide the boost to housing supply as required by paragraph 47 of the NPPF;
- The affordable housing requirement in low value areas is unjustified and threatens the viability of development in that area;
- The Council has not considered all of the evidence required by PPG to support the introduction of the optional technical standards; and
- The policy requirement for self-build and custom housing building has not been justified and is not consistent with the approach set out in PPG.

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



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