

Sent by email to: [planning.policy@sevenoaks.gov.uk](mailto:planning.policy@sevenoaks.gov.uk)

01/02/2019

Dear Sir/ Madam

### **Response by the House Builders Federation to the Sevenoaks Local Plan**

Thank you for consulting the Home Builders Federation (HBF) on the Proposed Submission 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 duty to co-operate continues to be an important element of plan making following the revision to the National Planning Policy Framework (NPPF) and Planning Practice Guidance (PPG). There is clear expectation that not only the legal aspects of the framework are complied with but that there are effective outcomes from this co-operation that will address the cross boundary and strategic issues faced by that Council and its neighbouring authorities. With regard to meeting the development needs of an area the NPPF establishes at paragraph 26 that:

*“In particular, joint working should help to determine where additional infrastructure is necessary, and whether development needs that cannot be met wholly within a particular plan area could be met elsewhere.”*

In other words, unmet housing needs cannot just be left unaccounted for, LPAs must seek to ensure these are delivered elsewhere for co-operation to be considered effective. Whilst the Council have stated that they cannot meet their housing needs it is not possible to comment on the extent and efficacy of the Councils activities with regard to securing additional supply in a neighbouring authority as there is limited



evidence the duty to co-operate. Paragraph 27 of the NPPF states that in order to demonstrate effective co-operation the Council should:

*“... prepare and maintain one or more statements of common ground, documenting the cross-boundary matters being addressed and progress in cooperating to address these.”*

PPG sets out further guidance in paragraph 61-023 of PPG as to what is expected of Council's with regard to the evidence required these include:

- The Authority Monitoring Report (AMR);
- Statements of Common Ground; and
- A statement of compliance

We could not find any statements of common ground published on the Council's website nor a statement of compliance. The only evidence on the activities undertaken by the Council in relation to the duty to co-operate is in the Authority Monitoring Report 2016/17. This outlines that officers have met with neighbouring authorities to discuss housing need and supply but provides no detail as to any outcomes. If the Council maintains its position with regard housing supply these must show how needs will be met elsewhere.

The Council will also need to consider whether there is unmet need from other borough's through the duty to co-operate. In particular the Council will need to consider the consequences of the neighbouring borough of Tandridge District Council not meeting needs. The cumulative impact will be significant with regard to affordability across this sub region and more work should have been undertaken to find a collective solution to meeting housing needs prior to consulting on this local plan. We also note that this does highlight that conversations have been had with the London Boroughs of Bromley and Bexley Heath. We are interested to see how these discussions address the concerns that these authorities have with regard to meeting the housing targets set in the new London Plan. It will be essential for the Council to agree statements of common ground on such matters and until these are established then the plan cannot be considered to be consistent with national policy.

However, as the Council are still to publish any statement so common ground or compliance it is impossible to say whether the Council has fulfilled its duty to co-operate. We therefore reserve the right to comment on these statements at the examination in public.

## **Plan Period**

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

Whilst the Council has not set out in policy the plan period it would seem from page 32 and 33 of the Local Plan that it covers the period 2015/16 to 2034/35. However, this approach is not consistent with the application of the standard methodology. The standard method effectively creates the starting point in any plan using the current year

as the start of the base period. This is set out in paragraph 2a-004 of PPG states that that the first step in calculating need using the standard methodology:

*“Taking the most recent projections, calculate the projected average annual household growth over a 10 year period (this should be 10 consecutive years, with the current year being the first year).”*

Given that the standard method seeks to wrap up under, or over, delivery from previous years through the affordability adjustment it is not appropriate to include years prior to the assessment of housing need being undertaken. As such we would recommend that the plan period be amended to start from 2018.

### **Policy ST1 – A balanced strategy for growth in a constrained district.**

Policy is unsound as it is not consistent with national policy and unjustified.

#### ***The housing requirement***

One of the fundamental elements of any local plan is the housing requirement. This should be a statement in policy as to the number of new homes the Council is expecting to deliver during the plan period. It is the basis against which the plan will be monitored including any assessment of the five year housing land supply and housing delivery test. However, the Council have not stated in any policy what they consider to be their housing requirement. We have assumed that the Council’s housing requirement is the 10,568 units (528 dwellings per annum(dpa)) outlined in the table on page 33 of the local plan and we have based our comments regarding housing supply on this figure. Moving forward it is essential that the Council includes its minimum housing requirement in policy ST1 to ensure residents, developers and the Government are clear as to the level of delivery the Council are seeking to achieve through this local plan.

#### ***Meeting housing needs***

Paragraph 11 of the NPPF states that strategic policies should “*as a minimum provide for objectively assessed need for housing*” whilst also recognising that there will be circumstances where needs may not be met in full. The Council contend that they have examined all potential sources of supply and concluded that there is no further land that can be developed within Sevenoaks due to the significant environmental and policy constraints within the Borough. It is undeniable that there are constraints within the Borough. Some of these such as functional flood plain and Sites of Special Scientific Interest are constraints that are beyond the remit of the Council to affect.

However, the key constraint that is preventing the Council from meeting its housing needs is the Green Belt. The Council have reviewed this designation and identified a number of sites it is proposing to remove from the Green Belt. Whilst we welcome the fact that the Council has taken the decision to amend Green Belt boundaries, we consider the approach taken to have unnecessarily constrained the number of potential

sites that are suitable for allocation and which would allow SDC to meet housing needs in full.

Paragraph 136 of the NPPF outlines that Green Belt boundaries should only be altered in exceptional circumstances as part of the preparation or updating of a local plan. The Council refer to the case of Calverton Parish Council vs Greater Nottingham Councils and we would agree that this case provides a helpful judgement when considering exceptional circumstances. In addition to the tests outlined in the Calverton case the Council have also outlined the following considerations as being relevant in determining exceptional circumstances:

- The extent to which the land meets the purpose of Green Belt;
- Whether the release of land will result in the delivery of infrastructure to meet an existing evidenced based need; and
- The overall sustainability of the proposal.

These matters, and the degree to which they apply to the consideration of Green Belt release in this local plan, are examined in more detail below.

#### *The extent to which the land meets the purposes of Green Belt*

We would agree that the extent to which land meets the purposes of the Green Belt is a key consideration and clearly overlaps with the need to assess the nature and extent of the harm to Green Belt identified by Justice Jay in the Calverton Case. As part of the consideration of this matter the Council have produced an assessment of Green Belt. However, we are concerned that the Council's evidence is inconsistent with national policy - specifically the assessment of purpose 2 (to prevent neighbouring towns from merging). The inconsistency in the assessment of this purpose is that the Council have included all non-Green Belt settlements in the District when the NPPF states that the purpose relates to towns.

The study defends this position by stating that national policy provides no guidance over what constitutes a town. We would suggest that in referring to towns the Government is making a clear distinction between the different types of settlement that might be found within a planning authority. If it were concerned with the merging of all settlements, then it would have clearly stated this position in policy. As it does not it must be assumed that the approach to assessing this purpose should include only those settlements considered to be a town. To take any other approach cannot be considered to be consistent with national policy.

As such any judgement made by the Council with regard to the extent to which a development may impact on this purpose could be fundamentally flawed. Whilst we cannot comment on the assessment of every parcel one example of where this is flawed is in relation to parcel 51. This parcel is rated as strongly meeting purpose 2 of Green Belt. However, whilst the parcel may maintain separation between Sundridge and Sevenoaks it is evident on page 21 and 22 that the Council does not consider Sundridge to be a town and as such it is inappropriate to consider it as such in any assessment of this purpose. As such the performance of this parcel against purpose 2

should be considered as being a relatively weak. As such any judgement on the basis of this assessment with regard to the extent a parcel meets this purpose, the harm caused by a development and the potential to ameliorate that harm could be flawed. We would recommend that the assessment of purpose 2 is revisited in order to ensure the evidence is robust and consistent with national policy.

*Whether the release of land will result in the delivery of infrastructure to meet an existing evidenced based need*

Whilst we welcome the recognition that development brings significant benefits with regard to the improvement of infrastructure this test would appear to have been included by the Council to exclude potential sites in Green Belt submitted for allocation from being allocated. In effect it would be possible for the Council to exclude a site from allocation that has been identified by officers as deliverable and where the evidence suggests the harm to the purposes of the Green Belt would be minimal solely on the basis that it does not provide any evidenced infrastructure benefits. This cannot be considered a reasonable approach to exceptional circumstances and fails to recognise the importance of ensuring the need for new homes is met.

*Acuteness of need*

Between 2018 and 2035 the Council should be seeking to deliver 11,618 new homes<sup>1</sup>. During this period the Council expect to deliver 9,464 new homes – some 2,154 homes short of the Government's expectations. The slow preparation of this local plan following the publication of the 2012 NPPF has also meant that the Council has failed to deliver the homes required to meet needs. It has consistently delivered fewer homes than have been required to address the demographic baseline a position which has clearly impacted on the affordability in the Borough which has increased sharply over the last ten years. Since 2008 the lower quartile affordability ratio has increased from 10.01 to 16.02, by far the worst affordability in Kent. There is clearly an acute shortage of housing in the Borough and one that must be a key consideration in any decision to amend Green Belt boundaries. We would suggest they are sufficiently exceptional to support the release of sufficient sites in the Green Belt to meet housing needs.

*Extent and nature of harm to the Green Belt*

In considering the extent and nature of the overall harm to the Metropolitan Green Belt should SDC meet housing needs in full we have used options 3 and 4 as set out in the Council's Sustainability Appraisal as the basis for our comments. Option 3 relates to the spatial strategy put forward in the proposed submission local plan and option 4 would see 99% of need being met and as such is similar to a strategy that would meet needs in full. The difference in terms of the loss to Green Belt arising from both these options is minimal. Option 4 would see just 0.15% more Green Belt being lost than that being proposed by the Council. In total option 4 would see a less than 1% reduction in the amount of land being classified as Green Belt in Sevenoaks. This is due to the

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<sup>1</sup> Based on the standard methodology annual needs assessment of 738 dpa

scale of land that is classified as Green Belt within the Borough. With 34,441 ha of land under this designation the extent of loss in meeting needs will be minimal with regard to the fundamental aim of Green Belt of preventing urban sprawl by keeping land permanently open.

It would also appear from the Council's evidence that the nature of any harm arising from the sites that have been considered in relation to option 4 would be minimal. For example, the Green Belt Assessment notes that the sub area RA-24 of parcel 78 "... may score weakly if considered alone" and that it "plays a limited role in preventing the merger of settlements" and is "separated from the wider Countryside by wooded buffers and roads". Yet despite such assessments relating to the sites considered in option 4 the Council made the decision not to allocate these sites and to progress with its current strategy of not meeting needs. Given that such releases would be part of a plan led approach ensuring that development minimises sprawl and strengthens current boundaries would also suggest that the nature of the harm to the purposes of Green Belt would be minimal.

The inconsistent approach by the Council in its consideration of the impact of Green Belt release is best shown by its response to the Sustainability Appraisal's assessment of options 3 and 4. Tables 5.15 and 5.16 on page 41 of the SA considers the negative impact of these options. For option 3, which closely resembles the proposed submission local plan, the Council state it would have a negative impact as a result of:

*"Development of greenfield Green Belt sites that would have an impact on openness and landscape."*

However, their response to option 4, which would meet needs but would see a further 0.15% reduction in Green Belt, is a:

*"Large amount of development on greenfield Green Belt sites that will have a significant impact on openness, landscape and countryside".*

Given, that the Council's evidence would indicate that option 4 would have very little additional impact on the purposes of Green Belt these statements are surprising. We would suggest that the evidence indicates that meeting housing needs in full would not have significantly greater impacts than the Council's spatial strategy as set out in the proposed submission.

#### Consequences on achieving sustainable development

As has been highlighted by the Council the Calverton case also outlines the importance of considering the consequences of any decision on achieving sustainable development. This is also relevant to paragraph 138 of the NPPF which states that:

*"When drawing up or reviewing Green Belt boundaries, the need to promote sustainable patterns of development should be taken into account. Strategic policy-making authorities should consider the*

*consequences for sustainable development of channelling development towards urban areas inside the Green Belt boundary, towards towns and villages inset within the Green Belt or towards locations beyond the outer Green Belt boundary.”*

In considering the overall sustainability of the Council's spatial strategy (option 3) the SA states in paragraph 5.26 that this option provides “... *more of a balance between housing delivery and the securing of community benefits, whilst also enabling the protection and enhancement of the districts sensitive environment.*” We would disagree with this assessment for a number of reasons.

The SA in considering the theme of 'Health and Wellbeing' on 9 makes no specific mention of affordable housing despite its recognised importance of in both these areas. Insecure, expensive and poor quality accommodation is a key factor in reducing both physical and mental health and as such the focus on meeting housing needs and improving the delivery of affordable housing that would result from option 4 should have been recognised under both of these themes. We would suggest that in this respect the potential impact of option 4, is substantially greater than that achieved through option 3 which fails to meet housing needs in full.

Housing is recognised as an important issue with regard to the theme of 'Population and Communities' and recognises that option 4 would perform most strongly with this regard. However, the SA also states that option 3 would provide more opportunity to create additional community facilities and as such scores more highly than option 4 on the theme of population and community. This fails to acknowledge that any development delivered through option 4 would include that identified in option 3, and that the additional development is still required to mitigate against any additional impact on infrastructure. In fact, option 4 would see increased in financial contributions in relation to CIL, S106 and the New Homes Bonus – all of which would support improvements to local infrastructure and services. As such the Council cannot consider option 3 to be superior to option 4 with regard to improvements to this theme given that option 4 would deliver the same community benefits as well as meeting more of the Council's housing needs.

The only themes in which option 4 is less sustainable is with regard to the environmental aspects of sustainable development. However, as we have highlighted above the additional impact is likely to be relatively small given the differential in the amount of land developed in option 3 compared to option 4 is relatively small. The Council's evidence would also suggest the differential impacts will be relatively small. For example, with regard to the impact on the theme landscape and heritage the Landscape Sensitivity Assessment set out in table 10.1 of the Green Belt Assessment shows that only one of the sites has a moderate impact with the other four having either a low-moderate or low impact.

Therefore, the negative consequences on the environmental themes assessed by the Council are relatively minimal when compared to the Council's proposed strategy with option 4 having stronger positive impacts with regard to social and economic themes.

We would therefore suggest that option 4 would promote the more sustainable pattern of development.

### Affordable housing needs

The Council's position on affordable housing need is set out in paragraph 2.21 of the Local Plan they state that there are an additional 422 new households each year who require an affordable home. This is 71% of the Council's annual delivery expectations. Given this situation it is important to note paragraph 2a-027 of PPG which states:

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

This suggests that at the very least the Council should be meeting housing needs recognising the significant shortfall the will arising from this plan and should be a very real consideration of the exceptional circumstances required to amend Green Belt boundaries so meet needs in full.

### Conclusions and recommendations on ST1

The decision by the Council to not meet housing needs in full is not consistent with national policy and is not supported by the evidence submitted by the Council. On the basis of the evidence submitted alongside this local plan the only conclusion that can be reached is that housing needs should be met in full by SDC. The benefits of meeting need are significant, with any harm resulting from meeting needs in full minimal when compared to the spatial strategy proposed by the Council. We would therefore consider there to be sufficient justification to make further adjustments Green Belt boundaries in order to meet housing needs in full.

### **Housing supply and trajectory**

Paragraph 73 of the NPPF makes it very clear that the Council's strategic policies should include a trajectory illustrating the expected rate of housing delivery over the plan period. This has not been included within the Local Plan and this error must be addressed prior to submission. However, our concerns extend beyond the mere inclusion of the trajectory within the plan as the Council do not appear to have included a delivery trajectory as part of the evidence base supporting the local plan which identifies each development and when the homes on each site are expected to be delivered. Without this evidence it is impossible to assess whether the Plan is able to deliver the number of homes required by the plan across the whole plan period. The only evidence we can find with regard to timescale is in appendix 2a which identified sites in the urban area the Council considers to be deliverable. In order for the plan to be found sound it must include a delivery trajectory and once published we reserve the right to comment on this at the examination in public.



We note from the Council's most recent AMR that they have applied a 5% buffer. However, as we are sure the Council are aware, the Council will need to consider the application of the buffer on the basis of the Housing Delivery Test (HDT). In the absence of the official publication of the HDT we estimate that the outcome for SDC is 75%<sup>2</sup>. Therefore, on the basis of paragraph 73 of the NPPF the Council will need to need to apply a 20% buffer when calculating their 5 year housing land supply.

Whilst a full trajectory has not been included in the plan it would seem that the Council expect the delivery of 2,500 homes within the identified broad location (ST2-28) to come forward entirely within the plan period. Whilst we do not object to the identification of this land for future development to assume that the full potential of this land will be delivered by the end of the plan period could be considered optimistic as the Council have stated that it would require a review of this plan to release it from the Green Belt. To have any likelihood of delivery within the plan period this land needs to be removed from the Green Belt as part of this plan. Even then it is by no means certain that it would deliver in full by the end of the plan period.

Finally, the Council do not seem to have considered the fact that some sites may not deliver within the expected time frames. To ensure the delivery of this plan it is essential that a reasonable buffer be included in the supply of land to provide sufficient flexibility to take account of changing circumstances. This is important where there is a reliance on strategic sites to meet housing needs. As identified in Sir Oliver Letwin's independent review of build out<sup>3</sup>, delivery on large housing sites may be held back by numerous constraints including discharge of pre-commencement condition, limited availability of skilled labour and building materials, a lack of capital, constrained logistics of sites, slow delivery of utilities and absorption rates of open market sales. We therefore suggest that a 20% buffer is included within the Council's land supply to ensure that the housing requirement is delivered.

### **Policy H1 – Market and affordable housing mix**

This policy is unsound as it not justified or consistent with national policy

#### *Housing mix*

The HBF understands the need for a mix of house types, sizes and tenures and is generally supportive of providing a range and choice of homes to meet the needs of the local area. It is, however, important that any policy is effective and ensures that housing delivery will not be compromised or stalled due to overly prescriptive requirements or the need to provide significant amounts of additional evidence. Paragraph 11 of the NPPF recognises this need for flexibility stating that plans should be "*sufficiently flexible to adapt to rapid change*". Policies identifying a precise mix do not offer that flexibility and as such cannot be considered sound.

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<sup>2</sup>  $(1,130/1,492)*100 = 75.7\%$

<sup>3</sup> <https://www.gov.uk/government/publications/independent-review-of-build-out-final-report>

It is important to remember that whilst Strategic Housing Market Assessments (SHMA) can provide a broad snapshot in time of what is needed across an LPA or HMA they do not provide a definitive picture as to the demand for different types of homes in specific locations. So, whilst we support Council's in seeking to achieve a broad mix across the plan period this should not be translated directly into policy. It should be left for developers to supply the homes they consider are necessary to meet demand. The development industry understands what types of homes are needed to meet the demands of its customers, if it did not then the homes would not sell.

We would therefore suggest that the policy requires applications for housing development to have regard to the evidence on housing mix but that the final mix is left to agreement between the applicant and developer on a site by site basis. This would establish a flexible approach to housing mix which recognises that needs and demand will vary from area to area and site to site; ensures that the scheme is viable; and provides an appropriate mix for the location.

### *Accessible housing*

Whilst the HBF recognises that some homes may need to be built to the higher accessibility standards to provide choice in the market we do not consider it necessary for all new homes to be built to such standard. PPG is clear that the application of this policy should be based on the need for such homes and whilst the Council has an ageing population this is not uncommon with the country as a whole. At paragraph 2.10 of the Local Plan the Council highlight that there is strong evidence in the Local Housing Needs Study (LHNS) to suggest the need for all homes to be built to M4(2). We would disagree with this statement. The evidence suggests that the demand amongst older people for homes that have or can be adapted. Table 6.10 outlines 6.5% of those over 65 who wish to move home see the lack of adaptable properties as a barrier to moving home. This highlights our concern that many local authorities assume older people will require a more accessible home when many will not. It is more likely that many of those who need to a more accessible home will seek to move to specialist retirement accommodation developed to meet the specific needs of older people.

### Recommendation

We recommend that:

- That the table on housing mix is reworded to require applicants to have regard to the overall housing mix for the Borough as set out in the SHMA.
- That the requirement for all homes to be built to part M4(2) be reduced to 25%

### **Policy H2 – Provision of Affordable housing**

The policy is unsound as it is not in conformity with national policy

### *Contributions from major development*

The publication of the 2018 NPPF and its associate guidance places far greater emphasis on testing the viability of development through the local plan rather than on a site by site basis. This is clearly stated in paragraph 10-002 of PPG and in paragraph 57 of the NPPF indicates that decision makers can assume that a development will be viable with all a local plan's policies being met. This means that policies for affordable housing will need to be less aspirational than in the past and recognise the variability of viability across an area and between development scenarios. With this in mind the decision to vary the affordable housing requirement has, to some extent, taken this new policy position on board. However, we would suggest that the viability study indicates that the requirement for previously developed sites is not consistent with the Council's evidence. This viability assessment suggests in its conclusions that for a number of scenarios a 30% requirement can only really be sustained in the higher value areas. This suggests that SDC should seek to vary its policy further recognising those areas where values may not sustain the level of affordable housing provision set out in this policy.

### *Small sites contributions*

Paragraph 63 of the 2018 NPPF establishes the approach set out in the 2015 Written Ministerial Statement with regard contributions for affordable housing not considered to be major development. The Council have decided to ignore this policy and will require small sites of between 4 and 9 units to make a financial contribution toward affordable housing provision.

When considering the appropriateness of including such a policy is worth reiterating why the Government introduced this particular policy. The Ministerial Statement is clear that the reason for introducing this policy was to "*ease the disproportionate burden of developer contributions on small scale developers*". This is distinct from whether or not such development is viable in general but whether they are a disproportionate burden on a specific sector that faces differential costs that are not reflected in general viability assessments. These costs have led to a reduction in the number of small and medium (SME) sized house builders. Analysis by the HBF<sup>4</sup> shows that over the last 30 years changes to the planning system and other regulatory requirements, coupled with the lack of attractive terms for project finance, have led to a long-term reduction of total SME house builder numbers by about 70% since 1988. The Government is very anxious to reverse this trend and increase the number of small businesses starting up and sustaining this activity. Improving business conditions for SME home builders is the key to long-term supply responsiveness.

It is also important to consider the Government's broader aims for the housing market. This is most clearly set out in the Housing White Paper (HWP). Their aims are not just to support existing SME house builders but to grow this sector again which was hit

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<sup>4</sup>[http://www.hbf.co.uk/?eID=dam\\_frontend\\_push&docID=25453&filename=HBF\\_SME\\_Report\\_2017\\_Web.pdf](http://www.hbf.co.uk/?eID=dam_frontend_push&docID=25453&filename=HBF_SME_Report_2017_Web.pdf)

hard by the recession with the number of registered small builders falling from 44,000 in 2007 to 18,000 in 2015<sup>5</sup>. To grow the sector one key element has been to simplify the planning system in order to reduce the burden to new entrants into this market. Therefore, the focus of the Council should be on freeing up this sector of the house building industry rather than seeking to place financial burdens that the Government have said should not be implemented.

The viability study also recognises that the results for small sites contributions at 20% is mixed with only a reasonable prospect of delivering 20% in higher value areas and on lower value site typologies. As such the Council's policy could impact on the ability of smaller house buildings and new entrants to acquire sites, or form such sites coming forward for development. We would therefore suggest that if the Council wishes to improve the delivery of affordable housing it would be more appropriate to allocate more sites and meet housing needs in full.

In conclusion, the Council's focus on the general viability of affordable housing delivery on small sites is, in part, missing the broad scope of the Government's policy to support the growth of this particular sector and see it thrive once more. As such we do not consider the Council to have justified a departure from national policy with regard to the small site exemption. The policy will continue to be a burden to SME house builders and in particular to new entrants into the market.

### Recommendation

That:

- The affordable housing requirement for development on PDL is varied on a geographic level to reflect the Council's evidence on viability; and
- The financial contribution for residential schemes of between 6 and 9 units be deleted from the policy.

## **Policy EN1 – Design Principles**

### Policy is not consistent with national policy

Whilst we recognise that design review panels can help these should not be a requirement and they should only be used in agreement with the developer, especially as they are the ones expected to pay for this service. It is important to remember that design is subjective and whilst such process can help, they can also hinder the development process.

In addition, we do not consider the policy on design review panels to comply with legislation that prevents the Council from setting policy in supplementary planning documents, which cannot be challenged through an Examination in Public. The Council state at paragraph 7.8 that SPD will determine which sites will be subject to

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<sup>5</sup> Fixing our Broken Housing Market, Department for Communities and Local Government, February 2017

such a policy and could be used to refuse an application for planning permission. 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.

If this policy is retained, we consider that it should establish the threshold in the local plan and not in an SPD. This will allow interested parties to comment on this threshold and for it to be thoroughly examined in public.

## **Policy T1 – Transport and infrastructure**

### *Electrical vehicle charging points*

The third paragraph of this element of T1 will require residential schemes for new apartments and houses with separate parking to include communal charging points. However, the policy does not state what level will be expected. This is a cost to the developer and could be used to refuse an application for planning permission. As highlighted in relation to policy EN1 the Council is required to set out in full such policies. At present a developer would not know what this policy requires of them and as such cannot be considered sound or compliant with the relevant legislation.

## **Conclusion**

At present we do not consider the plan to be sound, as measured against the tests of soundness set out in paragraph 35 of the NPPF, for the following reasons:

- Plan period is not consistent with national policy and the application of the standard methodology;
- The plan does not meet housing need in full and no evidence has been provided as to where those needs will be met;
- The evidence suggests that the acuteness of need and limited impact on the Green Belt from meeting need would support further amendments to the Green Belt boundary in order to meet development needs in full;
- No housing trajectory is published in the plan;
- The housing mix policy is too prescriptive to provide the necessary flexibility required by paragraph 11 of the NPPF;
- The requirement for all homes to be built to part M4(2) has not been justified;
- Small sites contributions for affordable housing from sites of less than 10 units is inconsistent with national policy and is unjustified;
- Use of design review panels is not justified;
- Lack of clarity with regard to the provision of electric vehicle charging points where parking is separate.

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'.

Mark Behrendt MRTPI  
Planning Manager – Local Plans  
Home Builders Federation  
Email: [mark.behrendt@hbf.co.uk](mailto:mark.behrendt@hbf.co.uk)  
Tel: 020 7960 1616