

Sent by email to: policy.design@havant.gov.uk

18/03/2019

Dear Sir/ Madam

Response by the Home Builders Federation to the Havant 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. In any one year, our members account for over 80% of all new “for sale” market housing built in England and Wales as well as a large proportion of newly built affordable housing.

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

To fully meet the legal requirements of the Duty to Co-operate Havant Borough Council should engage on a constructive, active, and on-going basis with its neighbouring authorities to maximise the effectiveness of plan making. The Havant Local Plan should be prepared through joint working on cross boundary issues such as where housing needs cannot be wholly met within the administrative areas of individual authorities. Paragraphs 24 to 27 of the National Planning Policy Framework (NPPF) provide the outline as to the level of co-operation required between neighbouring authorities on such strategic matters. In particular paragraph 27 states that in order to demonstrate effective and on-going joint working strategic policy making authorities 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. These should be produced using the approach set out in national planning guidance and be made publicly available throughout the plan-making process to provide transparency.”



Whilst the Council have commented on its activities with regard to the duty to co-operate in paragraph 1.23 and 1.24 the Council does not appear to have published a duty to co-operate statement or any Statements of Common Ground (SoCG) with its neighbouring authorities. Given that it is a requirement of national policy to prepare, publish and maintain SoCG these should be part of the Council's evidence with regard to the duty to co-operate. It would appear that the Council has agreed a Spatial Position Statement with other authorities in Solent sub region under the auspices of the Partnership for Urban South Hampshire. However, this was adopted in 2016 and there do not appear to be any further updates as to the progress with meeting housing needs, the impact of the updated NPPF on this position statement and whether development needs will be met in full. A SoCG between relevant authorities could explore all these issues and ensure that the Council's activities with regard to the duty to co-operate can be properly scrutinised at examination.

For example, an SoCG with the authorities in the Solent sub area could have considered how the likely shortfall arising from Portsmouth's emerging local plan will be addressed. The latest consultation on the Portsmouth Local Plan indicates that there will be a shortfall of 2,800 homes between 2016 and 2036 and this key strategic matter must be considered by Havant as part of the duty to co-operate. Given that paragraph 60 of the NPPF requires that: *"In addition to the local housing need figure, any needs that cannot be met within neighbouring areas should also be taken into account in establishing the amount of housing to be planned for"* it is essential that the Council sets out the nature and extent of the co-operation on this matter. Unless it can be identified how the unmet needs from Portsmouth will be addressed elsewhere in the Solent sub region there must be doubt as to whether the co-operation required by the Localism Act 2011 has been effective.

Housing needs

The needs set out in the table at paragraph 2.46 is not sound as it is not consistent with the standard methodology

Our first concern is that the Plan does not set out in policy what the Council considers to be its housing requirement. Policy DR1 provides the Council's intention with regard to supply but not the minimum number of homes it will deliver - the requirement. These two figures are fundamentally different, and the requirement must be established in policy in order for delivery to be effectively monitored.

Secondly, the Council consider their local housing needs assessment using the standard methodology results in the need to plan for a minimum of 463 dwellings per annum (a total 9,260 homes over the plan period). This has been calculated, as required, using the 2014-based household projections. However, it has been calculated from a base period of 2016 not 2018 as is required by PPG. Step 1 of the process of set out in paragraph 2a-004 requires the starting point to be the current year from which to calculate the ten-year average household growth. This would require the Council to use the period 2019 to 2029 as the baseline for calculating its local housing needs assessment. This would result in annual household growth of 363 homes. Using

the latest median affordability ratio¹ of 9.2 would require a 33.4% uplift to be applied to this base line resulting in a local housing need assessment of 481 dpa. The Council should therefore amend its housing requirement to ensure consistency with national policy and ensure it has a five-year housing land supply.

The requirement to use the current year to as part of the local housing needs assessment suggests that the plan period should be based from this year. The Council should amend the start date for its plan to 2019/20 and we would recommend that the Council continues to plan over a twenty-year time frame. This will require the Council to identify sites that will deliver 9,620 homes between 2019/20 and 2039/40. At present the Council's housing trajectory indicates that they will deliver 9,005 homes from 2019/20 and additional delivery will need to be identified by the Council to ensure needs are met in full.

Housing needs from other areas

As highlighted in our comments on the duty to co-operate Portsmouth City Council have stated that they are unlikely to be able to meet needs. Given that paragraph 60 states that any housing needs that cannot be met within neighbouring areas should also be considered in establishing the amount of housing to be planned for. The Council must consider taking a proportion of these homes to ensure that needs for this housing market area are met in full. It has been clear for sometime that Portsmouth would struggle to meet needs given its geographical constraints and it is therefore incumbent on its neighbours to ensure any shortfall is addressed.

Affordable housing needs

The Council's most recent assessment of affordable housing needs is set out in the 2016 update to the OAN commissioned by the Partnership for Urban South Hampshire. This provides a number of scenarios with regard to affordable housing needs based on the affordability thresholds with the conclusion that this threshold sits between 30% and 35%. For Havant this would suggest that affordable housing needs is between 292 and 368 dpa. Whilst this study must be reaching the end of its useful life it provides the only evidence using a methodology which assesses both current and future needs. The Council have published a paper entitled Specialist Housing Analysis in January 2019 however its assessment of affordable housing needs only considers current needs on the housing waiting list.

On the basis of the published evidence the Council will not meet its need for affordable housing. Viability is clearly a constraint and as such the Council must consider whether it needs to increase the supply of housing in order to better meet needs, a consideration suggested by paragraph 2a-024 of PPG. Before submission of the Local Plan for examination the HBF encourages the Council to have more ambitious plans

¹ Ratio of house price to workplace-based earnings (lower quartile and median), 1997 to 2017 published 26 April 2018. Next release expected March 2019.

for housing growth in order to support affordable housing delivery. There would be no penalty for a more ambitious housing requirement as the Housing Delivery Test (HDT) is measured against the lowest denominator. The proposed housing requirement is an absolute minimum figure.

Housing supply and trajectory

Policy DR1 indicates that the Council expect to deliver 10,231 homes over the plan period. This is circa 10% above the Council's stated requirement for the plan period. The Council's 11th edition of the Strategic Housing Land Availability Assessment (2019) sets out the Council's delivery trajectory in table 7 and figure 1. We are pleased to note that the Council's requirement has been annualised across the plan period. The HBF supports the use of this approach. It ensures that housing needs are not pushed back to be delivered later in the plan period and reduces the risk to overall delivery should allocations and assumptions on windfall not come forward as expected. However, the Council must publish its trajectory within the local plan as required by paragraph 73 of the NPPF.

The HBF does not comment on the merits or otherwise of individual sites therefore our representations are submitted without prejudice to any comments made by other parties on the deliverability of specific sites included in the overall housing land supply, the five-year housing land supply and housing trajectories. However, we want to stress the importance of having realistic delivery expectations within any allocations to ensure the deliverability of the plan across its lifetime. This is particularly important where there is a reliance on strategic sites to deliver the majority of new homes within the plan period.

Five-year housing land supply

In assessing the Council's five-year housing land supply, we have considered the Council's position from the plan's adoption, which would appear to be most likely in 2020/21, and with a plan period starting in 2019/20. Our assessment, using the policy compliant Sedgfield methodology with a 5% buffer, is set out in the table below and is based on the Council's trajectory in table 7 of the SHLAA (2019) and indicates that the Council would have a five-year land supply on adoption on the basis of the Council delivery expectations.

Basic 5-year requirement 2020/21 to 2024/25	2,405
Backlog 2019/20	261
total 5-year requirement 2019/20 - 2023/24	2,666
Buffer applied (5%)	2,799
Supply 2019/20 to 2023/24	3,046
Surplus/shortfall	247
years supply in first five years	5.44

Windfall

The Council consider there to be compelling evidence that 1,327 homes will come forward from windfall development over the plan period. However, we have some concerns that the evidence is less than compelling. The Council's analysis is set out in the Windfall/Unidentified Development background paper first published in August 2017. This considers windfall on an area by area basis and we do not consider there to be compelling evidence in relation to level of windfall expected to come forward in Havant. In each of the areas the underlying trend is one of relatively low levels of windfall delivery in recent years with some outliers. This does not give any certainty of delivery of consistent windfall supply that can be relied on to meet housing needs. This has been recognised in some areas, such as Leigh Park where there have been substantial one-off developments, but the evidence suggests that windfall at the levels suggested is not a given within Havant. We would suggest that windfall is reduced by either removing any outlying years or including a more substantial percentage reduction across all areas in recognition of the fact that delivery of windfall sites is unreliable.

Small sites

Paragraph 68 of the NPPF requires 10% of an area's housing requirement to be delivered on sites identified in either the development plan or brownfield register that are no larger than 1 hectare. We could not find the necessary evidence showing that the Council will deliver against this important target in the NPPF. The Council must show in the Local Plan and its evidence base that 10% of the homes delivered will be on small sites.

IN3: Transport and parking in new development

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

The Council does not set out in this policy what is required by an applicant with regard to parking provision. The Council have stated that this will be set out in a Parking Standard SPD. The approach taken by the Council is therefore unsound as it does not comply with legislation that prevents the Council from setting policy in supplementary planning documents, which cannot be challenged through an Examination in Public. This principle 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.

Recommendation

Parking requirements currently proposed to be established in the SPD should be set out within an appendix to the Local Plan or part j should be amended to state that provisions should have regard to the SPD.

E12: Low carbon design

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

Developers are required to build homes to the standards as set out in Building Regulations with the Government confirming in the Written Ministerial Statement of 25 March 2015 that Councils should not set additional technical standard relating to the construction, internal layout or performance of new dwellings other than the optional technical standards and interim measures relating to CO₂ emissions. Therefore, to expect the integration of 'Passivhaus' principles into design (part b) or require developments to demonstrate long term impacts using an alternate standard (part g) cannot be considered consistent with national policy.

Recommendation

In the final sentence of the first paragraph of E12 the word "expected" is changed to "encouraged" and part g of the policy is deleted.

E23: Air Quality

Part a of this policy is not sound as it is not effective

It is not clear why this policy is necessary given that measures are already included in the plan that seek to reduce the emissions from new development and to improve air quality. It must be remembered that there are limits as to what the developer can do to change behaviours and whose responsibility it is to offset these behaviours once a development has been completed. We would suggest that the Council have already looked to embed policies across the local plan that seek to improve air quality and that as such there is no clear reason for the inclusion of this policy. We also note that the policy has not been tested in the viability study and as such cannot be considered justified in relation to paragraph 34 of the NPPF and 10-001 of PPG. It is also relevant to note that the Council's viability study outlines that the additional costs in relation to sustainable construction could make some development unviable. This would suggest that some types of development are already being pushed to the margins of viability and that further costs should not be included without being tested.

Recommendation

Part a is deleted

H1: High quality new homes

Part b of the policy is unsound as it has not been adequately justified

Accessible housing

Whilst we recognise that there may be a need to provide some homes to higher accessibility standards there is insufficient evidence presented to support the requirement that 30% to be built to part M4(2) of the building regulations. When considering the approach to be taken to accessible homes the Government recognised that it was not appropriate to apply Category 2 or 3 standards to all new homes as not all people who buy or move in to new homes need or wish to have such provision. Category 2 and 3 standards were therefore made 'optional' with the position being that the case for requiring such standards in future new homes should be made through the adoption of local plan policies that have properly assessed the level of requirement for these standards in the local area, also taking into account other relevant factors including the impact on project viability.

PPG (ID 56-07) identifies the type of evidence required to introduce a policy for accessible and adaptable homes, including the likely future need; the size, location, type and quality of dwellings needed; the accessibility and adaptability of the existing stock; how the needs vary across different housing tenures; and the overall viability. It is incumbent on the Council to provide a local assessment evidencing the specific case for Havant BC which justifies the inclusion of optional higher standards for accessible and adaptable homes.

At present the evidence supporting the Council's policy is limited and based principally on the fact that about a third of the population are likely to be older by 2036. However, just because a person is over 65 does not mean they will require their home to be adapted in future and even less for those who live in a recently constructed house. It must be remembered that all new homes will be built to part M4(1). According to Part M of the Building Regulations meeting M4(1) will ensure reasonable provision for most people, including wheelchair users, to approach and enter the dwelling and to access habitable rooms and sanitary facilities on the entrance storey. As such these standards are likely to be suitable for the significant majority of people as they get older.

The Specialist Housing Analysis background paper also suggest that provision should be equally distributed across types and tenures of housing. However, no consideration appears to have been given in this paper to the type and tenure of dwelling that is likely to need adaptation. We may have expected to see information in relation to the proportion of people that may need an accessible home from the social rented tenure for example, or in relation to the how the need is consistent across the Borough rather than in particular locations, whether there were any sizes or types of homes that were of particular need for example will it be single people, older couples or will it be family homes with facilities for older or disabled members. No evidence is provided in relation to the accessibility and adaptability of the existing stock nor consideration given to the fact that the majority of those who will need adaptations are likely to already live within Havant and will want to stay in their existing property.

At present the HBF does not consider that there is sufficient evidence to support the need for 30% of homes to be built to part M4(2). If the Council wish to include such a policy, it is incumbent on it to provide appropriate justification as to the number of new

homes that are likely to be occupied by someone who will need that home to be adapted.

Space standards

The Specialist Housing Analysis background paper outlines that Council's wishing to adopt space standards should only do so by reference to the Nationally Described Space Standards. Whilst this is correct the Government also requires Council's to include these policies if they address a "clearly evidenced need"². PPG (ID 56-020) identifies the type of evidence required to introduce such a policy. It states that:

"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."*

The Council must have robust justifiable evidence to introduce any of the optional housing standards, based on the criteria set out above. However, we could not find any evidence to support the adoption of space standards in the local plan. Therefore, whilst the Council has considered the impact of these standards on viability they cannot be adopted if there is no evidence to suggest that they are needed.

Recommendation

Without the necessary evidence to support their introduction part a and b should be deleted. If sufficient evidence is provided to support these policies, we would recommend that a transitional period be included with regard to both policies to allow the development industry operating within Havant to prepare for their introduction.

H2: Affordable housing

² Written Ministerial Statement 25 March 2015

The Council's Viability Study concludes that the differentiated provision for both affordable housing rates between lower value urban areas and the rest of the Borough is justified. In the high value areas, it would appear that the evidence would support a 30% requirement on affordable housing. However, in the lower value areas we remain concerned that the delivery of higher density development, as is being promoted by the Council, could struggle to be delivered viably considering the cumulative impacts of the Council's requirements on development. We consider that it is highly likely that viability negotiations will be routinely rather than exceptionally undertaken.

The 2019 NPPF establishes in paragraph 57 that it is the Council's responsibility to robustly viability test the Local Plan in order that the cumulative burden of policy requirements are set so that most development is deliverable without further viability assessment negotiations. Given the potential cumulative impact of all the policies in the local plan the Council need to consider whether a lower level of affordable housing in lower value areas is required to ensure policy compliant developments can be considered to be viable without the need for further negotiation. Alternatively, the Council will need to consider reducing other requirements in the plan.

Contributions from older persons housing

This policy will seemingly require affordable housing to be provided on-site and as such provides insufficient flexibility. Such affordable housing provision has proven to be incompatible with managed sheltered housing developments. This matter has been accepted in many areas and tested at length at appeals. RSL's have also been found to be unwilling to take on any such units. The effect of this Policy would stifle delivery of sheltered housing accommodation. Such an approach conflicts with the positive approach towards housing delivery contained within the NPPF and as such is unsound. We would suggest that accommodation for older people not be required to provide onsite provision for affordable housing and instead be required to provide a commuted sum in lieu of provision.

H4: Housing mix

Policy is unsound as it is not consistent with national policy and is ineffective

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 prescriptive requirements on mix. As such we are concerned that the Council will require all major developments to include 35% as two bedroomed properties on the basis of the PUSH SHMA. It is important to remember that whilst such assessments 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 and the nature of the site being developed. We also consider the threshold for consideration of mix at 10 units to be too low and it is not effective for small sites to deliver a prescribed mix and it could compromise the delivery of smaller sites which is contrary to Government's desire to increase the number of such sites coming forward.

Recommendation

Delete part b of policy H4.


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:

- There are no statements of common ground established with neighbouring authorities. In particular we are concerned that the likely unmet needs arising in Portsmouth have not been considered by the Council;
- Local housing needs assessment has not been undertaken in a manner consistent with national policy;
- Consideration needs to be given to increasing housing supply to better address the need for affordable housing;
- Housing trajectory must be included in the local plan;
- Windfall assessments have been over estimated;
- Parking standard should be included in the local plan;
- Optional technical standards have not been justified;
- Standards for low carbon homes are not consistent with national policy; and
- The housing mix requiring 35% of homes to be built as two bedroomed properties is insufficiently flexible.

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'.

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