

Sent by email to: planning.policy@molevalley.gov.uk

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Dear Sir/ Madam

Response by the Home Builders Federation to the consultation on the draft Future Mole Valley Local Plan

Thank you for consulting the Home Builders Federation (HBF) on the draft 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. Outlined below are our concerns regarding the draft plan.

Policy S1: Presumption in favour of sustainable development

When the presumption in favour of sustainable development was first introduced the Planning Inspectorate (PINS) recommended that a policy reflecting this approach be included in all local plans. This approach is no longer considered necessary by PINS and they have rescinded their original advice on this matter. Given this position and the fact that paragraph 16(f) of the National Planning Policy Framework (NPPF) states that policies in local plans should serve a clear purpose and avoid any unnecessary duplication we would suggest this policy is deleted.

Policy S2: Scale and Location of Development

Housing requirement

This policy proposes to use the minimum level of housing needs resulting from the standard method as the Council's housing requirement. Whilst we would not disagree with the Council's assessment as to the minimum number of homes required, we would disagree that this should be the Council's housing requirement. The NPPF is clear at paragraph 60 that Council will need to take account of any needs that cannot be met within its neighbouring areas. For Mole Valley District Council (MVDC) this will mean taking into account the formally declared unmet needs of Reigate and Banstead, Crawley, and London as well as the potential for unmet needs arising in Elmbridge and Epsom and Ewell. These are considered in turn below.

London



The HBF has real concerns as to the continuing inability of London to meet its own needs for housing. The Capitals shortfall in housing delivery is now expected to be circa 140,000 units between 2018 and 2028 following the Panel's conclusions that the supply of small sites in outer London Borough's had been significantly overestimated leading to the recognition at paragraph 175 of their report¹ that London will fail to meet its housing needs "*by some margin*". Given that the Mayor has accepted this position it is now the responsibility of authorities across the South East to consider what they can do to address this shortfall. We recognise that a collective approach across the south east in meeting these needs would be the most effective way forward but given that no progress has been made collectively on this matter it is necessary for individual councils to take responsibility for a proportion of this shortfall within their local plans.

Reigate and Banstead

An internal review by Reigate and Banstead Borough Council (RBBC) of their Local Plan considered that there was no need increase housing supply and that the unmet needs identified in the adopted plan would not be addressed. The review outlined that there was no need to update the housing requirement in their local plan from 427 dwellings per annum (dpa) - despite housing needs using the standard method being significantly higher at 1,148 dpa - on the basis that those constraints that prevented the Council meeting needs in the plan were still present in national policy. This means that the Council are some 720 dpa short of meeting needs. Even on the basis of a 40% cap on their core strategy housing requirement, a position we would not agree with, there is a shortfall of 217 dpa. As a neighbouring area it will therefore be necessary for MVDC to deliver additional homes to address the identified shortfall in RBBC.

Crawley

Crawley Borough Council (CBC) have recently consulted the plan they propose to submit to the secretary of state for examination. The plan states that they will have a shortfall of 5,355 homes over the plan period. We are aware of agreements with Mid Sussex District Council and Horsham Borough Council to deliver 3,150 homes to address some of these needs but this leaves 2,755 homes to provided elsewhere. MVDC will need to consider appropriate allocations above their LHNA to meet some of Crawley's unmet needs.

Elmbridge and Epsom and Ewell

Both of these authorities are in the process of preparing new local plans to replace their current plan which are both out of date. Without up to date plans we recognise that there are no formally identified unmet needs in either of these areas. But their relatively small geographic size and high levels of housing needs will mean it is likely that they will require help in meeting needs and MVDC must be proactive in seeking to support these much small neighbouring authorities.

¹ <https://www.london.gov.uk/what-we-do/planning/london-plan/new-london-plan/inspectors-report>

Meeting the unmet needs of neighbouring areas

It cannot be disputed that there are unmet needs in neighbouring areas and MVDC do state at page 16 that discussions have explored the potential for meeting housing demand outside of Mole Valley. However, the Council have concluded that the exceptional circumstances required to amend the Green Belt only exist in so far as they relate to Mole Valley housing needs. We disagree with the Council's position.

Paragraph 60 of the NPPF requires Council's to provide for the needs of neighbouring areas where they cannot meet needs. We recognise that this is caveated in paragraph 11 which states that these needs should only be met on the basis that:

- “ • the application of policies in this Framework that protect areas or assets of particular importance provide a strong reason for restricting the overall scale, type, or distribution of development in the plan area; or*
- any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.”*

However, the Council have seemingly not looked to consider whether the application of the policies in the Framework provides a strong reason for not meeting some of the needs of other areas or whether in doing so the adverse impacts would significantly outweigh the benefits. We would have expected this particular matter to have been grappled with through the Sustainability Appraisal and its consideration of any reasonable alternatives. But we could find no assessment of reasonable alternatives to policy S2 that would deliver beyond the local housing needs assessment. This is a substantial flaw in the Council's approach to considering its housing requirement and one that is not consistent with national policy. The Council cannot discount the option of meeting needs from a neighbouring area without ever having considered or tested development options that go beyond minimum needs.

The consideration of higher needs is also more pertinent given the amendments made to the presumption in favour of sustainable development in the 2019 NPPF compared to the 2012 edition. The 2019 NPPF applies a different test to that set out in the 2012 version of the Framework. Part b(i) now states that needs, including those of neighbouring areas, must be met unless the policies in the NPPF provide a “strong reason” for restricting development. This change highlights that the mere presence of such policies in the NPPF is not sufficient to restrict the overall scale of development but that there must be strong reasons that their application should lead to housing needs not being met in relation to both a Council's own needs and unmet needs in neighbouring areas. This is a different test and one that the Council does not appear to have tackled in relation to the unmet needs of neighbouring areas.

The Council must therefore examine the potential for meeting the unmet needs of neighbouring areas through additional amendments to Green belt boundaries or in

areas beyond the Green Belt. In particular the Council must consider, in line with the approach set out in the Calverton case (*Calverton Parish Council v Nottingham City Council & Ors* [2015] EWHC 1078 (Admin)) whether there are exceptional circumstances at both a strategic and site level to prevent it from meeting unmet needs from other areas. Following this the Council must then consider whether on the basis of this evidence there are strong reasons why the application of national policy should prevent it from meeting some of the unmet needs of neighbouring areas.

Brownfield first approach

Part 2 of this policy states that “a ‘brownfield first’ approach will be taken”. It is not clear why this statement has been made in policy. The brownfield first approach to development as advocated in the NPPF is in relation to plan preparation to ensure that where development needs can be met on previously developed land they are. However, where a local authority cannot meet needs on brownfield land this does not mean that development of brownfield sites should be prioritised over the delivery of development on green field sites – such an approach would be unsound. Having said that, it would appear from the supporting text that the Council are actually referring to the fact that a brownfield first approach has been taken to identifying sites, not one that they will take in future decision making or that there will be any form of prioritisation of allocated sites required to meet needs. Therefore, to avoid any confusion and ensure the plan is consistent with the approach advocated in national policy the Council should amend part 2 and 3 of this policy as follows:

2. ~~A ‘brownfield first’ approach will be taken, using~~ Opportunities to develop previously developed land, and land within the built-up areas of Ashted, Bookham, Dorking, Fetcham and Leatherhead will be maximised. These towns and villages offer the most sustainable locations within Mole Valley, in terms of the level of services and facilities available and access to public forms of transport.

3. ~~Further~~ Development opportunities will be encouraged within the built-up areas listed above which accord with other policies in the Plan and meet the following strategic themes:

- a. Town centre redevelopment.*
- b. Redevelopment of specific sites previously in employment use as identified in Chapter 7, Site Allocations.*
- c. Redevelopment of previously developed sites into mixed use.*
- d. Increase in density of development in Development Opportunity Areas, as identified in Policy H4.*

Policy H1: Housing delivery

Appendix 6 of the Local Plan sets out the Councils delivery expectations for new residential development. This trajectory indicates that during the plan period the Council expect 7,827 homes. This is 16% above the Council's proposed minimum requirement in this policy and policy S2. Whilst we do not consider the minimum

requirement to be sound, we do welcome the decision by the Council to include a buffer within its housing supply. Such buffers are vital and provide the necessary flexibility, as required by paragraph 11 of the NPPF, should development not come forward as expected. Without a substantial buffer there is insufficient certainty that housing needs would be met in full. Away from this overarching issue we have three further points to raise on policy H1.

Firstly, whilst the Council have included a trajectory in Appendix 6, as required by paragraph 73 of the NPPF, this provides insufficient detail with regard to delivery over the plan period for effective monitoring and scrutiny of the Council's delivery expectations. We would expect the Council to publish an annualised trajectory setting out when each element of supply identified in policy H1 will come forward. At present no such trajectory is included in the plan or its evidence base. The Council should also consider of the NPPF, whether this trajectory should include the anticipated rates of delivery for strategic sites and other sources of supply (extant planning permissions etc). We would suggest that this is a key element of any trajectory and provides the most open and transparent consideration of supply.

Secondly, the Council have suggested in the Strategic Housing and Employment Land Availability Assessment (SHELAA) that windfall is expected to come forward at 116 dpa. This based on an average over the last ten years. However, the Council has not provided any annualised data. The Council will need to provide more detail as to the level of delivery since the adoption of the local plan and whether windfalls have been stable or declining over this period.

Finally, we could find no indication in the plan or the supporting evidence that the Council have identified sufficient small sites to deliver 10% of the areas housing requirement as mandated by paragraph 68 of the NPPF. A key focus of the Government has been to support SME house builders through the identification of smaller sites in local plans and the Council must ensure that it achieves this objective.

Policy H2: Affordable housing on development sites

As the Council will be aware paragraph 57 of the NPPF now places far greater weight on testing the viability of development during the preparation of the local plan with far less scope for negotiation on an application by application basis. It is therefore essential that the approach to viability is sound and reflects the approach set out in PPG. In addition, it is also important that the policies in the plan itself take account of the evidence. In some circumstances this may require policies to reflect the varied viability relating to site typologies or value areas in order to meet the broad test in paragraph 57 that planning applications that comply with the policies in an up to date local plan can be assumed to be viable. From the results of the Council's viability evidence we do not consider the local plan and in particular policy H2 to be able to meet this test.

The Viability Assessment outlines at table 12.4a and paragraph 12.60 that whilst residual values exceed benchmark land values (BLV) on green field sites margins are

small and that for brownfield sites residual values are often lower than BLVs and in some cases lower than existing use values (EUV). The evidence indicates that some development is not able to meet all the policy costs set out in the plan and we would suggest that total affordable housing requirement is reduced or a more variable policy is applied to ensure compliance with paragraph 57 of the NPPF.

The marginal viability set out in the viability assessment is also a concern given that abnormal costs are expected to come off land values. The viability assessment outlines at paragraph 7.15 the range of costs that might come forward from demolition to flood mitigation and that such costs are likely to be higher on brownfield sites. Whilst a 5% allowance has been made to the BCIS costs of brownfield sites the expectation in national policy is that further costs over and above this contingency will come off the land value. However, given that development is considered to be marginal, even on some green field sites, there must be a concern that any abnormal costs could see sites not coming forward for development or be required to negotiate a reduction in planning obligations. For brownfield sites in particular it would appear that abnormal costs would take residual values below EUV and would mean such site typologies not coming forward for development. Given that the Council are seeking to maximise development on previously developed sites in the urban area it will be important to set policy requirements at a level that will support these sites not prevent them from coming forward.

In addition, we are concerned with the approach to developer profit which expects development to come forward at profit levels below the minimum level set out in paragraph 10-018 of PPG. This is because the viability assessment uses a profit on market housing of 17.5% and 6% on affordable housing. This would result in a profit on GDV of less than 15%. The HBF recommends the use of a 20% margin on market housing to ensure that there is sufficient incentive to develop sites - especially on more marginal brownfield sites.

Finally, we would suggest that some consideration is given within the viability assessment as to the impact of the recently published Environment Bill and its commitment to delivering net gains in biodiversity through local plans. Whilst this is not yet legislation it could add significant costs to the delivery of development and could require the amendments to the requirements set out in H2, or indeed other policies in the plan.

Policy H3: 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. However, 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 recognise the Council's objective to achieve a broad mix of housing types 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. As such we would suggest one minor amendment to this policy to improve its flexibility by removing the term “... *and reflect*” from part 1 of the policy. This will ensure that the SHMA is considered but that changes in the market and the location of sites are also factored into the type of homes being provided.

Policy H5: Technical Standards

Accessible and adaptable dwellings.

The Council will need to make the distinction between a dwelling that can be used by a wheelchair user (wheelchair accessible) and one that can be readily adapted (wheelchair adaptable) as paragraph 56-009 states that local plan policies for wheelchair accessible homes can only be applied to those dwellings where the local authority is responsible for allocating or nominating the person to living that property.

Minimum space standards

The Council's evidence suggests that the only type of dwelling that has come forward below the Nationally Described Space Standards are those in changes of use and conversions, with the majority of new build sites being built above NDSS. The optional space standards should be considered as a “*need to have*” rather than a “*nice to have*” policy. We are concerned that strict adherence to space standards could limit well designed and more affordable smaller homes that better meets the needs and budgets of some households – an important factor in less affordable areas such as Mole Valley. A more flexible approach to space standards also allows for more awkward sites and conversions to come forward and deliver windfall developments that have been a key part of Mole Valleys housing supply in recent years. Given that the Council's evidence indicates that this is not a significant issue within Mole Valley we do not consider it necessary for the NDSS to be adopted.

Policy H6: Housing for Older People and People with disabilities

We note and welcome the Council's commitment to expanding the provision of housing to meet the specific needs of older people. However, the plan does not state in policy how many specialist homes for older people the Council will deliver. On the basis that Paragraph 63-006 states that the Council should: “... *set clear policies to address the housing needs of groups with particular needs such as older people...*” we consider it to be essential that the Council states within policy the amount of such specialist accommodation the Council will seek to provide in order to provide an effective approach to meeting the needs of older people. Without the clarity of a stated requirement for such homes it will not be clear to decision makers of the need for such schemes and whether there is an under provision this of specialist accommodation for older people. Given that paragraph 63-016 also states that where there is an identified unmet need for specialist houses that “*local authorities should take a positive approach*

to schemes that address this need’ we would suggest that a stated requirement for such accommodation is a key part of any decision making process.

Policy INF1: Promoting Sustainable Transport and Parking

Part 5 of this policy requires proposals to include parking in accordance with local parking standards. However, we note that these standards have not been included within the local plan. Policies that can be used to determine the outcome of a planning application can only be set out in the local plan – a principle that was considered in [William Davis Ltd & Ors v Charnwood Borough Council \[2017\] EWHC 3006 \(Admin\)](#) in which an SPD was quashed on the basis that it could lead to a refusal to grant planning permission. Given that these standards could be used to refuse an application for planning permission it is essential that they are set out within the local plan or that part 4 is amended to state that development should have regard to published standards. As such any changes to these standards would need to be adopted through a review of the local plan and the appropriate consultation and public scrutiny.

We also note that the Council will require the provision of electric vehicle charging points as part of this policy. The HBF is supportive of encouragement for the use of electric and hybrid vehicles via a national standardised approach implemented through the Building Regulations to ensure a consistent approach to future proofing the housing stock. In 2018 the Government published its Road to Zero Strategy which set out a mission for all new cars / vans to be effectively zero emission by 2040. Recently the Department for Transport held (ended on 7th October 2019) a consultation on Electric Vehicle Charging in Residential & Non-residential Buildings.

This consultation proposes regulatory changes (a new Part to Building Regulations) to result in more EVCPs for electric vehicles across the UK. The overnight charging of cars at home is generally cheaper and more convenient for consumers. It is the Government’s intention for all new homes to be electric vehicle ready and require every new home to have an EVCP, where appropriate. An optional standard is not the Government’s preferred option. The preferred option is to introduce a new functional requirement under Schedule 1 to the Building Regulations 2010, which is expected to come into force in the first half of 2020. The inclusion of EVCP requirements within the Building Regulations 2010 will introduce a standardised consistent approach to EVCP in new buildings across the country. The requirements proposed apply to car parking spaces in or adjacent to buildings and the intention is for there to be one charge point per dwelling rather than per parking space.

However, to limit the possible impact on housing supply the Government has also consulted on introducing exemptions for developments where the requirements are not technically feasible. It is proposed that charging points must be at least Mode 3 or equivalent with a minimum power rating output of 7kW (expected increases in battery sizes and technology developments may make charge points less than 7 kW obsolete for future car models, 7 kW is considered a sufficiently future-proofed standard for home charging) fitted with a universal socket to charge all types of electric vehicle

currently on the market and meet relevant safety requirements. All charge points installed under the Building Regulations should be un-tethered and the location must comply with the Equality Act 2010 and the accessibility requirements set out in the Building Regulations Part M.

The installation of such charging points is estimated to add on an additional cost of approximately £976 – higher than the £300 considered in the Council's viability assessment. The introduction of EVCPs in new buildings will also impact on the electricity demand from these buildings especially for multi-dwelling buildings. A requirement for large numbers of EVCPs will require a larger connection to the development and will introduce a power supply requirement, which may otherwise not be needed. The level of upgrade needed is dependent on the capacity available in the local network resulting in additional costs in relation to charge point instalment. The costs of installing the cables and the EVCP hardware will also vary considerably based on site-specific conditions in relation to the local grid.

The Government recognises that the cost of installing EVCPs will be higher in areas where significant electrical capacity reinforcements are needed. In certain cases, the need to install charge points could necessitate significant grid upgrades which will be costly for the developer. Some costs would also fall on the distribution network operator. Any potential negative impact on housing supply should be mitigated with an appropriate exemption from the charge point installation requirement based on the grid connection cost. The consultation proposes that the threshold for the exemption is set at £3,600. In the instances when this cost is exceptionally high, and likely to make developments unviable, it is the Government's view that the EVCP requirements should not apply and only the minimum Energy Performance of Buildings Directive requirements should be applied. It is the HBF's opinion that the CBC should not be setting different targets or policies outside of Building Regulations.

The Draft Local Plan should not be getting ahead of national policy which is expected to be implemented by mid-2020 and the requirements for electric vehicle charging should be deleted.

Conclusion

We hope these representations are of assistance in taking the plan forward. Should you require any further clarification on the issues raised in this representation please contact me.

Yours faithfully



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