



Crawley 2035

Ref No: <i>Office use only</i>
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Crawley Submission draft Local Plan Representation

Please return your completed representation form to Crawley Borough Council by 5pm on 2 March 2020.

Representations can be made via this form and emailed to forward.planning@crawley.gov.uk or sent via post to: Local Plan Consultation, Strategic Planning, Crawley Borough Council, Town Hall, The Boulevard, Crawley, RH10 1UZ. Alternatively, representations can be made online using the [eform](#) which allows attachments of documents.

This form has two parts:

PART A – Personal details

By law, representations cannot be made anonymously. All representations will be published alongside your name, company name (if applicable), and your client's name/company (if applicable). The Council will use the information you submit to assist with formulating planning policy.

Further information about Data Protection Rights in line with the provisions of the General Data Protection Regulations and Data Protection Act 2018, for example, how to contact the Data Protection Officer, how long information is held or how we process your personal information can be found at www.crawley.gov.uk/privacy. Specific reference to the Local Plan and planning policy related public consultation can be found on: www.crawley.gov.uk/pw/web/PUB351893

PART B – Your representation

Please fill in a separate sheet for each representation you wish to make. You may submit multiple "PART B" sections with a single "PART A" completed.

PART A – Personal details

Please ensure that you complete all fields in 1. If a planning agent is appointed, please enter the Title, Name and Organisation in 1, and complete the full contact details of the agent in 2.

	1. Personal details	2. Agent's details
Title:	Mr	
First name:	Mark	
Surname:	Behrendt	
Organisation:	HBF	
Address line 1:	27 Broadwall	

Address line 2:		
Town/city:	London	
Postcode:	SW19 5LH	
Telephone:	020 79601616	
Email:	mark.behrendt@hbf.co.uk	

PART B – Your representation

3. Please tick the document that you would like to make a representation on:

- Crawley submission Local Plan
- Crawley submission Local Plan Map
- Crawley submission Sustainability Appraisal
- Habitats Regulation Assessment Screening Report

4. Which part of the Local Plan does this representation relate to?

Paragraph:		Policy:	CL5, DD2, H1, H7, GI2, ST2	Other:	
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5. Do you consider the Local Plan to be: *(Please tick)*

- | | | |
|---|------------------------------|--|
| 5.1. Legally compliant? | Yes <input type="checkbox"/> | No <input type="checkbox"/> |
| 5.2. Sound? | Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> |
| 5.3. Compliant with the duty to co-operate? | Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> |

6. Please give details explaining your response to 5.1, 5.2, or 5.3 below. Please be as clear as possible.

Please see attached representation

If required, please continue your response on an additional piece of paper and securely attach it to this response

- 7. Please set out what modification(s) you consider necessary to resolve the issues you have identified above. You need to state why this modification will make the Local Plan legally compliant or sound. It would be helpful if you are able to suggest how the wording of any policy or text should be revised. Please be as clear as possible. Any non-compliance with the duty to co-operate is incapable of modification at examination.**

Please see the attached representation

If required, please continue your response on an additional piece of paper and securely attach it to this response

Your representation should cover succinctly all the information, evidence and supporting information necessary to support/justify the representation and the suggested modification, as there will not normally be a subsequent opportunity to make further representations. **After this stage, further submissions will only be at the request of the Inspector, based on the matters and issues s/he identifies for examination.**

8. If your representation is seeking a modification, do you consider it necessary to participate in the public examination hearings? (Please tick)

No, I do not wish to participate in the examination hearings

Yes, I wish to participate in the examination hearings


9. If you wish to participate in the public examination hearings, please outline why you consider this to be necessary:

To set out the concerns of the HBF and our members regarding the soundness of the local plan.

The Inspector will determine the most appropriate procedure to adopt to hear those who have indicated that they wish to participate at the public examination.

If you would like to make a representation on another policy or part of the Local Plan then please complete a separate PART B section of the form or securely attach an additional piece of paper. Copies of the representation form can also be downloaded from the council's website at: www.crawley.gov.uk/crawley2035

Signature



Date

02/03/2020

Sent by email to: forward.plans@ Crawley.gov.uk

01/03/2020

Dear Sir/ Madam

Response by the Home Builders Federation to the consultation on the Draft Crawley Borough Local Plan

Introduction

1. 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.
2. Before setting out our concerns with regard to specific policies we would like to express our dismay that the Council has published the plan it intends to submit for examination without some of the key evidence base documents that are required to justify the policies in the local plan. The Council has acknowledged on its website that the following evidence was not available during the consultation:
 - Viability;
 - Transport Modelling;
 - Open Space, Sport and Recreation; Heritage;
 - Gatwick Water Cycle Study and Strategic Flood Risk Assessment; and
 - Gypsy & Traveller Needs Assessment.
3. However, in addition to this the Council could not find any statement on how CBC have met the requirement of the Duty to Co-operate nor any published Statements of Common Ground (SoCG) with the appropriate authorities or agencies. Without any of these documents it is difficult for all stakeholders to make effective representations. As such we must reserve the right to comment on any matters of concern within the unpublished evidence at the examination in public.

Viability

4. Of all the unavailable evidence base documents our main concern is with regard to the whole plan viability assessment given that the 2019 National Planning Policy



Framework (NPPF) requires development viability to be resolved through the local plan and not at the planning application stage. This position is most clearly expressed in paragraph 10-002 of Planning Practice Guidance which states:

“The role for viability assessment is primarily at the plan making stage. Viability assessment should not compromise sustainable development but should be used to ensure that policies are realistic, and that the total cumulative cost of all relevant policies will not undermine deliverability of the plan.

It is the responsibility of plan makers in collaboration with the local community, developers and other stakeholders, to create realistic, deliverable policies.”

5. It is also highlighted in the preceding paragraph in PPG (10-001) case that the policies in the plan should be informed by the viability assessment that takes account “*all relevant policies, and local and national standards, including the cost implications of the Community Infrastructure Levy (CIL) and section 106*”. We therefore question whether a plan that has been published under regulation 19 of the Town and Country Planning Regulations 2012 with no viability assessment can have been prepared in a manner consistent with the approach required under the NPPF and its associated guidance. The policies in the plan should have been informed by the evidence and not, as would appear to be the case here, prepare a plan and then test whether it is viable. Plan preparation must be an iterative process informed by evidence rather than one of setting aspirations and then obtaining the evidence to support those aspirations.
6. In relation to this Local Plan there is a clear need to test the cumulative impact of the new policies being proposed as they will place additional burdens on development. These include 10% Net Biodiversity Gains (GI2), higher energy efficiency standards (SDC1), self-build requirements (H7), significant requirements regard design and place making (CL2, SD2, CL6) and electric vehicle charging (ST2) as well as infrastructure costs through S106 and CIL. What is particularly concerning is that the Council are seeking to maximise delivery in a very tightly constrained Borough where a significant amount of development will need to come forward on previously developed land in the urban area. These sites will have above average development costs with existing use values (EUV), and premiums above EUV, that are likely to be high with limited scope for a reduction in land value to address the policy costs in the local plan.
7. We note that the Council commenced engagement with the development industry on development costs and viability during this consultation. Whilst this is to be welcomed it cannot be considered, as we state above, to have contributed to the iterative plan making process required by the NPPF. Clearly the Council will need to consider the additional policy costs arising from this plan. However, in addition it will be necessary to take a cautious approach to other factors. To aid local

authorities in the preparation of viability assessments the HBF has written a briefing note setting out the general concerns with how viability testing is undertaken when assessing local plans.

8. Whilst this note focuses on all aspects of the viability testing of the residential development, we would like to highlight two particular concerns. The first is the approach taken to abnormal costs. In the past viability assessments have taken the approach that these cannot be quantified and were addressed through the site by site negotiation. However, this option is now significantly restricted by paragraph 57 of the 2019 NPPF and as such abnormal costs must be factored into whole plan viability assessments. We recognise that the very nature of an abnormal costs is difficult to quantify, but it is a fact that they are often substantial and have a significant impact on viability. Where and how these costs arise is also variable. They can occur in site preparation but it is generally with regard to the increasing costs of delivering infrastructure. It is also the case that abnormal costs are higher on brownfield sites where there can be a higher degree of uncertainty as to the nature of the site and the work required to make it developable.
9. The HBF undertook some work with its members in the North East and whilst this is a different context to that found in Crawley it provides an indication as to the abnormal costs that occur on all sites. This study, which was prepared to support our comments on the Durham Local Plan, indicated that abnormal costs on the four PDL sites was £711,000 per net developable hectare and an average of £459,000 per hectare on the 10 greenfield sites. It is therefore important that a significant allowance is made within the viability assessment to take account of these costs if the Council are to ensure that it minimises site by site negotiation.
10. Secondly, we would encourage the Council to use the upper end of any of the ranges suggested with regards to fees. Again, these will vary from developer to developer but given that the Government want to minimise negotiation on planning obligations it would make sense to use the highest point of any range. The changing landscape with regard to viability assessment could lead to development slowing significantly if the correct variables are not taken into account and policies are aspirational rather than realistic.

Duty to Co-operate

11. As highlighted above we could not find any published SoCG in relation to this local plan. We recognise that the Council and its partners in the housing market area have in the past co-operated with regard to the delivery of housing to deliver some of Crawley's unmet housing needs but it is still important for the necessary statements to be prepared and published. Such statements will be helpful in clarifying the position of Mid Sussex District Council (MSDC) and Horsham Borough Council (HBC). Local Plans for both these local authorities include commitments to deliver housing in recognition that CBC cannot meet its needs and it will be important that the necessary SoCGs clearly state the current position of these councils on this matter. It will be important for CBC to continue to push

both these authorities to provide homes to support Crawley's unmet development needs in any new local plans that are being prepared.

12. In addition, the Council will also need to prepare statements with Mole Valley, Tandridge and Reigate and Banstead with regard to housing need and supply. Not only are these neighbouring authorities but they are also part of the Gatwick Diamond and should be looking ensure housing needs for this area are met. We recognise that CBC cannot force these authorities to meet their needs but it is important that they are fully aware of CBC's position and the need for these authorities to deliver sufficient development opportunities to meet both their own needs and those of Crawley.

Strategic Policy CL5: Form of New Development- Layout, Scale and Appearance

Part a is unsound as it has not been justified

13. It is not appropriate for part a of this policy to require master plans or development briefs for all major developments. We recognise the importance of master planning and development briefs for strategic large-scale developments but to require developments as small as 10 units to undertake such a process is disproportionate and unjustified. The Council must reconsider the threshold at which it considers master planning to be necessary to avoid unnecessary costs being placed on smaller developments.
14. We would also recommend that the policy states what the Council considers to be a larger development. At present this is referenced in paragraph 4.67 but we would suggest that this is included in the policy for the purposes of clarity.

Recommendation

15. A more appropriate threshold is for the use of master planning and development briefs are included in this policy.

Strategic Policy DD2: Inclusive design

16. Strategic Policy DD2 requires that all new build dwellings should be constructed in accordance with optional Building Regulations Requirement of M4(2) for accessible and adaptable dwellings. As the Council will be aware if they want to adopt the optional standards for M4(2) and M4(3) then this should only be done in accordance with the paragraph 127f of the NPPF and the supporting guidance in paragraph 56-005 to 56-011 of PPG. In particular we would draw the Council's attention to footnote 46 of the NPPF which states that: "... *planning policies for housing should make use of the Government's optional technical standards for accessible and adaptable housing where this would address an identified need for such properties*".
17. The draft local plan considers the evidence supporting this policy at paragraph 5.20. This paragraph outlines that there is an increasingly elderly population that it is close to the national average and with the number of people with long term

health problems or disabilities increasing by 7,000 people by 2039. However, on further examination of the Council's Strategic Housing Market Assessment (SHMA) we note that further evidence on the health issues facing residents of Crawley indicate that the increase in individuals with mobility problems is expected to increase by the much lower level of 1,808 people around 30% of the homes that will be delivered in this local plan.

18. The study goes on to recognise that many of these individuals will remain within their own homes but despite this consider it sensible to design housing to be adapted in the future. We would agree that it may be sensible for some homes to be built provide adaptable accommodation but the evidence does not support the need for all homes to be built to this level. As outlined above footnote 46 is clear that Councils should make use of the optional technical standards only where they would "*address an identified need for such properties*". Had the Government intended all homes to be built to this standard then it would have taken the decision to require all new homes to be built to this standard. However, this is not the approach that has been taken and the Council's policy should reflect their identified needs.
19. The Council's evidence also fails to consider the number properties that will have been adapted to date, and those that will be adapted to meet their owner's needs during the plan period. The Council's SHMA acknowledges that existing residents who who will need a more accessible in this plan period are unlikely to move and that the majority of those in such need will already reside in the Borough. As such it must be expected that many of those in needs will meet their needs by adapting their current home. This will both increase the stock of adapted homes and reduce the overall need for such accommodation. Given that PPG requires the accessibility and adaptability of the existing housing stock to form part of the Council's assessment of needs it will be important for these considerations to be taken in to account.
20. It is the HBFs opinion that M4(1) standards are likely to be suitable for most residents. There may be a need for some new dwellings to be built to M4(2) especially specialist housing but there is not the need for all new dwellings to be built to M4(2) as not all existing older residents will move home and those that do move may not choose to live in a new dwelling. We therefore do not consider the requirement for all homes be built to part M4(2) to be justified and that a more proportionate approach is taken.
21. We are also concerned regarding the restrictions relating to the flexible application of this policy. Whilst we welcome the flexibility it is not consistent with national policy to only apply these in exceptional circumstances. Paragraph 56-008 does not distinguish the type of site where flexibilities can be applied and states that where strep free access cannot be achieved then neither optional standard should be applied.

Recommendation

22. We would therefore suggest that the policy amended as below

~~*In exceptional circumstances, flexibility may be applied in the application of this policy requirement for:*~~

~~*a. specific small-scale infill developments;*~~

~~*b. flats above existing shops or garages;*~~

~~*c. stacked maisonettes where the potential for decked access to lifts is restricted.*~~

There will be circumstances where step free access cannot be achieved or will make development unviable. In such situations, the Council will not apply this policy.

H1 Housing provision

23. Paragraph 2.19 and 12.8 of the draft local plan states that Crawley's housing needs is 752 dwellings per annum (dpa) which results in a 11,280-home housing requirement over the next 15 years. We would agree that this is the minimum number of homes that should be provided by the Council over the plan period. On the basis that the Council considers it can deliver 5,355 new homes within its own boundary the Council have identified in policy a shortfall of 5,925 homes.

24. We support the clear identification of how many homes will need to delivered elsewhere to ensure its needs are met. However, whilst 3,150 homes have been identified to be delivered in MSDC and HBC to address some of this shortfall, we are concerned that needs across the HMA are increasing and as yet there would appear to be no SoCGs between the three authorities as to how they intend to meet needs in full. As we mention earlier in this representation such statements are essential and the Council should have them in place prior to submission. However, even if 3,150 new homes are delivered to meet Crawley's needs this still leaves a 2,775-home shortfall. The Council can't ignore this shortfall and must seek additional support from all its neighbouring authorities.

25. The approach to the stepped housing requirement is interesting and different to others established in that it steps down rather than up. This is clearly a reflection of the fact that more delivery is anticipated in the early part of the plan period rather than later given the constraints faced by the Council. Whilst the HBF is concerned by the use of stepped requirements we can see the logic in the approach taken by CBC in its proposed approach.

26. On the basis of the proposed trajectory we would agree that the Council would have a five-year housing land supply on adoption.

Affordable housing

Policy is unsound as it is neither consistent with national policy nor justified

27. We will need to reserve judgement on the justification for 40% requirement for affordable housing as this policy as the Council has not published its viability assessment. However, we can comment on the Council's decision to require all residential developments to make a contribution towards affordable housing delivery. This is not consistent with national policy, a fact the Council do not acknowledge or seek to justify in the local plan. Paragraph 63 of the 2019 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 10 units or less to make a financial contribution toward affordable housing provision.
28. When considering the appropriateness of including such a policy it 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 HBF¹ 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.
29. It is also worth considering 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 hard by the recession with the number of registered small builders falling from 44,000 in 2007 to 18,000 in 2015². 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.
30. As such we do not consider this departure from national policy to be justified. The policy will continue to be a burden to SME house builders and in particular to new entrants into the market.

¹http://www.hbf.co.uk/?eID=dam_frontend_push&docID=25453&filename=HBF_SME_Report_2017_Web.pdf

² Fixing our Broken Housing Market, Department for Communities and Local Government, February 2017

H7: Self and Custom Build

31. Whilst the HBF support the encouragement of self-build housing through the local plan, we do not consider the requirement for sites of over 50 to set aside 6% of the total area of the site to provide serviced plots for self and custom house building to be justified or consistent with national policy. Whilst we recognise that Local Planning Authorities now have a duty to promote self-build housing, we have three concerns with the Councils approach in H7.
32. Firstly, we consider the policy to be inconsistent with the third bullet point of paragraph 57-025 of PPG. This outlines that the Council should engage with landowners and encourage them to consider self-build and custom housebuilding. The approach taken by the Council moves beyond encouragement and requires landowners to bring forward plots.
33. Secondly, we do not consider the Council to have looked at sufficient options with regard to how it can provide plots to support self-builders. Paragraph 57-024 of the PPG sets out a variety of approaches that need to be considered – including the use of their own land. This is reiterated in para 57-14 of the PPG which sets out the need for Council's to consider how they can support the delivery of self-build plots through their housing strategy, land disposal and regeneration functions. However, it would appear that the Council is seeking to place the burden for delivery of self-build plots on larger sites without any evidence that an investigation into alternative approaches have taken place. We would suggest that it should conclude such an investigation before requiring the provision of service plots on larger sites.
34. Finally, we do not consider the evidence to be sufficiently robust. There have always been concerns that self and custom build registers alone do not provide a sufficiently robust evidence base against which to assess needs. There is no requirement to review this evidence to ensure those on the database are still interested in self-build, whether there was any double counting with other areas or whether the individuals on a list had the financial ability to build their own home. However, this situation has been recognised with paragraph 57-011 of PPG requiring additional data from secondary sources to be considered to better understand the demand for self-build plots. In particular we are concerned that planning policies, such as the ones proposed in the draft local plan, will deliver plots on major house building sites whereas the demand for self-build plots may be for individual plots in more rural locations. Without the necessary evidence to show that there is demand for self-build plots on such sites the policy cannot be either justified or effective.

Recommendation

35. We do not consider the policy to be justified or consistent with national policy and should be deleted.

G12: Biodiversity and Net Gain

This policy is unsound as it is not justified

36. The Council have looked to update this policy to take account of the Government's suggestion that new development should improve the biodiversity on their site to show a 10% net gain over the pre-development base line. Whilst this is the Government's current position the implementation of this particular policy is still some distance into the future and there is no certainty as to the final level of net gain that will be required nor the method by which the baseline and any net gains will be calculated. Until these have been finalised the Council should not be seeking to implement such a policy. At present national policy states that local plans as a whole should ensure net gains for biodiversity.

Recommendation

37. References to sites being required to deliver 10% net gain in biodiversity should be removed as below:

All development proposals will be expected to incorporate features to encourage biodiversity and enhance existing features of nature conservation value within and around the development. ~~Development will be required to demonstrate how it will meet the government's requirement for securing a 'net gain' in biodiversity. As a minimum, all development proposals will need to achieve a net gain for biodiversity in accordance with government expectations currently a 10% increase in habitat value for wildlife compared with the pre-development baseline.~~

In the first instance, ~~net gain for biodiversity will be expected to achieve a minimum 10% net increase on site. Only where it is clearly justified this is not practicable to achieve, and where it is shown to have been considered and sought from the early stages of the design and layout of the development, will off-site provision, in the form of equivalent financial contributions, be agreed.~~

ST2: Car and Cycle Parking Standards

38. Policy ST2 requires that new dwelling(s) with a private driveway or garage provide a minimum of 30% of all spaces to have active charging and the remaining spaces to have ducting to provide passive charging. 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.

39. 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.
40. 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.
41. The installation of such charging points is estimated to add on an additional cost of approximately £976. The introduction of EVCPs in new buildings will 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.
42. 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.

43. 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.

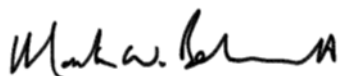
Conclusions

44. 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, in the following key areas:

- No viability evidence has been provided during this consultation;
- Threshold for requiring the use of master plans and development briefs is too low;
- Requirement for all homes to be built to Part M4(2) is not justified;
- Policy requiring small sites to provide affordable housing contributions is not consistent with national policy;
- Requirements for developments to show 10% net gains in biodiversity on site is not consistent with national policy; and
- The need to provide 30% of parking spaces with electric vehicle charging has not been justified.

45. 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



Mark Behrendt MRTPI
Planning Manager – Local Plans
Home Builders Federation
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Tel: 020 7960 1616

PART 1: WHAT IS VIABILITY APPRAISAL?

INTRODUCTION

Housing land supply is critical to the Government's housing delivery objectives. A vital part of deliverability is that the development of land must be viable. The Government's approach to viability is clearly set out in the National Planning Policy Guidance (NPPG). It states how viability is critical to the soundness of local plans, the setting of CIL and the delivery of sites for housing. It is important that emerging practice is transparent and simple and that as much as possible of the new methodology can be agreed between all parties involved in housing delivery.

All stakeholders in the planning process are at the start of the journey of understanding and implementing the new approach. The aim of this guidance is a contribution to the emerging practice – putting forward the industry issues that must be addressed in order to ensure that local plans are deliverable and sites come forward for development. Without a robust approach to viability assessment land will be withheld from the market and housing delivery will be threatened, leading to unsound plans and delivery targets not being met.

Throughout this report references are made to "Viability Testing in Local Plans - Advice for planning practitioners". (LGA/HBF - Sir John Harman) June 2012 as "The Harman Report" and the RICS report "Financial Viability in Planning", 2012 as "The RICS Guidance".

WHAT ARE IMPLICATIONS OF THE NEW VIABILITY GUIDANCE?

Viability is now a key issue for local plans and their test for soundness. It is acknowledged that land value must reflect policy requirements, but such requirements must be able to demonstrate that proposed sites in the plan are viable and that policy requirements will not prevent land from being brought to the market by landowners.

With simplification and standardisation at the heart of the new process it is accepted that a typology approach is necessary for plan-wide assessment. However, for specific sites on which the local plan relies to ensure delivery targets are met a more detailed, site specific assessment will usually be required.

Under the new guidance it is necessary to assess at what level of land value landowners will continue to be willing to sell land in the market. This benchmark land value (BLV) must be realistic in terms of existing use value of the land and a reasonable landowner's premium. This is known as EUV+ (existing use value plus a landowner's premium).

All policy requirements (including all development management policy requirements) must be included in the viability assessment. It is also vital that, as recommended in the Harman Report, a reasonable buffer is included within the assessment. Calculations cannot be at the margins of viability, without any buffer, as to do so will threaten the delivery of sites where assumptions change over the life of the plan.

In order to best reflect the policy requirements of local authorities, the risk profile of developers and the land value requirements of landowners, partnership working is essential in order to maximise the chance of delivery matching requirements of the local plan.



WHAT IS THE LOCAL CONTEXT?

Local context is an assessment of:

- Current and emerging local needs and demands
- Local plan strategy and delivery priorities and intentions
- Spatial characteristics of the local area
- Market and affordability characteristics of the local area
- Current and historic delivery rates
- The policy circumstances under which previous consents that led to delivery were granted.

WHAT ARE THE KEY STAGES OF A LOCAL PLAN VIABILITY ASSESSMENT?

Local plan viability assessment should:

- Follow the guidance in the NPPG
- Facilitate early engagement between all stakeholders, including developers
- Seek to assist understanding by simplifying and standardising inputs
- Address each stage of NPPG's residual appraisal approach in sequence
- Identify reoccurring issues experienced across the country and formulate these into simple questions to be addressed if the process is to be robust
- Finally assess resultant BLV and the issues that must be balanced to ensure the Plan can be found sound, the necessary land supply identified and delivery of dwellings secured

HOW WILL ADDRESSING THESE ISSUES EARLY AND IN PARTNERSHIP LEAD TO BETTER PLANNING?

If the Plan lead system with viability and deliverability at its heart is to work, we need all interested parties to work together, in partnership. The NPPG strongly encourages such an approach in order to strike the right balance between the aspirations of developers / landowners and the aims of the planning system. Failure to work collaboratively risks failing to delivery housing needs and aspirations and failing to significantly boost housing supply.

Advantages of partnership working are to increase understanding, reduce plan making time, improve transparency, provide communities with certainty and, ultimately, deliver better local plans of which we can all be confident that allocated sites will be delivered where, when and how they are expected to be delivered.

Joint working will provide a clear benchmark for development management decision making and will ensure that any consideration of post plan adoption policy formulation (SPD's etc) are unlikely to give rise to further burden that makes development unviable.



PART 2: A STEP BY STEP APPROACH TO VIABILITY APPRAISAL

a) Sales / Revenue

Viability appraisal should be specific to the local planning authority area and fully evidenced from local examples. Evidence should be drawn from actual prices achieved in sales, derived from the best possible comparable sources. Such comparables must be fully critiqued (new build and second-hand market) / adjusted as necessary so that they can be relied upon to provide a robust position for future sales. Care must be taken to reflect the strong likelihood that within each LPA area there may be geographic variations in value which must be fully understood and applied to both site specific and typology viability work.

Market strength and anticipated sales rate are fundamental components dictating cash flow. Care should also be taken in determining the correct market mix for an area / based on SHMA / local market evidence / settlement & site characteristics.

Affordable housing revenue must also be fully justified against comparable transactions with registered providers and the correct % reductions from OMV must be applied for all types of subsidised/affordable housing (including private sector solutions such as shared ownership and discounted market sale).

Common concerns:

- Sales evidence used is based upon Net Sales Area instead of Gross Internal Area which significantly inflates the price per square foot thus distorting viability work
- The use of headline advertised “For Sale” prices. These prices are usually the aspirational prices for a homebuilder and do not reflect the final price achieved in negotiation with the purchaser which ordinarily involve discounts to secure the purchase.
- Actual sold prices from Land Registry/Hometrack – These prices omit incentives such as extra internal features / carpets / part exchange costs / developer deposits etc.
- Internal areas obtained from Energy Performance Certificates are used in revenue / coverage calculations. However, these generally do not represent actual Gross Internal Area as the calculation methodology is different.

b) Coverage

Coverage assumptions (the quantum of sales coverage per net developable acre (NDA) must be contextual and reflective of the type and form of development envisaged and the context within which it is to be placed. It should be calculated on the basis of coverage per NDA and all parties should agree over what type of floorspace is included or excluded.

It needs to be reflective of all development management policies that will be in play which will affect the eventual scheme coverage (eg: scale, massing, amenity distances, space standards, accessibility standards, site topography, car parking levels, drainage, landscaping, biodiversity net gain etc.)



Common concerns

- Each site is different and may have major constraints to site coverage within its boundaries, dependent upon its size and scale
- A failure to understand mix and type of homes that achieve very different quantum of coverage per NDA.
- For plan making, reasonable assumptions should be based on the expected nature of the scheme, the local housing need / demand objectives, site context and how the application of development management policies has previously affected coverage.

c) Net Developable Area (NDA)

It is inappropriate to apply generic gross to net rates across entire regions. Discussion should be had in typology work based upon the nature and characteristics of the sites proposed to be allocated in a plan with comparable schemes examined to ensure % gross to net rates are robust. NDA should always be contextual and informed by policy requirements – including open space / sustainable drainage requirements / environmental requirements such as biodiversity net gain and suitable alternative natural green space (SANGS), etc.

Common concerns

- That the approach taken is over simplistic and leads to inaccurate assumptions that are then multiplied across a plan area
- All stakeholders promoting sites should be able to fully engage with the process to ensure that assumptions are realistic and achievable.

d) Costs

Assessment of costs should be based on evidence which is reflective of local market conditions. Costs should seek to be drawn from appropriate published and recognised data sources. All parties involved in site promotion should assist in ensuring all matters are taken into account. A partnership approach must ensure that all costs are accounted for and can be explained transparently and inputted into the viability assessment in a manner that all stakeholders can readily understand.

Unit Build Cost (UBC)

The appropriate data should come from the Building Cost Information Service (BCIS). However, it is important to understand what these published costs actually include and exclude. Careful consideration must be given to the type



and scale of sites, type of developers, contextual matters that impact upon design and all DM applicable policies. Recognition should be given to regional variation and that build cost inflation will be a key factor in forward planning such that median figures should be only the starting point from which site-specific assessment can be applied.

New build housing is, by its nature, high specification (internal fit out / kitchens / bathrooms / heating) and this is reflected in BCIS which reflects Building Regulations at a particular point in time. Design or specification enhancements above this level fall within abnormal costs (see below). Care should be taken to use the most up to date and correct BCIS categories.

Common concerns

- There is often a lack of understanding about what is included in standard measures of costs. The BCIS cost is only the cost of the house itself and is based upon a flat site with standard foundations.
- BCIS does not account for plot works (drives / paths / fencing / walls / gardens & plot landscaping / connections / detached garages) nor any costs associated with more complex ground / gradient conditions
- Although BCIS does include standard site management / overhead costs this is only to the extent of the items it measures, not full costs.
- BCIS does not account for any site externals or their overhead sums which are explained below.

External costs

These are the base costs usually experienced on a simple, flat, unconstrained, clean site ready for building. It includes standard plot works (again based upon a standard site) covering estate roads and footpaths, sewers, drainage connections, utility provisions and connections, mains connections, street lighting, signage to adoptable standards – all based upon simple connections to existing systems / shallow excavations etc.

Common concerns

- The costs associated with plot and site construction are commonly missed altogether or incorrectly included as part of the unit cost
- The general overheads of a development company are often completely ignored
- There is a difference between a standard cost and an extra over cost as a result of site-specific conditions – both must be accounted for but usually in different places (see abnormalities below)
- Any % of unit cost calculation to allow for externals must be very carefully considered in the context of all of the above with comparables used as evidence – if a % range is to be used it must be agreed with local developers and based upon real examples



Abnormal Infrastructure costs

All of the above costs effectively deal with the costs associated with the base construction costs of the houses themselves (Unit build cost) alongside the standard external costs (External costs). Abnormal infrastructure costs are all those costs over and above the standard costs outlined above that are required in order to deal with site specific conditions and meeting all planning and technical requirements.

For example, in relation to external costs detailed above, in addition to the standard cost will be all costs specific to the scheme such as ground conditions / levels and topography / upgrading of utilities if insufficient capacity / drainage / contamination / additional specification required by design or development management policy requirements etc.

There are a huge range of abnormal infrastructure costs that need to be accounted for over and above standard external costs which need to be taken fully into account on a site-specific basis. Any attempt to apply standard rates whilst undertaking plan wide typology viability work should be treated with caution.

The following bullet points give some examples to assist understanding and are not to be treated as exhaustive:

- For larger development sites due recognition needs to be made of the additional cost of, for example, spine roads etc. required to service individual development parcels in addition to the estate roads which will form part of the standard costs
- Ground and enabling works – cut and fill costs associated with topographically challenging sites to allow building plateaus / effective road gradients / capping layers associated with gas / grouting / mine shafts / ground stabilisation / demolition and clearance works / remediation of contamination / subsoil conditions / dealing with groundwater / archaeological investigations / temporary haul routes etc
- On and off-site highway works – extra over road widths for bus routes / cycle route provision / single sided roads / improvements to offsite roundabouts / junctions necessary to mitigate impact / enhanced public realm works / large areas of garage courts etc
- Surface and foul water drainage – attenuation on site via SUDS / tanking / oversized pipes / permeable paving / off site sewage work upgrading / diversions etc
- Utilities – off-site upgrading / need for sub stations / primary sub-station / diversions etc
- Foundations and underbuild – costs associated with pile / raft / extra deep foundations / extra build costs dealing with levels / land retention to unit and plot build
- Ecology and landscape – laying out and maintaining new open space, habitat, screening & bunding associated with the development
- Elevational and sustainability enhancements – in order to address local design requirements / contextual features / local materials / sustainability requirements over and above Building regulations / noise attenuation with increased insulation and window specification etc.



Common concerns

- Issues associated with effective site development are often hidden within the need to comply with other planning and/or technical requirements and are, therefore, missed or not fully understood. Commonly, only the most visible ones such as sustainable drainage or a need for a link road are picked up regularly.
- Provision needs to be made to deal with situations that may be unclear at the early stages of planning but become hugely important as sites progress
- Understanding as many of these issues early is key but to ignore them is folly – this is a key area for plan makers and developers working in partnership
- Caution is needed and plan assumptions must not be on the margins of viability. A clear buffer must be included within all viability assessments.

Policy Requirements

Policy Requirements in their widest sense also cover a number of the issues identified in the abnormalities section above. However, to keep matters simple we have sought to split out the physical / technical matters (in abnormalities above which normally come from condition discharge / meeting technical standards) from the monetary / land use items which we aim to pick up here.

- S106 contributions – all costs associated with mitigation payments needed in order to make the development acceptable in planning terms – education / health / sports / art / public transport / police / SANGS / training / ongoing management etc + any associated indexation / fees
- S106 works – all costs associated with works / items required – play areas / allotments / community building / sports pitch / school or school expansion / landscape improvement / local tariffs for net biodiversity gain / SANGS etc
- CIL – all payments required as a result of existing or proposed CIL whilst ensuring that no double counting occurs with S106 items + any associated indexation / fees
- Mix Policy – the effect that specialist housing provision may have on land value that is not covered by affordable costs allowed for in revenue or coverage – requirements for private rented, self-build, extra care, sheltered housing
- Non-residential uses – costs associated with servicing / marketing / construction of local centres etc
- Land / Third Party costs – these are interlinked with contractual matters yet they are regularly occurring issues - eg ensuring clean title / JR & covenant insurance / vacant possession from tenant farmers / mines and minerals payments / ransoms such as Railtrack Shared Value Policy



Common concerns

- Obvious S106 contributions are very visible. However it is important to also include those matters where it is harder to quantify the cost.
- CIL is particularly difficult to deal with if it is considered after the local plan viability stage. New guidance suggests that CIL should be considered as an integral part of local plan viability assessment. If this is not done it will reopen the widespread use of application level viability assessment (contrary to NPPF) as schemes considered viable at a policy compliant level will no longer be so.

Contingency

All development schemes require a degree of contingency planning built into the viability to cover a wide range of matters. Issues as mundane as bad weather to more complex political policy issues such as quality control/snagging and government proposals for improved customer satisfaction. Due to their uncertainty, these costs are best dealt with as a % of total build costs including fees (Unit, External and Abnormals) with the % being dependent upon the complexity of the scheme and scale of site abnormals to contend with. The actual % should reflect the opinion of independent QS companies and be backed by clear evidence.

Agent Fee costs

All development transactions usually require agents acting on behalf of the parties and an allowance needs to be made for this in overall viability work. Usually this cost is around 1-2% of land value (Harman Review) but local evidence should be obtained including from the Public Sector Estate Departments.

Legal Fees costs

All development transactions require legal representation in order to ensure each party is protected and understands their respective contractual commitments. Again, a standard assumption of 0.75-1.5% of land value (Harman Review) is generally sufficient unless there is robust local evidence to the contrary (although this can be much higher should the land purchase involve multiple landowners).

Marketing Costs (sales)

Housing development is sales driven without which a house builder will not receive the revenue essential for continued investment and build. Advertising and marketing is crucial to this process and allowances must be made for this in viability. This is generally assumed to be 3-5% of the value of the development depending on strength / quality of the market (Harman Review) unless there is robust local evidence to the contrary.

Professional Fees

The development process requires huge input from a wide variety of disciplines from design and engineering to ecologists and archaeologists. The process is complex and requires expert opinion and guidance throughout. This must



be accounted for in viability work with the level dependent upon the complexity of the site, in particular, the extent of abnormal costs.

An allowance of 8% to 10% of all costs and up to 20% for complex sites (Harman Review) should be made unless there is robust local evidence to the contrary.

For larger development sites a range of professional fees associated with the servicing of the land need to be specifically considered – these will be in addition to the fee allowance based off Build Costs.

Discounting should not be applied for larger development companies simply because they have internal resources as this is still an identifiable cost that is not included within the general company overhead. It therefore needs to be accounted for within the viability assessment.

General Finance Costs

The development of land requires significant financial investment on behalf of the developer. This requires finance to be raised at the prevailing market rate, reflective of the risk profile considered appropriate by the particular lending institution. This needs to be allowed for in all viability assessment.

The HCA currently uses a range of 5-7%. The HBF recommends 6.5% to 7% across the whole housebuilding sector. However, this is an annual finance rate and a cashflow will need to be produced. Quantity surveyors vary in their preference for applying this to a 'funds' or a 'cash' position. Industry preference is to use 'funds'. However, should 'cash' be used a 'credit rate' should not be used once the scheme goes 'cash positive'.

e) Profit

A fair and reasonable profit for developers reflective of the particular risk profile of the specific scheme must be secured if viability is to be established. As part of this, an acceptable cash flow (return on capital employed – ROCE) must also be secured which is key to scheme delivery. The Harman review suggested a minimum ROCE of 25% but made it clear that this would depend on site specific risk.

Developers should be incentivised to build and the degree of risk they must take to facilitate this should be reflected in the margin received / planned for as well as ROCE. The NPPG clearly outlines what it considers a reasonable assumption for plan making as 15 – 20% of GDV but stresses that alternative figures can be used dependent upon risk profile.

The RICS Guidance states that not only should the direct risks within the scheme be considered but also the broader market risks such as the strength of the local market. The risk profile of a scheme will be affected by the timing of the delivery, the complexity of the scheme and the cashflow for specific projects, particularly where significant upfront investment is necessary to facilitate development.

Thus, it is unlikely that adoption of a single standard plan wide benchmark would be appropriate as it is unlikely to reflect an appropriate risk profile for specific projects. The NPPG also indicates that where affordable housing guarantees an end sale a reduced level of profit may be justified as risk is significantly reduced.

Achieving an acceptable profit is an essential part of effective scheme delivery – if it is eroded too far this will act as a deterrent to investment or result in no investment at all.



f) Benchmark Land Value (BLV)

Fundamentally, the application of the step by step approach above arrives at a residual value which is the amount of money left over to purchase the site at a level that ensures policy compliance – this is a key objective of the new NPPG approach.

That value is to be based upon EUV+ whereby the combination of EUV and premium provide a reasonable incentive for a reasonable landowner to bring forward land for development. NPPG states that this will be arrived at via an iterative process informed by professional judgement and must be based upon the best available evidence informed by cross sector collaboration. This should assess market evidence, reflect the cost of policy compliance, take account of all site / market specifics and importantly reflect the reasonable expectations of landowners. Alternative use value may also be informative in establishing BLV.

As recognised in the RICS Guidance, achieving a suitable BLV requires a balanced judgement to be made. If that balance is not correct it could lead to a disincentive for owners to bring land to the market. This would seriously undermine the delivery agenda with the aim of significantly boosting supply which requires the widest range and choice of sites possible to maximise market absorption. It is illogical and counterproductive to effective plan making / boosting housing supply to seek to plan at the margins of viability and thus jeopardise site delivery and plan soundness.

Achieving an acceptable land value cannot, therefore, be a one-sided debate and is the key area that all must come together on as early in the process as possible utilising an effective format with senior representation on all sides with the necessary expertise and evidence to back up key viability judgements / assumptions.

Common concerns

- The circumstances of each and every owner is different – some need to sell, some don't / some have a requirement to reinvest, some don't / some can act independently, some cannot. These are all important matters that help to establish reasonable incentive to sell.
- Land is a hugely important / unique commodity and as such it cannot be treated in the same way as most other commodities. It involves legacy issues / personal attachment issues / local community issues / inheritance issues / lifespan issues in an ever changing world. All of these matters are also important in establishing what is a reasonable incentive to sell.
- Taxation must also be factored in – inheritance tax planning / corporation tax / Capital Gains Tax must be taken into account when determining reasonable incentive. There is a probable 20% impact from CGT on all land transactions.
- Fundamentally, there is little understanding of landowner considerations within the planning process yet without it the plan led system and housing delivery will be undermined.



PART 3: CONCLUSION AND USE OF THIS GUIDANCE

CONCLUSION

The aim of this guidance is to set out a clear interpretation of the NPPG. It encourages early collaboration between all interested parties in order to understand the components of Plan viability. Consistency is the key, as is the need to ensure legitimate costs are fully accounted for in a transparent manner that all stakeholders can understand. It provides a platform for establishing a Plan led evidence base and where there is disagreement, a format that an EIP can use to focus debate and discussion having agreed as much as possible via Statements of Common Ground.

Dealing with this vital issue via an industry wide, HBF methodology, allows for this consistency and continuity with all stakeholders. We hope that it will assist in reducing delays to the plan making process and make the best use of resources in both plan making and again at EIP.

The principles adopted herein are equally applicable to plan-wide or site-specific viability assessment. With more strategic sites this work should also be accompanied by cashflow information to ensure all key projects are deliverable.

RECOMMENDED USE OF THIS GUIDANCE

- To act as a starting point for Plan led viability and stakeholder involvement.
- To help ensure that the methodological approach of all parties is consistent and straightforward.
- To ensure that LPA expert appointments are instructed to work on this consistent basis
- To provide a basis of narrowing differences down early in the process to assist more informed decision making and more robust plan formulation.
- To act as a checklist / platform for Plan examination at EIP that is transparent / understandable to all, thus allowing focused debate and speedier / better decision making.

