Matter 5
Home Builders Federation (HBF)

BANES LOCAL PLAN PARTIAL UPDATE (LPPU) EXAMINATION
MATTER 5 – OTHER DISTRICT WIDE DEVELOPMENT MANAGEMENT POLICIES

Inspector's issues and questions in bold type.

This Hearing Statement is made for and on behalf of the HBF, which should be read in conjunction with our representations to the pre submission LPPU consultation dated 8 October 2021. This representation answers specific questions as set out in the Inspector's Matters, Issues & Questions document issued o 14 April 2022.

Issue : Are the individual policies clear, justified and consistent with national policy and will they be effective?

Policy SCR6 - Sustainable Construction Policy for New Build Residential Development

Q.87 What is the justification for the requirement for new residential dwellings to demonstrate a space heating demand less than 30kWh/m2/annum, total energy use less than 40kWh/m2/annum, and on-site renewable energy generation to match the total energy use, with a preference for roof mounted solar PV?

There is no justification for the specific requirements for new residential dwellings set out in Policy SCR6. Under the 2021 NPPF, the planning system should support the transition to a low carbon future in a changing climate (para 152) and any local requirements for the sustainability of buildings should reflect the Government's policy for national technical standards (para 154b). The NPPG sets out that any local requirements for a building's sustainability and for zero carbon buildings should be based on robust credible evidence and tested for impacts on viability (ID: 6-009-20150327). The NPPG also clarifies that locally set energy performance standards for new housing should not exceed the equivalent of Level 4 of the Code for Sustainable Homes and any requirement for a proportion of used energy to be from renewable and / or low carbon energy sources should be reasonable (ID: 6-012-20190315). Policy SCR6 should not undermine the Government's intention to set energy efficiency standards through the Building Regulations via the 2021 Part L Interim Uplift, which is effective from June 2022, and the 2025 Future Homes Standard.

Q.88 Are the cost assumptions arising from Policy SCR6 in the viability assessment for the Plan robust, realistic and justified?

The cost assumptions arising from Policy SCR6 are not robust, realistic nor justified. In the Council's Viability Assessment, Policy SCR6 is tested using the capital cost figures from the '*Cornwall Climate Emergency DPD – Energy review and modelling'* by Currie Brown & Etude dated February 2021 (para

4.28). In the tested residential scenarios cost uplifts range between 3% (Option A), 5% (Option B) to 6% (Option C) of build costs (para 4.28). In the Council's opinion net zero carbon can be achieved in residential developments through Option A at a cost equivalent to 3% of build costs (para 4.30). However, this contradicted by other submitted evidence. Analysis in the Currie Brown & Etude Study concluded that to achieve net zero regulated carbon emissions from a combination of energy efficiency on site carbon reductions and allowable solutions, the additional capital cost is between 5 - 7% for homes. To achieve net zero regulated and unregulated emissions, the likely cost impact is between 7 - 11% for homes. Furthermore, the Currie Brown & Etude cost uplift is from a 2021 Part L Interim Uplift baseline (para 4.28), which implies that the baseline build cost already includes additional costs for the 2021 Part L Interim Uplift. Whereas in the Council's Viability Study, there is no inclusion of 2021 Part L Interim Uplift costs estimated at a cost of £4,847 per dwelling by the Government in The Future Homes Standard : 2019 Consultation on changes to Part L (conservation of fuel and power) & Part F (ventilation) of the Building Regulations for New Dwellings.

What, if any, effect would the requirements of Policy SCR6 have on meeting the other policy requirements of the Plan, such as affordable housing?

The Council's Viability Study concludes that the impact of additional costs varies between development typologies and locations across BANES as shown in cumulative impact Tables 6.24.1 – 6.24.9. Where viability is marginal and in lower value areas, development is not able to meet the proposed requirements of LPPU and full compliance with adopted policy requirements including affordable housing. There will be trade-offs between other policy requirements and / or affordable housing to compensate for proposed policy requirements of LPPU. In higher value areas, the trade-off required is likely to be less significant. There are situations where the cumulative impact of LPPU policy requirements will tip the balance from 'viable' to 'unviable'. Viability is challenging in lower value areas (Price Points A – D) at 30% affordable housing provision (Tables 6.24.6 – 6.24.9). A flexible policy approach will be necessary including a relaxation of proposed policy requirements.

What would the effect of the Policy be on the deliverability of new homes?

As identified by the Council's Viability Assessment, there is a risk to the deliverability of new homes from Policy SCR6. Most sites should be deliverable at planning application stage without further viability assessment negotiations. Viability negotiations should occur occasionally rather than routinely. If the viability of sites is overstated as in the Council's Viability Assessment because costs are under-estimated, policy requirements will be set at unrealistic levels. Under such circumstances, trade-offs between policy requirements, affordable housing and infrastructure provision will be necessary and the Council will have to accept site-specific viability assessments at development management stage of planning permission applications. This uncertainty causes delay to housing delivery and maybe

non-delivery because there is a tipping point beyond which the land value cannot fall as the landowner will not be sufficiently incentivised to release their site for development.

Q.89 How do the proposed energy use requirements compare to the (transitional) requirements as currently set out in Part L of the Building Regulations?

The proposed requirements set out in Policy SCR6 are higher than 2021 Part L Interim Uplift and 2025 Future Homes Standard (EXAM1A para 15.1). This is inconsistent with national policy (see HBF answer to Q.87 above).

Q.90 What is the justification for seeking a financial contribution where the use of onsite renewables to match total energy consumption is demonstrated to be not technically feasible or economically viable? Is this element of the Policy consistent with paragraph 57 of the NPPF and Regulation 122(2) of the Community Infrastructure Levy (CIL) Regulations 2010, and would it be effective?

The West of England Carbon Reduction Study (CD-RCC0002) sets out that the CIL is not an appropriate mechanism for collecting carbon offset payments. Therefore carbon offset funding should be secured through Section 106 legal agreements and as set out in 2021 NPPF (para 57) planning obligations must only be sought where they meet all of the following tests :-

- necessary to make the development acceptable in planning terms ;
- directly related to the development ; and
- fairly & reasonably related in scale & kind to the development.

The specific requirements set out in Policy SCR6 are inconsistent with national policy (see HBF answer to Q.87 above), therefore the securing of carbon offset funding would not meet the tests set out in the 2021 NPPF (para 57). There is no justification for seeking a financial contribution.

Furthermore, the proposed carbon price of £95 / tonne CO2 has been excluded from the Council's Viability Assessment. If the carbon price of offsetting is set too high, this will act as a brake on development or increases house prices. BANES is in a housing crisis, with an undersupply of homes, declining affordability levels for households on average incomes and declining levels of home ownership. The proposed carbon price is based on a survey of authorities of which the majority are in London, where land values are higher than in BANES. There is a risk that development in BANES is less able to support additional costs. There is also significant potential for the Council to double charge for infrastructure to be funded through CIL, for example, Sustainable Transport Infrastructure (including public transport, pedestrian & cycle infrastructure), Green Infrastructure (including green space requirements & tree planting) and Strategic Energy Infrastructure (assumed to include District Heating).

Q.91 The Written Ministerial Statement of 15 December 2021 sets out that the new overheating standard is a part of the Building Regulations and is therefore mandatory and there will be no need for policies in development plans to duplicate this. In this context, what is the justification for the requirement for applications for 50 dwellings or more to demonstrate that the CIBSE TM59 overheating target has been met in the current climate, and a strategy submitted to show how overheating can be mitigated in the future climate, and is this consistent with national policy?

There is no justification for this policy requirement, which is inconsistent with national policy.

Policy SCR8 - Embodied Carbon

Q.96 What is the justification for the size thresholds for the application of the Policy, and the requirement that an Embodied Carbon Assessment that demonstrates a score of less than 900kg/sqm of carbon can be achieved within the development for the substructure, superstructure and finishes?

There is no clear evidence justifying the requirement for an Embodied Carbon Assessment demonstrating a score of less than 900kg/sqm of carbon can be achieved for the sub-structure, superstructure and finishes of developments. There is no justification for the site threshold of 50 dwellings, which will place unduly onerous requirements onto smaller sites and SME developers.

Q.97 What effect would Policy SCR8 have on the delivery of new buildings?

The impact of Policy SCR8 on the delivery of development has not been assessed. The Council's Viability Assessment asserts that the cost of compliance with Policy SCR8 is cost neutral. However, the West of England Evidence Base for Net Zero Building Policy (CD-RCC008) estimates whole life embodied carbon cost uplifts of 0 – 9% for apartments and 0 – 15% for semi-detached houses (Table 3-4 & 4-1). There is also a cost for producing an Embodied Carbon Assessment, which may disproportionately impact on SME builders without the in-house resources to prepare an Embodied Carbon Assessment. These costs should be included in the Council's Viability Study so that the cumulative impact on development and deliverability of the LPPU can be assessed.

New Policy SCR9 - Electric Vehicles Charging Infrastructure

Q.99 The approved document supporting Part S of Schedule 1 to the Building Regulations 2010 takes effect on 15 June 2022. Given the changes to the Building Regulations does the Policy serve a clear purpose and would it be effective?

Policy SCR9 is no longer necessary and serves no clear effective purpose because of the changes to Part S of the Building Regulations, which are effective from June 2022.

Q.100 Is the requirement for the provision of on-street charging of electric vehicles where off-street parking is not provided justified, and would it be effective?

Policy SCR9 is no longer necessary and serves no clear effective purpose because of the changes to Part S of the Building Regulations, which are effective from June 2022.

Q.101 Is it intended that the Transport and Development Supplementary Planning Document will set out land use policy for parking standards? If so, why are these not set out in this Plan consistent with paragraph 107 of the NPPF?

The LPPU states that the Transport and Development Supplementary Planning Document (SPD) will detail parking and charging standards for development (para 132c), which is inconsistent with 2021 NPPF (para 107). The Council's approach infers conveying the weight of a DPD onto an SPD, which has not been subject to examination and does not form part of the LPPU.

Q.102 What is meant by an abnormally high local electric grid infrastructure connection cost?

The Council should define its meaning of an abnormally high local electric grid infrastructure connection cost. The LPPU Viability Study dated August 2021 by BNP Paribas Real Estate assumes a cost of only £800 per dwelling for an active EVCP and all necessary infrastructure within a development based on evidence prepared for South Gloucestershire Council and set out in Introducing Planning Policy for Electric Vehicles in New Development by Cenex / Systra 2019 (para 4.36). The HBF note that this document was absent from the Council's evidence during the pre-submission LPPU consultation and is presumed to be specific to South Gloucestershire. The Department for Transport - Electric Vehicle Charging in Residential & Non-Residential Buildings consultation estimated a cost of £976 per EVCP. With regards to abnormally high local electric grid infrastructure connection costs, Part S of the Building Regulations imposes a £3,600 cap for the installation of EVCPs.

Policy NE3a - Biodiversity Net Gain (BNG)

Q.106 What are the implications of the Environment Act 2021 for the Policy?

The requirements of Policy NE3a should align with the 2021 Environment Act, which requires development to achieve a mandatory 10% BNG. This mandatory requirement provides certainty in achieving environmental outcomes, deliverability of development and costs for developers. Whilst there

is no cap on the aspirations of developers who want to voluntarily go further, it should be clear that there is no compulsory requirement to achieve more than the minimum 10% and achievement of 10% BNG complies with both the 2021 Environment Act and satisfies the requirements of Policy NE3a. Indeed, the Council's Biodiversity Topic Paper states that an increase in biodiversity net gain above 10% is not appropriate (para 3.5). Furthermore, the LPPU Viability Study dated August 2021 by BNP Paribas Real Estate assumes 0.8% increase to build costs for BNG based on DEFRA Biodiversity Net Gain & Local Nature Recovery Strategies : Impact Assessment Table 19 - Greenfield Delivery Costs as Proportion of Build Costs. A policy requirement for more than 10% BNG would increase costs and the cumulative impact on the viability of development has not been tested.

Q.107 Is the Policy justified in not setting out a transition period for the implementation of the requirement for Biodiversity Net Gain?

To reduce risks from unexpected costs and delay to housing delivery, the 2021 Environment Act makes provision for two years transitional period for the implementation of the requirement for BNG. Policy NE3a should align with the 2021 Environment Act. Policy NE3a is not justified in not setting out a transition period, which should be included.

Q.108 What is the justification for requiring biodiversity net gain from minor development, which may be exempted development by the Environment Act 2021?

The BNG requirements of Policy NE3a should align with the 2021 Environment Act including any exempted development.

Policy H7 – Housing Accessibility

Q.119 Are the percentage requirements proposed for accessible housing provision for affordable and market housing justified?

The proposed percentage requirements of 92.2% M4(2) & 7.8% M4(3)(b) for affordable housing and 48% M4(2) & 5.6% M4(3)(a) for market housing are not justified.

The BANES SHMA Volume II (pages 30 – 39) dated March 2019 by ORS does not identify any local circumstances, which demonstrate that the needs of BANES differ substantially to those across the South West or England (Figure 23). An ageing population affects the whole country and is not an issue specific to BANES. Indeed, BANES residents are identified as healthier than in England (para 2.73). If the Government had intended that evidence of an ageing population alone justified adoption of optional standards, then such standards would have been incorporated as mandatory in the Building Regulations, which is not currently the case.

The LPPU Viability Study dated August 2021 by BNP Paribas Real Estate under-estimates the costs of policy compliant requirements and the

cumulative impact on development. Policy H7 is costed at a percentage of base construction cost (para 4.34, Table 4.34.1 & Appendix 6) :-

- for M4(2) of 1.15% for flats / 0.54% for houses ;
- for M4(3)(a) of 9.28% for flats / 10.77% for houses ; and
- for M4(3)(b) 9.47% for flats / 23.8% for houses.

These assumptions are based on the DCLG cost estimates for M4(2) and M4(3) from 2015, which are somewhat out of date and less than more recent alternative estimates. The Government's consultation "Raising Accessibility Standards for New Homes" (ended on 1st December 2020) estimated the additional cost per new dwelling, which would not already meet M4(2), is approximately £1,400. It is also noted that M4(2) and M4(3) compliant dwellings are larger than NDSS (see DCLG Housing Standards Review Illustrative Technical Standards Developed by the Working Groups August 2013), therefore larger sizes should be used when calculating additional build costs for M4(2) / M4(3) and any other input based on square meterage except sales values, which are unlikely to generate additional value.

Even with these under-estimations, the Viability Study concludes that the impact of additional costs varies between development typologies and locations across BANES as shown in cumulative impact Tables 6.24.1 – 6.24.9. Where viability is marginal and in lower value areas, development is not able to meet the proposed requirements of LPPU and full compliance with adopted policy requirements. There are situations where the cumulative impact of LPPU policy requirements will tip the balance from 'viable' to 'unviable' and trade-offs will be necessary. Viability is challenging in lower value areas (Price Points A – D) at 30% affordable housing provision (see Tables 6.24.6 – 6.24.9), where a flexible policy approach will be necessary including a relaxation of proposed policy requirements.