

Sent by EMAIL ONLY to Sandwell\_LocalPlan@sandwell.gov.uk

 11/11/2024

Dear Sir/ Madam

**Response by the Home Builders Federation to the Sandwell Reg 19 Local Plan consultation, October 2024**

1. Please find below the Home Builders Federation (HBF) response to the Sandwell Reg 19 Local Plan consultation, November 2024. We have noted the contents of the Reg 19 documentation including the errata report that has been published.
2. 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.
3. HBF have not commented on every policy only those of relevance to our members.

**Overarching comments**

**Plan Period**

*The Plan is not considered to be sound as it is not justified or effective or in line with national policy.*

1. HBF welcomes the Council’s efforts to ensure that they have an up to Local Plan. Plan-making is a fundamental part of a Local Authority’s role and is essential to support the delivery new homes and jobs. HBF agree that there are many factors that support the need for a new Local Plan for Sandwell. However, HBF note that the Plan Period runs only to 2041. Para 22 of the NPPF requires that ‘strategic policies should look ahead over a minimum 15-year period from adoption’.
2. Although we note that the Plan is now at Reg 19 submission stage, it can and does take time to proceed through the remaining stages of plan preparation- the examination process, main modification consultation, Inspector’s report and adoption of the Local Plan. HBF therefore question whether the plan period need extending. Extending the plan period by one or two years and rolling forward the housing requirement to these future years would seem a reasonable approach to address this issue. The supporting evidence would probably need to reflect this longer timeframe too.
3. HBF suggest that for this plan to be sound, the plan period needs extending. A plan period of less than 15 years on adoption fails to comply with the NPPF requirements for effective plan making.

**Duty to Co-operate**

1. HBF note that a Duty to Cooperate Statement dated Sept 2024 has been prepared, <https://www.sandwell.gov.uk/downloads/file/3267/slp-reg-19-duty-to-co-operate-statement> but that is not included on the Reg 19 consultation website <https://sandwell.oc2.uk/> and has to be searched for separately on the Council’s website, as does the consultation statement and other supporting documentation.
2. Table 2 of the DTC statement sets out the Statements of Common Ground in relation to the apportionment of contributions between the four Black Country LPAs and the apportionment of contributions between the Greater Birmingham and Black Country Housing Market Area and an agreement to refresh the Housing Growth Study remain in discussion. As does the SoCG about Telford and Wrekin council making a housing land contribution.
3. HBF therefore remain unclear if the Duty to Cooperate has been met. Although we welcome the DTC Statement, which we requested in our Reg 18 response, the current position of nieghbouring authorities in relation to Sandwell’s Local Plan remains unclear. HBF agree that meeting unmet housing need was one of the main strategic matters being addressed through the Black Country Plan and as such continues to be one of the principal cross-boundary issues to be addressed in the preparation of the Sandwell Local Plan.

**Problems with the Shropshire Local Plan EIP**

1. Table 2 of the DTC statement states that a SoCG has been drafted and agreed with Shropshire Council. However, HBF note that Inspectors of the Shropshire Local Plan have recently written to Shropshire Council expressing significant concerns about the soundness of their Plan and the planned future EIP hearing sessions on the Shropshire Plan have been cancelled. See <https://www.shropshire.gov.uk/planning-policy/local-planning/local-plan-review/draft-shropshire-local-plan-2016-2038-examination/examination-calendar/> and <https://www.shropshire.gov.uk/media/29185/id46-stage-2-hearings-holding-letter.pdf>
2. This would seem to raise questions around the soundness of the Sandwell Plan if this Plan is seeking to rely on Shropshire delivering housing to meet some of Sandwell’s unmet need.
3. HBF would be keen to understand the Council’s view on the implication of this latest development in the Shropshire Local Plan EIP on the Duty to Cooperate in relation to Sandwell’s Plan. What conversations have been undertaking during, and subsequent to, the Shropshire EIP soundness issues coming to light? At the very least the DTC statement will need updating to reflect the current position. Without this information being publicly available at this point in time HBF are unable to fully assess the impact of this issue on compliance with the Duty to Cooperate.
4. HBF’s main concerns around Duty to Cooperate continue to relate to ensuring that Sandwell’s required amount of housing is delivered in reality. This is particularly important because the current Plan the indicates a significant amount of unmet need. The issue of fully meeting housing needs within Sandwell remains. Our more detailed comments on this issue can be found in response to Policy SDS1.

**Vision for Sandwell**

*The Vision is not considered to be sound as it is not justified or effective or in line with national policy.*

1. The Vision is very long and imprecise, similarly the Plan’s objectives are very numerous. HBF question if this is effective.
2. Although HBF support has supports the need for the Vision for Sandwell to include reference to the need for new homes to meet housing need, as included within Ambition 7 we suggest this should be amended to be more explicit about the requirement to meet the development needs of the area. HBF would suggest that both the Vision and Objective Six should be more explicit about the need to plan for both open market and affordable housing to meet housing needs and support the Council’s growth aspirations.

**Planning for Sustainable Development**

**Policy SD1: Overall Development Strategy**

*The Policy is not considered to be sound as it is not justified or effective or in line with national policy.*

Housing Requirement- dpa and total

1. The Reg 18 version of the Plan proposed at least 11,167 net new homes and at least 1,206ha of employment land (of which 29ha is currently vacant). The Reg 19 version of the Plan reduces the Housing Requirements to 10,434 net new homes.
2. It is noted that paragraph 2.6 explains that “There is still, despite the number of housing sites that have been identified and allocated, a shortfall in the numbers of houses that need to be built to meet identified needs. Housing need is calculated using the Government’s standard method based on household growth projections.

• Sandwell needs to identify land for 26,350 homes by 2041.

• The supply of suitable residential land based on the most recent evidence stands at 10,434 homes.

• There is an unmet need for 15,916 homes.!

1. This means that the council is planning only to meet 40% of their proposed housing number, with 60% not being planned for. HBF believe the housing requirement should be higher to start with and so the percentage of unmet need would be even higher. Even, setting this aside for now, HBF is very concerned about this proposed shortfall. Failure to meet the housing needs of Sandwell will inhibit growth and do nothing to address the current housing crisis, with implications for the economy and population of wider region. It will be important for the Council to clearly show how the unmet need will be met, and what they will do to ensure that it is. However, the Council needs to first establish the appropriate housing requirement for Sandwell before considering if and how this could be met.
2. The Reg 18 version of the Plan sought to plan for 187 ha of employment, this need has increased in the Reg 19 version para 2.14, as amended by the errata document, now says:

“Employment land need is based on economic forecasts in the EDNA up to 2041.

• Sandwell is subject to a demand for 212ha of employment land.

• The current supply of land available and suitable for employment use is 42ha (after completions between 2020 – 2022 are considered). This includes windfall supply, generated through intensification / recycling, and also includes a vacant land supply of 28ha (sites identified under

Policy SEC1).

• Based on the amount of land required to grow the economy, there is a shortfall of around 170ha.

• In addition, the plan allocates / retains 1,193ha of existing occupied employment as strategic, local or other employment land.

1. HBF notes that the Plan therefore proposes not only significant unmet housing need but also a significant unmet employment need. This would further constrain the ambitions for Growth in Sandwell, and the wider region. HBF suggest these circumstances warrant a full Green Belt review and the allocation of sites to meet the housing and employment requirements of the Borough even if these are within the current Green Belt.
2. With regards the housing requirement itself, HBF strongly support the need for more housing in the Sandwell Local Plan for a variety of reasons including addressing the current housing crisis, meeting housing need, providing affordable housing and supporting employment growth. HBF would request that the Council considers the annual LHN as only the minimum starting point and fully considers all of the issues that may result in a need for a higher housing requirement, including the need to provide a range and choice of sites, the need for flexibility, viability considerations and whether higher levels of open-market housing are required in order to secure increased delivery of affordable housing.
3. Paragraph 22 of the NPPF requires that strategic policies should look ahead over a minimum 15-year period from adoption. HBF note that the current plan period is to 2041 but would still question if the plan period is long enough to cover this requirement. This Reg 18 consultation closes at the end of 2023 and then the representations need to be considered an analysed, a submission plan prepared and consulted, examination, main modifications consultation, inspectors report and adoption by the Council.
4. HBF suggest that the plan-making process may take some time, especially if additional Green Belt release is needed, and suggest that the plan period could be extended now, especially as this would require an update to the evidence base as is important for the evidence base to be consistent with the Plan Period. Extending the plan period would also require an increase to the housing requirement to cover the additional years, and consequential additional housing supply.
5. The Government’s commitment to 1.5 million homes over the next five years has seen ambitions to plan for 370,00 per year in order to deliver the national target of 300,000 new homes per year. HBF note that the standard method housing requirement has always been the minimum starting point for setting the housing requirement, and HBF support more housing than the standard method housing requirement in order to support economic growth, provide a range and type of sites and to support small and medium house builders.
6. HBF suggest that each of these reasons on its own could justify an increase in the housing requirement for Sandwell and the Council should consider planning for an additional amount of housing to address each reason in turn. However, as previously mentioned it is important that the housing requirement is established, before any consideration is given to any issues around housing land supply, or lack thereof.
7. The plan-led system requires Council to proactively plan to meet the needs of their community. This means that there is a need to provide a range and choice of sites, a need for flexibility and viability considerations to be taken into account, and a need for the Council to consider whether higher levels of open-market housing are required in order to secure the delivery of affordable housing and/or support economic growth.
8. Once the housing requirement has been set, the next phase is to consider housing land supply. It is important to both minimise the amount of any unmet needs that cannot be accommodated within the Borough and clearly set out how any unmet need will be addressed elsewhere. HBF recognise the constrained nature of the Borough and the size of the shortfall in Housing and Employment land being proposed in this plan. However, it is important that the housing needs of Sandwell are met in full.
9. Although HBF is pleased to see the Council commit to ongoing working with neighbouring authorities to try an address this matter under the Duty to Cooperate the fact remains that the Local Plan’s policies should ensure the availability of a sufficient supply of deliverable and developable land to deliver Sandwell’s housing requirement. If it is not possible to do this within the Council’s boundary then Green Belt should be considered.
10. Criteria 3 of the policy sets out that “Appendices B and C show how the housing and employment land ambitions for Sandwell will be met. Those development needs that cannot be accommodated within the borough will be exported to sustainable locations in neighbouring local authority areas, following consultation.” HBF suggest this should be set out as an integral part of the policy and not deferred to Appendix B and C.
11. HBF believe that Sandwell’s inability to meet its housing (and employment) needs requires revisiting the Spatial Strategy results in the ‘exceptional circumstances’ that would require the need for a Green Belt review as set out in para 140 of the NPPF.
12. As set out in our comments on the Duty to Cooperate above, HBF remains very concerned about the reliance of the Council on neighbouring authorities to deliver it’s unmet needs, especially in light of the issue the Shropshire Local Plan has recently encountered. These difficulties further underline the need for Sandwell to be doing more to meet its own needs including through a comprehensive Green Belt review and new allocations for housing.

**Policy SDS6- Green Belt**

*The Policy is not considered to be sound as it is not justified or effective or in line with national policy*.

1. HBF continune to strongly disagree with the conclusion in para 3.99 which says:

“It is the Council’s view that there are no exceptional circumstances in Sandwell that would justify amending current boundaries and releasing any areas of green belt for new development. While there is an identified shortfall of land suitable for housing and economic development, this of itself does not outweigh the need to maintain the openness and permanence of the green belt within Sandwell, especially given the densely developed and urban character of the rest of the borough.”

1. HBF are strongly of the view that planning to meet less than half of your identified housing need is clearly evidence of the exceptional circumstances required to justify releasing areas of green belt land.
2. HBF would argue that the current housing crisis and the inability of Sandwell meet its own needs provide the exceptional circumstances to necessitate a Green Belt review, which must include the consideration of both employment and housing sites.
3. NPPF (para 20) is clear that “Strategic policies should set out an overall strategy for the pattern, scale and design quality of places, and make sufficient provision housing (including affordable housing), employment, retail, leisure and other commercial development”. Para 11 of the NPPF states that “all plans should promote a sustainable pattern of development that seeks to: meet the development needs of their area; align growth and infrastructure; improve the environment; mitigate climate change (including by making effective use of land in urban areas) and adapt to its effects”.
4. HBF cannot see how a plan that provides for less than half of its housing requirement standard method baseline (and HBF argue the housing requirement itself should be higher) can meet the requirements to be positively prepared and setting out a clear long term vision for the area which is the purpose of plan-making. NPPF para 60 clearly states that “to support the government’s objective of significantly boosting the supply of homes, it is important that a sufficient amount and variety of land can come forward where it is needed, that the needs of groups with specific housing requirements are addressed and that land with permission is developed without unnecessary delay.”
5. HBF believes the Council’s inability to meet their own housing need in the midst of a housing consider is a factor that constitutes the exception circumstances that justify green belt release.
6. HBF support ambitious growth aspirations in Sandwell. HBF highlight the need to consider the interaction between employment and housing. An increase in the number of jobs can it itself generate a requirement for additional housing, and failure to provide housing can have negative impacts on the economic and social wellbeing of the area.
7. The Plan need to ensure there is a sufficiency of Housing Land Supply (HLS) to meet the housing requirement, ensure the maintenance of a 5 Year Housing Land Supply (5YHLS) and achieve Housing Delivery Test (HDT) performance measurements. HBF cannot see how achieving these aims is possible without Green Belt release. It is noted that this may in turn also effect the spatial strategy for the Local Plan.
8. HBF also suggest the Council should give explicit consideration to whether BNG development is acceptable within the Green Belt and/or if green belt boundaries need to be revised accommodate schemes that deliver off-site, and possibly even on-site biodiversity gains.

**Policy SNE2- Protection and Enhancement of Wildlife Habitats**

*The Policy is not considered to be sound as it is not justified or effective or in line with national policy.*

1. HBF note that although mandatory national BNG was introduced in the Environment Act 2021 the introduction of Biodoversty Net Gain for planning application did not come for large sites until Feb 12th 2024, and for small sites on 2nd April 2024.
2. HBF has been involved in a significant amount of work, being led by the Future Homes Hub, on BNG preparedness for some time, including feeding into the BNG Planning Practice Guidance and the DEFRA BNG Guidance. It is important for this policy to fully reflect all the new legislation, national policy and MHCLG and DEFRA guidance.
3. HBF note that this represents a lot of new information that the Council will need work though and consider the implications of, in order to ensure that any policy on Biodiversity Net Gain policy complies with the latest policy and guidance now it has been published. It should also be noted that the PPG is clear that there is no need for individual Local Plans to repeat national BNG guidance.
4. It is the HBF’s opinion that the Council should not deviate from the Government’s requirement for 10% biodiversity net gain as set out in the Environment Act. The Plan should provide certainty for developers and a clear BNG policy with a fixed 10% figure, rather than the policy including the phrase “at least 10%” would help to provide this.
5. Any requirements to go beyond 10% BNG needs to be clearly demonstrated with evidence including considering the implications of the policy approach as part of the whole plan viability appraisal. In particular, HBF would question how the viability of more than 10% BNG can be established when the market for off-site credits, and therefore the costs of delivering the 10% mandatory BNG system are still emerging.
6. HBF notes that the proposed policy wording and supporting text will need to reflect both that the Environment Act which requires 10% Biodiversity Net Gain, and the emerging policy, guidance and best practice on how Mandatory Biodiversity Net Gain will be implemented. There is an important policy distinction to made between the national mandatory requirements and any optional further requests from LPAs to go further and faster. In particular the 10% national target is non-negotiable from a viability perspective, but policies seeking over 10% can be challenged on viability grounds. This distinction needs to be recognised within the Local Plan.
7. HBF suggest particular care is needed in terminology to ensure the Sandwell policy reflects the national policy and guidance. For example, on site and off-site biodiversity is referred to as units, and the statutory national credit system of last resort is referred to as credit. It is important for the wording of the policy to accurately reflect the legalisation and guidance.
8. HBF question the wording of criteria five, as it should be for the BNG plan to set out what happens if monitoring shows any BNG measure are ineffective. For large and complex sites where the development is phased, the guidance is clear that the 10% must be delivered at the end of the development, and this may not result in 10% BNG on each phase.
9. It is also important to note that for large and complex sites where the development is phased, the guidance is clear that the 10% must be delivered at the end of the development, and this may not result in 10% BNG on each phase. Additional advice on phased development has been provided in the new BNG PPG.
10. The costs of BNG must also be considered as part of the whole plan viability assessment and should be specified as a single specific item, and not combined into a generic s106 costs item. There are significant additional costs associated with biodiversity net gain, which should be fully accounted for in the Council’s viability assessment, some of which remain unknown at this time. It is important that BNG does not prevent, delay or reduce housing delivery. The costs relate both the financial costs and also land take- which will impact on densities achievable if BNG is provided on site.
11. As this is still a new policy area and the market for off-site provision, and statutory credits are not yet known, any figure used for BNG costs will need to be kept under review as BNG implementation progresses and a greater understanding of actual costs become available. The Whole Plan Viability Assessment must clearly set out how it considered the implications of mandatory BNG and how it as arrived at using the most up to date BNG costs information available. There may need to be further additional flexibility in policies elsewhere in the Plan to reflect the non-negotiable nature of 10% BNG costs.
12. HBF suggest that there is also a need for this policy and supporting text to say more about how BNG will be considered in relation to applications in advance of the Local Nature Recovery Strategies. As the LNRS emerges it will be important for this Local Plan to be kept under review and further public consultation on the interaction between the two documents and/or changes to Local Plan policy and/or its implementation, to reflect the LNRS may be needed.
13. HBF would also encourage the Council to ensure the Local Plan fully considers the new BNG requirements in relation to site allocations. This is likely to require undertaking an assessment of the baseline to support the allocation to enable an understanding the BNG requirements for a site to be allocated and the impact this may have on viability and other policy requirements and considerations. It will be important to understand the BNG costs of mandatory BNG as this is non-negotiable and as such may impact on the viability of the site and its ability to deliver against other policy requirements such as affordable housing or other s106 asks.
14. HBF also notes that there seems to be significant potential for confusion around environmental hierarchy, and suggest particular care is needed to avoid any confusion between the well-established mitigation hierarchy and the new BNG hierarchy. There is need for the policy wording and/or supporting text to be clearer about the differentiation between the mitigation hierarchy (which seeks to avoid harm in the first place, then mitigate and only then compensate it in relation to protected habitats) and the BNG delivery hierarchy (which prioritises on-site BNG delivery, then off-site units and finally allows for statutory credits). There seems to be significant potential for confusion between the two difference hierarchies. HBF therefore suggest that the Council should take particular care to explain how the requirements of the two-part BNG hierarchy work in different ways and that they seek to achieve different aims.
15. BNG will also impacts on the density of housing schemes that can be provided, as land used for on-site BNG is not available for housing. This may require larger and/or additional housing sites to be allocated.

**Policy SNE3 – Provision, Retention and Protection of Trees, Woodlands and Hedgerows**

*The Policy is not considered to be sound as it is not justified or effective or in line with national policy.*

1. HBF continue to question how the Council arrived at the requirement for 3 replacement trees for everyone lost and what (if any) assumptions have been relation to the size and standard of trees. HBF considers that a three for one replacement policy could impact on the land uptake for any development and may have implications for the density of developments, which in turn has the potential to have an impact on the viability of developments.
2. HBF suggest further flexibility is needed in the policy, for example hedgerow removal may be an essential to gain access to a site, but BNG policies which require 10% net gain from the pre-development baseline so any loss would already have to be compensated. HBF suggest the Council should give more thought to how the suite of environmental policies are intended to work together so that developers are completely clear what is expected of them, and to ensure that the policies do not serve to make development undeliverable.

**Policy SCC1 – Energy Infrastructure**

*The Policy is not considered to be sound as it is not justified or effective or in line with national policy.*

1. HBF supports the Government’s intention to set standards for energy efficiency through the Building Regulations. The key to success is standardisation and avoidance of individual Council’s specifying their own policy approach to energy efficiency, which undermines economies of scale for product manufacturers, suppliers and developers. The Councils do not need to set local energy efficiency standards in a Local Plan policy because of the higher levels of energy efficiency standards for new homes set out in the 2021 Part L Interim Uplift and proposals for the 2025 Future Homes Standard. There is no need for a Local Plan policies on matters already addressed in Building Regulations.
2. HBF question the realism of requiring post-occupancy evaluation as this will require consent of future homeowners and willingness to share their data. This cannot be assumed.

**Policy SCC4 - Embodied carbon and waste**

*The Policy is not considered to be sound as it is not justified or effective or in line with national policy.*

1. HBF are concerned about the effectiveness and justification of this policy, especially as the Council acknowledge in para 5.63 of the Plan that there is no reference to ‘embodied carbon’ in the NPPF.

**Policy SHO1- Delivering Sustainable Housing Growth**

*The Policy is not considered to be sound as it is not justified or effective or in line with national policy.*

1. In relation to criteria one, HBF’s detailed comments in relation to the amount of housing needed in Sandwell can be found in our response to policy SD1: Development Strategy. In summary, HBF request that the standard method LHN should be the minimum starting point for establishing the housing requirement and the Council should then fully considers all of the issues that may result in a need for a higher housing requirement, including the need to provide a range and choice of sites, the need for flexibility, viability considerations and whether higher levels of open-market housing are required in order to secure increased delivery of affordable housing. HBF suggests that these considerations should result in a higher housing requirement for Sandwell which set be set out in the Local Plan. Only then should consideration around deliverability and housing land supply come into play, the housing requirement should be established first.
2. In relation to criteria two, HBF note that the council is looking to phase the plan and delivery of the housing requirement. For the plan to be effective and justified, a clear explanation of this approach and the reasoning behind for it is needed. As HBF is of the view that the overall housing requirement for Sandwell should be higher, it follows that our view is that the numbers in each phase should be higher too.
3. HBF remain of the view that the allocation of site for housing should be undertaken in policy and no relegated to an Appendix.
4. HBF supports the principal of discounted the housing land supply to take account of non-implementation rates. We note that site with planning permission include a lapse rate of 5% other commitments are SHLAA are discounted by 10% and occupied employment land discounted by 15%, but These figures should be clearly evidenced. HBF also notes that no allowance is made for non-delivery of windfall sites and we believe one is needed. HBF would question if the discount rates should in fact be higher especially for sites that are currently occupied in employment use. The anticipated loss of current employment sites to housing further underlines the need for housing and employment to be considered together, and implications of not meeting with the housing and employment need of the borough present the exceptional circumstances required to justify Green Belt release.
5. Para 7.4 of the Plan states that “A balanced range of sites has been provided, in terms of size, location and market attractiveness, which will help to maximise housing delivery over the Plan period. Across the borough, 10% of identified supply in the Plan and in the most recent Brownfield Register is on sites no larger than 1ha, which is in accordance with the requirement set out in the NPPF at paragraph 069.”
6. The NPPF requires Local Plans to identify land to accommodate at least 10% of the housing requirement on sites no larger than one hectare, unless there are strong reasons why this cannot be achieved. The HBF has undertaken extensive consultation with its small developer members. One of the chief obstacles for small developers is that funding is extremely difficult to secure without a full, detailed, and implementable planning permission. Securing an implementable planning permission is extremely difficult if small sites are not allocated. Without implementable consents lenders are uneasy about making finance available or the repayment fees and interest rates they set will be very high. Small developers, consequently, need to invest a lot of money and time up-front in the risky business of trying to secure an allocation and a planning permission, and this is money that many small developers do not have.
7. HBF would therefore wish to see the 10% small sites allowance delivered through allocations. Indeed, we would advocate that a higher percentage of small sites are allocated if possible. Such sites are important for encouraging the growth in SME housebuilders who will tend to develop these sites but rarely see the benefits that arise from the allocation of sites in a local plan. Up until the 1980s, small developers once accounted for the construction of half of all homes built in this country resulting in greater variety of product, more competition, and faster build-out rates. Since then, the number of small companies has fallen by 80%.
8. HBF also note that support for small and medium builders need not be limited to only small sites of less than 1Ha. SMEs also deliver on other types of non-strategic sites (for example up to 100 units). The inclusion of additional non-strategic allocations would expand the range of choice in the market, and (possibly most importantly), be of a scale that can come forward and making a contribution to housing numbers earlier in the plan period.
9. In relation to criteria three, HBF notes that NPPF (para 71) only permits an allowance for windfall sites if there is compelling evidence that such sites have consistently become available and will continue to be a reliable source of supply. HBF are also of the view that any buffer provided by windfall sites should be in addition to the buffer added to the housing need figures derived from the Standard Method to provide choice and competition in the land market. However, by including windfalls within the Plan’s housing requirement supply, any opportunity for windfalls to provide some additional housing numbers and flexibility is removed. Windfalls do not provide the same choice and flexibility in the market as additional allocations.
10. Criteria 3 indicates that regular monitoring will be undertaken annually of housing delivery, but this does not tally with the Monitoring Framework at the end of the Plan.
11. It should also be possible to see from Housing Trajectory how much reliance is being made on windfalls, or from when. To be both justified and effective the Housing Trajectory should include break down the housing numbers into different sources of supply. HBF are of the view that any allowance for windfall should not be included until the fourth year of a housing trajectory, given the likelihood that dwellings being completed within the next three years will already be known about (as they are likely to need to have already received planning permission to be completed within that timeframe).

**Policy SHO2- Windfall Developments**

*The Policy is not considered to be sound as it is not justified or effective or in line with national policy.*

1. As outlined above HBF are concerned about the Councils reliance on windfall in place of allocating housing sites. HBF also question whether it is appropriate to treat council owned land differently in policy terms from any other land. Consideration of who the applicant or landowner is, is not normally considered a to be a planning matter. The allocation of sites and the granting of permission of windfall should be considered on their planning merits and the contribution they can make to sustainable development, not who is the owner of the land.
2. HBF contend there is need for greenfield development in Sandwell to address the housing crisis and meet the housing requirement, some of these greenfield sites may need to be on Green Belt land. If monitoring showed underperformance of housing delivery additional housing will need to brough forward which could include allowing additional green field sites. The policy should be amended to account for this possibility.
3. It should also be noted that HBF also support the need for additional greenfield allocations to meet the housing requirement.

**Policy SHO3- Housing Density, Type and Accessibility**

*The Policy is not considered to be sound as it is not justified or effective or in line with national policy.*

1. The Regulation 19 policy continues to require densities of 100 dwellings per hectare for areas of very high density housing areas, 45 dwellings in ‘high accessible areas’ and 40+ for moderate area. Although the Table Six uses 100+, 45+ and 40+, so there is a need for consistency between the two.
2. Is it unclear from the policy wording if this policy only applies to allocated sites, or all development over 10 units. It is also unclear how a developer would know which target applied to their development and which standard to apply on a site not allocated in the plan. The Plan needs to better explain and justify its approach.
3. HBF would also question how realistic such high densities are, noting that the setting of residential density standards should be undertaken in accordance with the NPPF (para 125). HBF would also question how this policy links into other policies including the policies that seek to protect family housing, resist HMOs, limit tall buildings, prevent intensification, resist windfalls, and require a range and mix of housing. All of these policies may prevent densification. Indeed even the amount of land required for on-site BNG delivery may impact on the density that is delivered.
4. HBF suggest that density needs to be considered on a site by site basis to ensure schemes are viable, deliverable and appropriate for the site, and policy needs to include some flexibility if needed to enable it to respond to site specific circumstances.
5. HBF would question of the density proposed are realistic deliverable and viable as the deliverability of high-density residential development in Sandwell will be dependent upon the viability of brownfield sites and the demand for high density city centre living post Covid-19. It is important that delivery of the housing requirement does not rely overly ambitious intensification of dwellings.
6. HBF also question why there is need for a specific mention of 4+ bedroom houses in Criteria 5 of the policy as the wording of the policy as this presupposes no need for four bed houses in the evidence which may not be the case. The plan should also be read as a whole and the matter of responding to housing need it terms of size and type of units is already covered elsewhere in the Plan.
7. There is also no need for Criterion 6, in this or any other policy, as the Plan should be read as a whole, and decisions made in accordance with the policies in the plan, unless other material considerations indicate otherwise.

**Policy SHO4- Affordable Housing**

*The Policy is not considered to be sound as it is not justified or effective or in line with national policy.*

1. HBF welcomes the recognition that the delivery of affordable housing in Sandwell may raise issues of viability. Viability must be an integral part of the plan-making process, and the findings of the viability appraisal should have helped inform and test policy development. HBF have concerned about some of the detail of the Viability Assessment as it has not considered a number of key costs and requirements. For example, HBF information suggests that complying with the current new part L is costing £3500 per plot. The Future Homes Standard Part L in 2025 is anticipated to cost up to £7500+ per plot. There will also be the addition of the Building Safety Levy that is coming in pay for cladding. This will be a per plot basis around the UK, and initial values are around £1500- £2500 per plot. These costs appear to have not been considered in the viability appraisal.
2. Other factors that need to be taken into account include increasing costs of materials and labour due to inflation and the costs of mandatory BNG, which are still emerging as the off-site market is yet to be established. Although the initial price of statutory credits is now known this national fallback option has been deliberately highly priced to discourage their use. Whilst this intention is understandable, at present the lack of functioning local markets for off-site credits causes viability problems because HBF members experience to date suggests that any scheme that needs to rely on statutory credits becomes unviable. HBF have numerous concerns about the whole plan viability study, including the omission of some key policy costs. For example, an realistic and evidenced allowance for mandatory BNG needs to be includes within the viability assessment of the Local Plan.
3. The costs of BNG should have been considered as part of the planning obligations and should be specified as a single specific item. There are significant additional costs associated with biodiversity net gain, which should be fully accounted for in the Council’s viability assessment, some of which are unknown at this time. It is important that BNG does not prevent, delay or reduce housing delivery. As this is an emerging policy area and the market for off-site provision, and statutory credits are not yet known, any figure used for BNG costs will need to be kept under review as BNG implementation progresses and a greater understanding of actual costs become available. The Whole Plan Viability Assessment should clearly set out how it considered the implications of mandatory BNG and how it arrived at the most up to date BNG costs information available to use.
4. At a very basic level viability can be improved by reducing costs or increasing values. Sometimes, therefore changing the type of affordable housing provided can help to improve viability of a specific site, and the plan should recognise this. In this situation there could be a change of the percentages of different types of affordable housing provided, but the headline figure of how much affordable housing is provided would remain the same. Flexibility in the policy is important to allow for these kind of considerations.
5. The geographical distribution of development may impact on the Plan’s ability to deliver affordable housing where it is most needed. HBF notes that the level of open-market housing provided may also impact on the amount of affordable housing that can be developed.
6. It will be also be important to understand if there any geographically specific viability considerations, such as whether higher levels of open-market housing are required in particular areas in order to secure increased delivery of affordable housing in that location in a way that remains viable. Similarly, brownfield city centre sites tend to be most suited for apartments or retirement living. There will therefore be a need to include green fields allocations which are more likely to deliver family housing and a higher percentage of affordable housing, in order to provide flexibility in the housing land supply and ensure a range of housing types and tenures is provided. This adds further weigh to the need to consider Green Belt release(s).
7. The HBF does not comment on individual sites, other than to say the Plan should provide for a wide range of deliverable and developable sites across the area in order to provide competition and choice and a buffer to ensure that housing needs are met in full. The soundness of strategic and non-strategic site allocations, whether brownfield or greenfield, will be tested in due course at the Local Plan Examination.

**Policy SHO5- Delivering Wheelchair Accessible and Self/custom build Housing**

*The Policy is not considered to be sound as it is not justified or effective or in line with national policy.*

1. This policy still seeks to require all new residential developments to meet M4(2) (Accessible and adaptable dwellings) of Building Regulations and development of 10 or more units to provide 15% which meet M4(3) (Wheelchair user dwellings) on schemes of more than 20 homes.
2. The requirements to meet Part M4(2) will be superseded by changes to residential Building Regulations. The Government response to ‘Raising accessibility standards for new homes’ states that the Government proposes to mandate the current M4(2) requirement in Building Regulations as a minimum for all new homes, with M4(1) applying in exceptional circumstances. This will be subject to a further consultation on the technical details and will be implemented in due course through the Building Regulations. The requirement to address this issue is planning policy is therefore unnecessary.
3. HBF are of the view that this matter should be left to Building Regulations, however if a policy were to be needed, the wording needs to differentiate between Part a) and part b) of M4(3) technical standards. M43a sets out standards for wheelchair adaptable housing, where M43b relates to wheelchair accessible housing which can only be required on affordable housing where the Council has nomination rights. Any such requirements would also need to be fully considered from a viability perspective.
4. The PPG states:

**“What accessibility standards can local planning authorities require from new development?**

Where a local planning authority adopts a policy to provide enhanced accessibility or adaptability they should do so only by reference to Requirement M4(2) and/or M4(3) of the optional requirements in the Building Regulations and should not impose any additional information requirements (for instance provision of furnished layouts) or seek to determine compliance with these requirements, which is the role of the Building Control Body. They should clearly state in their Local Plan what proportion of new dwellings should comply with the requirements. There may be rare instances where an individual’s needs are not met by the wheelchair accessible optional requirement – see paragraph 011 below.

Local Plan policies should also take into account site specific factors such as vulnerability to flooding, site topography, and other circumstances which may make a specific site less suitable for M4(2) and M4(3) compliant dwellings, particularly where step free access cannot be achieved or is not viable. Where step-free access is not viable, neither of the Optional Requirements in Part M should be applied.”

Paragraph: 008 Reference ID: 56-008-20160519 Revision date: 19 05 2016

1. The PPG sets out some of the circumstances where it would be unreasonable to require M4(2) and M4(3) compliant dwellings. Such factors include flooding, typography and other circumstances. HBF suggest that flexibility is needed in the application of these standards to reflect site specific characteristics, and the policy wording should reflect this. HBF do not believe this policy is sound without this flexibility, as it fails to comply with national policy and is not effective or justified.
2. In relation to Self-Build and Custom Build Plots, the policy requires sites of 100 or more dwellings, to provide at least 5% as serviced plots for self and custom build, if there is evidence of demand. If after six months of a thorough an proportionate marketing exercise the plot remains unsold, the requirements falls away.
3. HBF does not consider that requiring major developments to provide for self-builders is appropriate. Instead, the HBF advocates for self and custom-build policies that encourage self and custom-build development by setting out where it will be supported in principle. The HBF considers that Councils can play a key role in facilitating the provision of land as set in the PPG. This could be done, for example, by using the Councils’ own land for such purposes and/or allocating sites specifically for self and custom-build home builders- although this would need to be done through discussion and negotiation with landowners.
4. It is considered unlikely that the provision of self and custom build plots on new housing developments can be co-ordinated with the development of the wider site. At any one time, there are often multiple contractors and large machinery operating on-site from both a practical and health and safety perspective, it is difficult to envisage the development of single plots by individuals operating alongside this construction activity.
5. HBF agree that if demand for plots is not realised, it is important that plots should not be left empty to the detriment of neighbouring properties or the whole development. The timescale for reversion of these plots to the original housebuilder should be as short as possible from the commencement of development because the consequential delay in developing those plots presents further practical difficulties in terms of co-ordinating their development with construction activity on the wider site. There are even greater logistical problems created if the original housebuilder has completed the development and is forced to return to site to build out plots which have not been sold to self & custom builders. Therefore, if the current policy requirements are retained HBF would support the suggestion that any unsold plots remaining after the 6-month marketing period revert to the original developer.

**Missing Policy- Previous Policy SH06**

*The Policy is not considered to be sound as it is not justified or effective or in line with national policy.*

1. The Reg 18 version of the Sandwell Local Plan included a very important policy called “Financial Viability Assessments for Housing”. HBF made comments on this policy saying “As the whole plan viability methodology uses typologies, this means there may be individual sites that are not viable, for example if the costs or vales of a specific site fall outside the parameters used of a typology that was tested. Some site will be on the very margins of viability and other sites may already be unviable even without a change of circumstances. HBF therefore support the recognition of the potential ned for flexibility in relation to site specific viability issues.”
2. The flexibility this policy offered is an important part of ensuring the Plan is effective and deliverability. A policy on this matter is needed for the Plan to be sound.

**Policy SDM1 – Design Quality**

*The Policy is not considered to be sound as it is not justified or effective or in line with national policy.*

1. HBF are supportive of the use of ‘Building for a Healthy Life’ as best practice guidance but suggest its use should remain voluntary rather than becoming a mandatory policy requirement. Building for a Healthy Life is not really a ‘standard’ to be achieved, but rather a toolkit for considering design and thinking about the qualities of successful places.

**Policy SDM2 – Development and Design Standards**

*The Policy is not considered to be sound as it is not justified or effective or in line with national policy.*

*Nationally Described Space Standard*

1. HBF does not support the introduction of the optional Nationally Described Space Standards though policies in individual Local Plans. If the Council wanted to do this, they will need robust justifiable evidence to introduce the NDSS, as any policy which seeks to apply the optional nationally described space standards (NDSS) to all dwellings should only be done in accordance with the NPPF[[1]](#footnote-2), which states that “policies may also make use of the NDSS where the need for an internal space standard can be justified”.
2. The NPPF[[2]](#footnote-3) requires that all policies should be underpinned by relevant and up to date evidence, which should be adequate, proportionate and focussed tightly on supporting and justifying the policies concerned. The PPG[[3]](#footnote-4) identifies the type of evidence required to introduce such a policy. It states that ‘where a need for internal space standards is identified, local planning authorities should provide justification for requiring internal space policies. Local planning authorities should take account of the following areas:
* Need – evidence should be provided on the size and type of dwellings currently being built in the area, to ensure the impacts of adopting space standards can be properly assessed, for example, to consider any potential impact on meeting demand for starter homes.
* Viability – the impact of adopting the space standard should be considered as part of a plan’s viability assessment with account taken of the impact of potentially larger dwellings on land supply. Local planning authorities will also need to consider impacts on affordability where a space standard is to be adopted.
* Timing – there may need to be a reasonable transitional period following adoption of a new policy on space standards to enable developers to factor the cost of space standards into future land acquisitions’.
1. HBF also remind the Council that there is a direct relationship between unit size, cost per square metre (sqm), selling price per sqm and affordability. The Council’s policy approach should recognise that customers have different budgets and aspirations. An inflexible policy approach to NDSS for all new dwellings will impact on affordability and effect customer choice. Well-designed dwellings below NDSS can provided a good, functional home. Smaller dwellings play a valuable role in meeting specific needs for both open market and affordable home ownership housing.
2. An inflexible policy approach imposing NDSS on all housing removes the most affordable homes and denies lower income households from being able to afford homeownership. The introduction of the NDSS for all dwellings may mean customers purchasing larger homes in floorspace but with bedrooms less suited to their housing needs with the unintended consequences of potentially increasing overcrowding and reducing the quality of their living environment. The Council should focus on good design and usable space to ensure that dwellings are fit for purpose rather than focusing on NDSS.
3. HBF considers that if the Government had expected all properties to be built to NDSS that they would have made these standards mandatory not optional.
4. If the proposed requirement for NDSS is carried forward, then the Council should put forward proposals for transitional arrangements. The land deals underpinning residential sites may have been secured prior to any proposed introduction of the NDSS. These sites should be allowed to move through the planning system before any proposed policy requirements are enforced. The NDSS should not be applied to any reserved matters applications or any outline or detailed approval prior to a specified date.
5. The policy should be deleted.

*Water efficiency in new dwellings*

1. This policy also seeks to introduce a water efficiency standard of 110 litres/person/day. HBF note that Part G Building regulations already stipulates 125lpppd normal conditions and 110lpppd in water stressed areas. Therefore, HBF question whether there is a need for this to be referred to within the Local Plan as it is already required by other regulatory frameworks.
2. The policy should be deleted.

**Delivery, Monitoring, and Implementation**

1. HBF notes that we are in the midst of a Housing Crisis. Housing delivery is therefore a key challenge facing Sandwell Borough. To address the housing crisis the Council needs to allocate enough sites to meet the housing requirement and provide choice and flexibility in supply. This will require the allocation of a mix and range of sites in a variety of locations. The policies in the Plan with then near careful monitoring to ensure they are delivering the housing. The Sandwell Local Plan must ensure the delivery of new housing to meet both open market and affordable housing needs.
2. The issue of housing is critically important and needs urgently addressing through the plan-making process. HBF believes that the Council needs to explore any and all options to meet the housing need and requirement of Sandwell. This must include full consideration of the current Housing Crisis and if it results in the ‘exceptional circumstances’ that would require the need for a Green Belt review. A plan that seeks to meet only third of the need does not deliver is simply not good enough and does represent an effective use of the plan-led system.
3. HBF suggest more flexibility is needed within the plan, so that it is able to respond to any changing circumstances. HBF do not support the inclusion of policies within a Local Plan that merely triggers a review of the Local Plan if monitoring shows housing delivery is not occurring as expected. Such a policy does nothing to address the housing crisis or undersupply of homes. There are other more effective and immediate measures that could be introduced into policy that would enable the Council to address housing under deliver, much more quickly than would be possible through the production of another plan, or plan review.
4. It is important that houses are brought forward, and the matter addressed as soon as possible, if under delivery is observed. HBF would suggest, as a minimum, explicit reference should be made within the Plan’s policy to the potential to bring forward supply earlier. However, as the housing need and requirement figures for the Plan are minimum (not maximum) figures the Council could also specifically identify reserve sites, particular sites that could/would be brought forward sooner to address any under delivery whatever the reason for that under performance. This could be a shortfall in market housing permissions granted and/or completions, affordable housing permissions granted and/or completions and any failure against the Housing Delivery Test or local plan monitoring. More is needed on how and when monitoring will be undertaken and more is needed on what action(S) will be taken when if monitoring shows under delivery of housing.
5. There remains a need to address issues that are wider-than-local matters in a joined-up manner under the Duty to Cooperate. HBF suggest that this means there is a need for housing monitoring to be undertaken across the wider region. If other areas are providing housing to meet Sandwell’s need, Sandwell will need to be monitoring this delivery to ensure its needs are being met. However, HBF firmly believe Sandwell should be doing more to address its own needs, including Green Belt release.
6. The HBF would encourage the Council to fully consider the housing needs of the Borough and robustly consider the need for additional housing in the housing requirement before then considering how much of the housing requirement can be met within the Borough, and how much may be unmet. It is important for the housing requirement to reflect the housing needs and growth aspirations of the Borough and not be restricted by capacity considerations, which should be considered after the housing requirement has been set.
7. HBF suggest that the monitoring framework at the end of the Plan needs to be expanded. The Council will need to monitor the delivery of housing and publish progress against a published Housing Trajectory Housing monitoring should be undertaken on a site-by-site basis. Therefore, the detailed housing trajectory including for specific sites should be inserted included within the Plan.
8. HBF note that as we are in the midst of a housing crisis, it is very important that the Council ensures that the Local Plan delivers all the housing that is being planned for. Sandwell should also monitor the delivery of any unmet need by neighbouring authorities and actively participate in local plan consultation and examination to ensure the need for other authorities to meet their need is robustly supported in neighbouring Local Plans.

**Appearance at the EIP and Future Engagement**

1. HBF requests to participate in the Hearing Sessions for the Local Plan Examination, the HBF considers that their involvement is necessary to ensure that the home building industry is able to respond to any housing related issues raised during the hearing sessions.
2. I trust that the Council will find these comments useful as it continues to progress its Local Plan. I would be happy to discuss these issues in greater detail or assist in facilitating discussions with the wider house building industry.

Yours faithfully

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1. para 130f & Footnote 49 [↑](#footnote-ref-2)
2. Para 31 [↑](#footnote-ref-3)
3. Ref needed [↑](#footnote-ref-4)