

From: [planningpolicy](#)  
To: [REDACTED]  
Subject: FW: EXTERNAL: RE: HBF response to Newark and Sherwood Second Publication consultation  
Date: 20 December 2023 15:26:11  
Attachments: [image002.png](#)  
[image006.png](#)  
[image007.png](#)  
[image008.png](#)  
[FINAL Newark and Sherwood Second Publication amended SA and DM DPD Oct 2023.pdf](#)

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From: Rachel Danemann [REDACTED]  
Sent: 18 December 2023 14:21  
To: planningpolicy [REDACTED]  
Subject: RE: EXTERNAL: RE: HBF response to Newark and Sherwood Second Publication consultation

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Sorry  
Now with correct attachment!  
Rachel

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From: Rachel Danemann  
Sent: Monday, December 18, 2023 1:37 PM  
To: planningpolicy [REDACTED]  
Subject: RE: EXTERNAL: RE: HBF response to Newark and Sherwood Second Publication consultation

Hi  
I have just been doing some end of year admin and noticed that the pdf of the HBF reps I sent you have a draft watermark on them, and something not quite right with the email address at the top of the letter.  
I have amended the email taken the watermark off.  
You may want to update your records accordingly.  
Please also let me know if you would like a word version of the document.  
Many thanks  
Rachel

**Rachel Danemann MRTPI CIHCM AssocRICS**



Planning Manager – Local Plans (Mildands and South West)  
Home Builders Federation



A: HBF House, 27 Broadwall, London SE1 9PL



Season's greetings from all at HBF. Instead of sending out traditional Christmas cards, HBF has made a donation to the Lighthouse Charity as part of our ongoing industry [Mental Health awareness campaign](#).

Our offices will be **closed** from **12pm Friday 22<sup>nd</sup> December** and will reopen on **Tuesday 2<sup>nd</sup> January 2023**.

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From: planningpolicy [REDACTED]  
Sent: Monday, November 6, 2023 2:30 PM  
To: Rachel Danemann [REDACTED]  
Subject: EXTERNAL: RE: HBF response to Newark and Sherwood Second Publication consultation

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Hi,

I can confirm receipt.

Kind regards,

Emma Raine MRTPI  
Planner (Policy)  
Planning Policy & Infrastructure Business Unit  
Newark and Sherwood District Council  
Working Days Monday - Friday



[www.newark-sherwooddc.gov.uk](http://www.newark-sherwooddc.gov.uk)

From: Rachel Danemann [REDACTED]  
Sent: 06 November 2023 11:04  
To: planningpolicy [REDACTED]  
Subject: HBF response to Newark and Sherwood Second Publication consultation

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Please find attached HBF's comments on the Newark and Sherwood Second Publication consultation.

Please could you confirm safe receipt

Many thanks

**Rachel Danemann** MRTPI CIHCM AssocRICS  
Planning Manager – Local Plans (Midlands and South West)  
Home Builders Federation

[REDACTED]  
A: HBF House, 27 Broadwall, London SE1 9PL

Sent by email to: [REDACTED]

6/11/23

Dear Sir/ Madam

**Response by the Home Builders Federation to the consultation on Newark and Sherwood Second Publication Amended Allocations & Development Management DPD**

1. Thank you for consulting the Home Builders Federation (HBF) on the Second Publication Amended Allocations & Development Management DPD. Please find below our response to the consultation on the further amendments to the Allocations and Development Management DPD. 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. We note that the consultation webpage says: “following the close of the previous representation period it was decided that a Second Regulation 19 Consultation would be required due to a representation received from the Environment Agency and a change in situation regarding the Gypsy & Traveller Pitch Delivery Strategy.” However, these do not seem to be the only matters that this second draft version of the consultation is seeking to address. For example, additional wording has been added to Policy DM5(b) and paragraph 7.14 and 7.46 on design.
3. Furthermore, the new wording in para 1.13 explains “that climate change is a significant issue that requires urgent action, and the Council therefore declared a climate change emergency on 16th July 2019. The Local Development Framework already addresses climate change through both the Amended Core Strategy (2019) and Allocations and Development Management DPD (2013). The Plan Review has provided the Council with further opportunity to strengthen the Publication Amended Allocations & Development Management DPD to address the climate change emergency and the Council will seek to integrate further action in Supplementary Planning Documents and guidance that it produces in future”. This approach should also be subject to re-consultation.
4. The Guide to the Publication Development Plan Document section of this consultation document says that “proposed amendments since the First Publication DPD are now double underlined and proposed deletions are double



crossed through. This gives everyone the opportunity to read the DPD as amended and consider if they wish to make Representations on the contents of the document.” It is unclear from this wording if comments are only being sought on the new amendments, or whether we need to reiterate our previous comments on the earlier Reg 19 consultation.

5. For the avoidance of doubt HBF reiterates its comments made on the previous Reg 19 consultation version, which are not repeated verbatim here. We have also made comments on the new changes (shown as double underlined or double crossed out in the Second Publication Amended Allocations & Development Management DPD) and flagged some policy areas that we believe should have been updated as part of the re-consultation but have not been- such as the policy on Biodiversity Net Gain. National BNG policy has moved on since the earlier Winter 2022 consultation.

### **Core Policy 1: Affordable housing provision**

The policy is unsound as it has not been fully justified.

6. Only a small grammatical change has been made to this policy, and the fundamental questions around viability that HBF raised remain unanswered. In our earlier response we welcomed the amendments to ensure the inclusion of First Homes within the policy we would have expected further amendments to reflect the latest viability evidence published by the Council Newark & Sherwood District Council Whole Plan & Community Infrastructure Levy Viability Assessment May 2021 which indicates at paragraph 5.4 that development on brownfield sites in low and medium value areas facing challenging viability.
7. Given that the NPPF outlines at paragraph 58 of the NPPF and paragraph 10-007 of Planning Practice Guidance (PPG) that most sites should be deliverable at planning application stage without further viability assessment negotiations it is disappointing that this matter has still not been addressed. HBF continue to suggest that the requirements of the policy should be reduced to reflect the Council's evidence. Indeed, it is disappointing that more up to date viability work has not been undertaken to reflect additional costs, such as increased prices due to inflation and the new policies on BNG. Such evidence is essential to demonstrate the plan both justified and deliverable.
8. HBF remains concerned about the robustness of some of the assumptions made in the viability assessment. It is important that the level of planning obligations required from development means that viability negotiations occur occasionally rather than routinely. Detailed discussion resulting in trade-offs between policy requirements, affordable housing and infrastructure provision should not be necessary at the application stage. However, in order to ensure that viability negotiations on a site-by-site basis are limited, there must be a robust plan-wide viability assessment. HBF remain particularly concerned with the inputs relating to

the higher energy efficiency standards in part L of the 2021 Building Regulations and the 10% Biodiversity Net Gain required by the Environment Act 2021.

#### *Part L of the Building Regulations*

9. Part L of the Building Regulations were amended in 2021 to require a higher level of energy efficiency in order to achieve a 31% improvement on the 2013 Building Regulations. The viability assessment considers sustainable construction standards at paragraph 4.18 stating that the cost rates reflect current building standard but makes no mention as to the latest amendments. The impact of these amendments on the cost of building a new should not be ignored with the Government estimating that these could add around £4,850<sup>1</sup> to the cost of building a new detached home compared to current standards. However, the HBF consider that this may be too low with our members estimating that these could add between £5,335 to £5,580 to the cost of a new build home and must be added to the base build costs.
10. Further costs are also likely to be felt by housebuilders and developers as a result of changing Building Regulations through the introduction of the heat metering regulation, as set out in a separate consultation by the Department for Business, Energy, and Industrial Strategy. These new regulations, which go in line with the new Part L regulations, could add an additional £400 - £800 per plot, meaning the total cost per new home for the package of changes to underpin the reformed Part L introduced this year amount to between £5,700 and £6,400 per new home. The viability study must take these into account in order to provide a robust assessment of the viability implications on development in future. More recent HBF information suggests that complying with the Future Homes Standard Part L in 2025 is anticipated to cost £7500+ per plot.

#### *Building Safety Levy*

11. Other factors that need to be taken into account include increasing costs of materials and labour due to inflation and the fact that the cost-of-living crisis has also impacted the housing market making borrowing more expensive for potential future purchasers. 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. The whole plan viability assessment needs to fully consider all of these costs and requirements when assessing the viability of development.

#### *Biodiversity Net Gain*

12. The costs of mandatory BNG are also still emerging as the off-site market is yet to be established. Although the initial price of statutory credits is now known this

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<sup>1</sup> Table 8 Final Stage Impact Assessment 2021 changes to the energy efficiency requirements of the Building Regulations for domestic buildings

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 needed to rely on statutory credits would become unviable.

13. In light of the above information HBF strongly question the £500 per dwelling cost of BNG used in the viability study. As HBF noted in our response to the Options consultation table 16 of the DEFRA Biodiversity Net Gain & Local Nature Recovery Strategies: Impact Assessment: gives the costs per greenfield development (residential) East Midland at an estimate £1,011 per dwelling based on the central estimate that expects 75% of net gains to be delivered on site. However, it must be remembered that the degree to which BNG can be delivered onsite is dependent on the baseline level of biodiversity. This can vary significantly between sites and could require far more offsite provision that is allowed for in the Government's central estimate. For example, a site delivering all of its mitigation offsite (scenario C in the impact assessment) would see costs rise to £3,562 and £943 per dwelling on greenfield and brownfield development respectively.
14. HBF suggested in our Feb 2023 response that before the plan is submitted the Council should undertake some sensitivity testing to understand the impact of higher BNG costs on development in Newark and Sherwood. We remain of the view that this is a necessary piece of work that must be undertaken, without it the plan is not justified and is therefore unsound.

#### *First Homes*

15. HBF remain concerned that there does not appear to be any consideration as to the impact of First Homes on development viability. Whilst these are defined as being affordable homes they are built and sold by the developer and are a market home. As such the profit margin on these homes will need to reflect those for full cost market housing rather than the lower 6% return on an affordable housing unit. The viability study should be revised and updated to reflect these comments, and the results fed into changing the working of the Policies in the Plan, to better reflect viability and deliverability.

#### *Conclusions on HBF concerns about Core Policy 1.*

16. Viability negotiations at planning application stage cause uncertainty for both the Council and developers and can result in significant delay to housing delivery or even non-delivery. Without a robust approach to viability assessment, the Amended Allocations & Development Management DPD will remain unsound, land could potentially be withheld from the market by landowners and housing delivery targets will not be achieved. Before the document is submitted the viability assessment should be updated to reflect the higher development costs outlined above.

## **DM2: Development on allocated sites**

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

17. This policy has been amended to remove reference to the Developer Contributions and Planning Obligations SPD. This change is supported by HBF as one we requested. It is not appropriate for policy to seek to give Local Plan status an existing or an emerging SPD. Planning policy must be made through the Local Plan process and be subjected to the mandatory requirements for public consultation and independent scrutiny through the Examination process.
18. However, although the new document has been amended to address this issue in relation to Policy DM2, other policies continue to seek to give Local Plan status to SPDs, namely Criterion 2 and 14 of Policy DM5(b) which reference the Residential Cyle and Car Parking SPD and the Design SPD respectively, Policy DM7 which references the Planning Obligations and developers Contributions SPD, and policy DM10, which seeks to give Local Plan policy status to the forthcoming Air Quality SPD. HBF reiterates that the Council's requirements should be set out in sufficient detail to determine a planning application without relying on, other criteria or guidelines set out in a separate SPD.
19. If the Council wish to provide additional advice on the interpretation of any policy, this should be done through a Supplementary Planning Document, which is prepared and consulted on after the Local Plan policy has been adopted. It cannot be done through trying to give Local Plan policies status to any existing SPD, especially as the existing SPD hangs from the adopted policies in the Local Plan, which will be replaced when this new Local Plan is adopted.
20. HBF is also concerned about changes proposed to the wording of the policy which now references the need for developers to "make appropriate contributions to infrastructure provision in accordance with the Council's latest, most up to date evidence", without specifying what that evidence might be. If the wording is to remain as it is, paragraph 7.3 should explain what up to date evidence the Council will be seeking to rely on, is it a new SHELAA, 5YLS, IDP, AMR, Council's Housing Strategy, parish level housing survey, or something else? This needs to be clear, so a developer knows both what evidence they should be consulting and what constitutes up to date.

## **DM3: Developer Contributions and Planning Obligations**

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

21. HBF is pleased to see the removal of the Policy DM3 reference to provision of appropriate contributions being guided by the Council's Planning Obligations & Developer Contributions SPD. We asked for this change noting that the reference to "in accordance with the Developer Contributions & Planning Obligations Supplementary Planning Document (SPD)" should not be interpreted by the



Council's Development Management Officers as conveying the weight of a DPD onto this SPD, which has not been subject to examination and does not form part of the Amended Allocations & Development Management DPD. The Town and Country Planning (Local Planning) (England) Regulations 2012 are clear that development management policies, which are intended to guide the determination of applications for planning permission should be set out in policy in the Local Plan. To ensure a policy is effective, it should be clearly written and unambiguous so it is evident how a decision maker should react to development proposals.

22. However, the new policy wording now includes the phrase "most up to date evidence", without specifying what that evidence might be. If the wording is to remain as is, it should set out somewhere within the section that is currently paragraphs 7.4 to 7.7 what up to date evidence the Council will be seeking to direct developers and how the Council would define 'up to date'.
23. Therefore, although HBF is pleased the reference to the Developer Contributions & Planning Obligations Supplementary Planning Document has been removed from the policy and is now mentioned instead the text, we are still concerned by the new wording in para 7.5 which implies the adopted SPD are supporting evidence. The new wording in paragraph 7.5 could be clearer in relation to SPDs providing additional guidance and advice, rather than evidence. HBF suggest that para 7.5 is amended to say:

Planning Obligations for appropriate infrastructure to meet the needs of development will take into account Amended Core Strategy Policy for Affordable Housing, the Infrastructure Delivery Plan, and the Open Space Assessment & Strategy and supporting evidence, including **advice provided in** adopted Supplementary Planning Documents

### **DM5a: The Design Process**

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

24. The policy has been amended to include reference to the National Design Guide and locally adopted Design Codes. The policy continues to require all new residential development to perform positively against Building for a Healthy Life. It would seem unreasonable and disproportionate for a planning application for individual dwelling to have to undertake a full Building for a Healthy Life assessment and indeed it is not designed for such use.
25. HBF is supportive of use of Building for a Healthy Life toolkit but note that it is not really a 'standard' to be achieved, but rather a toolkit for considering design and thinking about the qualities of successful places. The Local Plan needs to be clear about what 'meeting the standard' would entail, and what information would be needed to show that a development would achieve it.

26. HBF is supportive of the use of best practice guidance, but the use of Building for a Healthy Life should remain voluntary rather than becoming a mandatory policy requirement. The Council should signpost such guidance in its supporting text rather than making it a requirement in policy wording.

### **Policy DM5(b) Design**

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

27. The beginning of the policy has been amended to include reference to the National Design Guide and locally adopted Design Codes. Although the second paragraph appears to be a repetition of the first. This need resolving.
28. Section 4 of the policy on Local Distinctness and character continues to refer to the SPD on Landscape Character. It is not appropriate to seek to give Local Plan status to SPDs. Policy must be made in the Local Plan.
29. Similarly, Section 14 of this policy is titled “Design SPD and Design Codes”. Although the new wording explains that “Local Design Codes, masterplans and design briefs will be prepared to provide a detailed framework for the assessment of development proposals within particular areas and sites within District”. This section still implies that the SPD that will be prepared in the future will have Local Plan policy status. This is not appropriate and contrary to national guidance and legislation. Paragraph 7.51 is a more appropriate place to refer to the Council’s intention to prepare SPD. Section 14 of DM5(b) should be changed from policy to supporting text.

### **Core Policy 3- Housing Mix, Type and Density**

The policy is unsound as it is not justified or effective

30. There is a need for Core Policy 3- Housing Mix, Type and Density to differentiate between M4(3)a and M4(3)b in building Regulations. M4(3)a sets out standards for wheelchair adaptable housing, where M4(3)b relates to wheelchair accessible housing which can only be required on affordable housing where the Council has nomination rights. There are cost implications for providing housing that meets M4(3)a standards, and the costs for meeting M4(3)b can be very significant. The whole plan viability assessment should have considered the implications of this policy requirements on the viability of the policies in the plan. Without this being clearly shown the plan is unsound as it is not justified and ineffective.
31. It should also be noted that 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 in planning policy is therefore unnecessary.

### **Policy DM7 Biodiversity and Green Infrastructure**

The policy is unsound as it is not justified, not effective and not in compliance with national policy

32. Biodiversity Net Gain is an emerging area of national policy. As such Newark and Sherwood Council should have updated their Local Plan policy on this issue as part of this further Local Plan consultation, but this has not occurred. HBF suggest that the policy could be updated to reflect 'amendments of facts' as the Council have done in relation to other issues. Paragraph 7.62 will also need amending.

33. The policy currently says:

“Development proposals in all areas of the District should seek to enhance biodiversity. Proposals should take into account the latest information on biodiversity including Nottinghamshire Biodiversity Opportunity Mapping, and the forthcoming Local Nature Recovery Strategy. Except for exempt development proposals, the enhancement should be a net gain of at least 10% (or if different, the relevant percentage set out in the Environment Act) as measured by the applicable DEFRA metric or any successor document. These gains must be guaranteed for a period of at least 30 years. On 9th November 2023 a two-year transition period will end; after which biodiversity net gain of the relevant percentage becomes a legal requirement on developments where it is applicable.”

34. This policy has been superseded by events and need rewriting to reflect the current national policy position. The implementation date for Mandatory Biodiversity Net Gain has been put back from Nov 23 to Jan 2024, and additional guidance is emerging and expected.

35. HBF is supportive of the need to address the nature crisis and cognisant of the important role that house builders can play. This however must be proportionate, reasonable and not serve as a block on housing delivery, for this reasons HBF support the 10% mandatory Biodiversity Net Gain and the requirement to secure this for 30 years. HBF is concerned that policies which seek to go further and faster than National Guidance will result in different LPAs taking different approaches to delivery and policy that could add unnecessary complexity to the policy landscape and serve to undermine the emerging BNG local markets. The policy should therefore limit itself to seeking only the 10% BNG required nationally with BNG being secured for 30 years.

36. Guidance is still emerging as preparation for the introduction of Biodiversity Net Gain which has now been put back from Nov 2023 to Jan 2024. Work to prepare for this continues. See for example this June 2023 Government Blog that details

the work so far, and what additional work still to come  
<https://defralanduse.blog.gov.uk/2023/07/20/bng-whats-happened-and-whats-coming-next/>

37. Additional advice and guidance is being regularly released <https://defralanduse.blog.gov.uk/2023/10/05/irreplaceable-habitats-and-bng-what-you-need-to-know/>. It will be important for the Local Plan to reflect the current national policy and guidance, and the policy is likely to need to be kept under review during the Examination, with a version able to be finalised and consulted on through the Main Modifications process.
38. The PAS guidance <https://www.local.gov.uk/pas/topics/environment/biodiversity-net-gain-local-authorities/biodiversity-net-gain-faqs> has some very helpful information for Local Planning Authorities around the implementation of BNG. The Local Plan policy should set out the implications of the Environment Act amendments to the Town & Country Planning Act (TCPA) to secure BNG.
39. Guidance has just been published setting out what should happen to off site BNG after 30 years <https://defralanduse.blog.gov.uk/2023/10/10/off-site-bng-what-can-you-do-after-30-years/>. Further guidance and advice is due to be published in November 2023 in preparation for the Jan 2024 implementation date.
40. HBF suggests that the Local Plan policy and supporting text should clearly explain that BNG should be calculated using the statutory Biodiversity Metric and suggest reference should also be made to the need for local planning authorities to approve a biodiversity gain plan as part of a planning application determination.
41. The Local Plan BNG policy should explain what information the Council requires to demonstrate how the habitat will be secured for at least 30 years via planning obligations or conservation covenants, and recognise that BNG can be delivered on-site, through off-site units or via the new statutory biodiversity credits scheme. Reference in the text to the development of the national register for net gain delivery sites is being established would be helpful. This is being established initially for all off-site BNG.
42. The policy should also recognise that whilst on-site provision should be explored first there may be many reasons why on-site BNG is not deliverable and/or not the preferred approach. Factors that may need to be considered could include for example, deliverability- such as whether the site is suitable for the type of BNG to be provided; and, the priorities of the Local Nature Recovery Strategy, such as the opportunity to coordinate contributions from a range of sites to provide for large landscape scale BNG schemes.
43. HBF suggest that the policy should also recognised that BNG can be delivered via either a Section 106 agreement or through a Conservation Covenant. Although best practice on conservation covenants is still emerging recent guidance on how to apply to be a Responsible Body, sets out who can become a Responsible Body,

an option not limited to just Local Authorities (see <https://www.gov.uk/government/publications/conservation-covenants-apply-to-become-a-responsible-body>). Therefore, a developer may deliver their BNG requirements through BNG off-site unit payments to a Responsible Body who is not the LPA. It would be helpful for the plan to set out whether Newark and Sherwood intends to become a responsible body or not, as the decision may impact on how BNG can be delivered.

44. The current wording of paragraph 7.62 states that the Nottinghamshire Local Authorities are developing a joint approach to managing the implementation of Net Gain in the County. It would be helpful for the Plan to set out a timetable for this work, and how this will feed into and/or work with the Local Plan policy on BNG.

#### Delivering 10% BNG

45. It is accepted that the requirement for 10% mandatory biodiversity net gain is supported by national policy and legislation. It will be important for the Local Plan and its supporting evidence to demonstrate that BNG can be addressed and delivered in practice. Policies should set out how the Council will approach BNG and what developers need to do. The Plan should set out what information is required when, including what monitoring will be required. The Council should also highlight what help and advice is available at the pre-app and planning application stages, and during the delivery and monitoring of the project(s).
46. It is helpful for the plan to clearly link BNG into wider work around the Nature Recovery Network and the Local Nature Recovery Strategy (LNRS). It would be helpful for the Local Plan to include a link to the relevant LNRS and the timetable for its preparation, where one has yet to be produced.
47. If the Council wants to explain how it would like to see BNG off-site delivery prioritised, this could be included within the supporting text, as strategic importance of a BNG asset is a factor considered in the metric. HBF agree that it would be useful for the Council to set out how it's approach to BNG links into the wider Local Nature Recovery Strategy for Nottinghamshire, although as this is an emerging document HBF would suggest it is not appropriate to include this within the policy, and it should just be included in the text.
48. It is reasonable for BNG policy to seek to require biodiversity net gain to be delivered on site where this is possible. However, this will not always be possible and where on-site delivery is not feasible policy can seek to encourage BNG to be provided as close to the development site as possible. However, there must be a pragmatic approach to how this is implemented and applied in practice.
49. Any policy which seeks to restrict all BNG to be secured on land within the Borough boundary would be unsound. Such an approach does not reflect how the BNG is expected to work in practice. Whilst the mitigation hierarchy should seek to minimise biodiversity loss in the first place, where net gain is required, the system

allows for on-site biodiversity, off-site biodiversity, which must be registered, and as a last resort the purchase of statutory credits.

50. Any BNG policy in the Local Plan must be deliverable and not serve as a stop on new development. The intention of BNG is that development enables improvements to biodiversity, enabling nature recovery and delivery of the wider benefits of increased nature, for example health and wellbeing, climate change mitigation, carbon sequestration etc.
51. It is understood that the current BNG 4.0 Metric will form the basis of the statutory metric, which is expected to be made available shortly. The metric considers not only the type of the biodiversity asset, but also its condition and rarity. The metric requires any lost biodiversity to be replaced with either a like-for-like asset(s) or one of a better quality. It is not possible to 'trade down'. The metric also incentivises the implementation of BNG closest to the site, through the multipliers applied to off-site provision and the deliberately high cost of statutory credits. Although a new national metric will be introduced for national mandatory BNG, HBF understand that this will contain the same principles and approach, but with additional information about statutory credits.
52. The BNG Metric process allows for, and reflects different levels of Biodiversity creation on-site, locally offsite (with guidance expected to define local as being within the Local Planning Authority Area), the next tier is an adjacent LPA area, and the final tier is anywhere in England. Any BNG Policy must reflect this.
53. If a developer is able to show that BNG on-site delivery is not desirable and/or deliverable, and that there is no off-site provision available, the system allows for statutory BNG credits to be purchased. These credits may be delivered by BNG projects anywhere in England. This is allowable under the BNG national approach, and as such a Local Plan policy cannot restrict BNG to only within the Borough if it is in conflict with the national approach.
54. With BNG becoming mandatory from Jan 2024, there is significant concern that the market for off-site biodiversity provision is still emerging. There are not yet a bank of off-site biodiversity options available in every area. Although this is the medium to long term aspiration, the current situation means at least for now there may be a greater reliance on statutory credit to bring sites forward for development. This may impact on their viability.

#### BNG and Viability

55. An allowance for BNG needs to be included within the viability assessment of the Local Plan. This needs to be considered as part of the planning obligations and should be specified as a single specific item rather than rolled into a s106 allowance that is inclusive of a BNG contribution.

56. There are significant additional costs associated with biodiversity 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.
57. 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 reflect the most up to date BNG costs information available.

### **Policy DM10 Pollution and Hazardous Material**

58. This policy is also seeking to give Local Plan policy status to an SPD, this time the Air Quality SPD. An SPD that has not even been prepared yet. This is not appropriate. HBF reiterates that the Council's requirements should be set out in sufficient detail to determine a planning application without relying on, other criteria or guidelines set out in a separate SPD.

### **Conclusions**

59. At present we still 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:
- The policy on BNG needs updating
  - Affordable housing policy has not been amended to reflect viability evidence in accordance with national policy;
  - Viability study does not reflect full impact of policies on the cost for development, including SPD
  - Requirements to accord with SPD are unsound
  - Reference to Building for Healthy Life should be voluntary and not a requirement

### **Attendance at the Examination**

60. The 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.

Yours faithfully



Rachel Danemann MRTPI CIHCM AssocRICS  
Planning Manager – Local Plans (Midlands and South West)  
Home Builders Federation

