

# **TEWKESBURY BOROUGH PLAN: EXAMINATION 2020**

**Matter 6 – General Housing Policies**

**Statement on behalf of Bromford Housing Group (BHA) ID. 347**

**January 2021**

**Approval for issue**

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**Authorised by:**

Planning Director

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**Prepared by:****Prepared for:****RPS****Bromford Housing Group****Cameron Austin-Fell MRTPI  
Director - Planning**RPS Consulting UK & Ireland  
321 Bradford Street  
Birmingham,  
West Midlands B5 6ET

## Matter 6 – General Housing Policies

### Main Issue

Issue: Whether the general housing policies in the plan are positively prepared, justified, effective, consistent with national policy and the JCS

**6.1 *If relevant, do the general housing policies in the TBP apply to the JCS Strategic Allocations in Tewkesbury Borough? If so, are they justified and effective in the context of Gloucester or Cheltenham (as the case may be), and if not, is this clear?***

6.1.1 No comment.

**6.2 *Are the general housing policies in the plan positively prepared, justified, effective, consistent with national policy and the JCS? In some cases there are specific additional questions. In turn:***

6.2.1 To clarify, representations were submitted by PEP at the Regulation 19 stage in respect of the soundness of a number of generic housing policies proposed in the TBP. In this regard, BHA wish to take forward these objections, unless specified.

#### **Policy RES 5 New Housing Development**

6.2.2 No. BHA raise soundness concerns regarding a number of the criteria proposed in Policy RES5, and these are set out in the representation made at the Regulation 19 stage. To reiterate, BHA contend that, through the wording of the policy, TBC are seeking to establish a comprehensive blanket restriction on development in respect of those considerations under the respective criteria that, when read as a whole, render it contrary to national policy.

6.2.3 For example, with respect to the treatment of landscape setting under third criterion, as seeking to apply the concept of 'landscape setting' to all developments in all locations on the edge of any settlement in the Borough, and thus could be seeking to establish a 'blanket' approach to dealing with landscape setting. This is contrary to paragraph 170a of the NPPF, which seeks to enhance the natural and local environment by means of protecting and enhancing 'valued landscapes', rather than all landscapes. The same criticism can also be placed on criteria that seeks to, "...*retain a sense of transition between the settlement and open countryside...*" as part of new development. Again, the criterion, as drafted, is vague as it does not qualify or define in which circumstances this would be applicable. As a result, there is clear risk that the policy could be applied in a blanket way rather than being applied with respect to local circumstances.

- 6.2.4 In addition, the use of the wording '*any open space*' in the fourth criterion immediately raises concerns that a blanket approach to protecting existing spaces is being sought without proper consideration of 'value' or 'significance', contrary to national policy [NPPF, paragraph 92c] which seeks to "...guard against the unnecessary loss of *valued* facilities and services...".
- 6.2.5 Furthermore, the seventh criterion relating to retention of existing features on sites also misinterprets national policy [NPPF, paragraph 175/175a] which clearly allows for circumstances where retention may not be possible, or may be unavoidable, and therefore allows for appropriate mitigations measures to be incorporated into new development. Again, the use of the word 'any' in this policy raises concerns that TBC are seeking to apply a 'catch all' criterion when assessing new development proposals.
- 6.2.6 On this basis, BHA wish to draw the Inspectors attention to the need to ensure that those non-strategic allocations identified in the Pre-Submission are not unduly prevented or constrained from being brought forward in a timely manner by the pursuit of policies that could potentially undermine the achievement of the strategic policies of the development plan, if drafted in an overtly restrictive manner contrary to national policy and the pursuit of sustainable development, as is arguably the case under Policy RES5.

#### **Policy RES12 Affordable Housing**

##### ***Is the policy consistent with the NPPF, JCS Policy SD12, justified and effective?***

- 6.2.7 No. BHA raise soundness concerns regarding a number of the criteria proposed in Policy RES12, and these are set out in the representation made at the Regulation 19 stage. To reiterate, BHA contends that Policy RES12 is inconsistent with national policy [NPPF, paragraph 62] because it fails to acknowledge that there may be (and often are) legitimate circumstances that 'robustly justify' an alternative means of provision, including 'off-site' or 'financial contribution in-lieu of on-site provision' as required by the NPPF. Furthermore, the reasoned justification actually includes text that alludes to this but which is not translated into the policy [paragraph 3.62 of CD001 refers].
- 6.2.8 This states that,
- "In additional to the viability tests set out within Policy SD12 of the JCS, in exceptional circumstances the Council may be willing to accept a reduced percentage of affordable housing and/or off-site provision (full or partial)..."*
- 6.2.9 BHA contend that this wording better reflects the requirements of the NPPF than the policy wording itself. Consequently, BHA suggest this text should be incorporated into Policy RES12, thus bringing it into line with national policy.
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- 6.2.10 Policy RES12 is also inconsistent with the strategic policies of the development plan (JCS Policy SD12) as well as being inconsistent with national policy, for the following reasons.
- 6.2.11 Firstly, the first criterion of SD12 establishes that the process by which each JCA authority is to secure affordable housing (either on-site or not) will be through 'negotiation' on a site-by-site basis. This therefore assumes that on-site provision below 40% (the percentage 'standard' for Tewkesbury Borough) can be justified. However, Policy RES12 does not recognise this important aspect to how the provisions made in the development plan policy are to be secured; notably, that Policy RES12 is written much more rigidly and prescriptively than Policy SD12.
- 6.2.12 And secondly, the third criterion of Policy SD12 establishes a 'JCS-wide mechanism' for dealing with situations where it is not possible to deliver all affordable housing as on-site provision, notably through 'acceptable alternative mechanisms'. Under Policy SD12, these could include off-site provision or funding elsewhere via financial contributions, which is consistent with national policy referred to above. However, BHA notes that Policy RES12 does not include any such mechanism beyond that expressed in Policy SD12, and so is not clear on how such circumstances would be addressed through the application of Policy RES12. Accordingly, Policy RES12 is neither soundly-based (not effective) and is also not consistent with the JCS policy approach. Therefore, without any such mechanism stated in the policy, BHA suggest that in order to make the policy soundly-based a modification should be made to Policy RES12 making it clear that considerations of 'alternative mechanisms' for securing affordable housing provision should, as a starting point, default to JCS Policy SD12 (criterion 3).
- 6.2.13 Also to reiterate, the text included in Policy RES12 relating to viability merely repeats (in part) criterion 8 and 9 of Policy SD12. As previously stated, BHA consider this unnecessary and could further undermine the clarity of Policy RES12. On this basis, the last paragraph of Policy RES12 (inc. bullet points i and ii) should be deleted.

#### **Policy RES13 Housing Mix**

##### ***Is the policy justified and has the effect on viability been taken into account?***

- 6.2.14 No, BHA contend that this policy is not soundly-based (not justified) and, in light of representations submitted by other respondents, may not be effective as it could render development as unviable. In terms of justification, representations were submitted by PEP which raised concerns regarding the evidential basis for (criterion one) seeking provision of accessible and adaptable dwellings (under Regulation M4(2) Category 2) and Wheelchair user dwellings (under Regulation M4(3) Category 3). BHA notes that TBC has not updated its evidence base on this aspect of housing policy since the Regulation 19 consultation stage and maintains its reliance on information
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contained in the Housing Standards Background Paper, dated October 2019 [EB014]. BHA also notes that this document makes no reference to adaptable or accessible dwellings, or any evidence related to supply and demand for such properties.

6.2.15 In this respect, BHA would like to draw the Inspector's attention to the wording of national policy, which states:

*"Planning policies for housing should make use of the Government's optional technical standards for accessible and adaptable housing, where this would address an identified need for such properties"* [NPPF, paragraph 127, footnote 46, emphasis added]

6.2.16 Consequently, BHA maintain the objections previously submitted as it remains unclear what evidence is being relied upon to justify a requirement that such properties are provided as part of new development.

6.2.17 Furthermore, BHA contend that it is not sufficient for TBC to establish a policy that decants the need for evidence to planning application stage, as is implied in the TBP (CD001, paragraph 3.69). BHA contend that if the evidence is not available now (at the point of examination) then the policy wording cannot be justified and therefore should be deleted from the TBP.

6.2.18 In relation to the second criterion, on self-build housing, TBC seeks provision where there is *"...evidence of appropriate demand identified on the Council's Self and Custom Build Register.."*

6.2.19 However, BHA notes that the TBP does not define what is 'appropriate demand' in the context of the provision of self-build housing in Tewkesbury Borough, again leaving this to the planning application stage.

6.2.20 On this basis, the policy wording in RES13 should be modified to 'encourage' and not 'require' or 'expect' such provision as part of new development, consistent with the supporting text to Policy RES13 [CD001, paragraph 3.70 refers] and JCS Policy SD11 [DP001].

#### **Policy DES1 Housing Space Standards**

##### ***Is the use of the standards justified and has the effect on viability been taken into account?***

6.2.21 Representations were submitted at the Regulation 19 stage by PEP with regards to soundness concerns relating to this policy with respect to the requirements for all housing developments to deliver the National Described Space Standards (NDSS). BHA notes the evidential basis for the blanket requirement on all development remains drawn from information set out in the Housing Space Standards Background Paper [EB014]. Chapter 3 of the paper has a commentary on 'the need for internal space standards' and directs the reader to a survey of 15 developments approved in Tewkesbury since 2015 (paragraph 3.2 refers).

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- 6.2.22 To reiterate, BHA is not convinced that the information set out in Appendix 1 of the standards paper provides sufficient evidence to justify a specific policy requirement being placed on 'all' development to deliver the NDSS-compliant units, regardless of size, tenure, or mix of properties proposed. Firstly, TBC acknowledge that the development surveyed indicate that some units fall below the NDSS, but also that the majority exceed the NDSS (1,239 out of 1,909 units surveyed) [EB014, paragraph 3.2]. Secondly, BHA notes that a considerable number of those units flagged as falling below the NDSS (thus scoring 'red') are actually very close (<4m<sup>2</sup>) to the national standard. This is important as the paper references 4m<sup>2</sup> as an example of how small increases in floor space can have big impacts in lifestyle terms [EB014, paragraph 3.2]. However, the survey doesn't, for example, differentiate between those units that fall just below the NDSS (i.e. 1-2m<sup>2</sup>) and those that are more than 4m<sup>2</sup> below the NDSS. Instead, the scoring merely flags units as either above, below or the same as the NDSS. And thirdly, and related to the second concern, the paper does not consider in any real detail how (or whether) not meeting the standard has actually impacted on the lives of people in Tewkesbury, as required by national policy [NPPF, paragraph 127f, and footnote 46]. Clearly, there will be some instances where this has occurred, but this is not explained in the published evidence as submitted.
- 6.2.23 Based on this, BHA contends that there remains insufficient evidence to clearly justify a specific policy requirement which seeks to apply the NDSS on all future residential development in the Borough, and therefore the requirement as submitted is not soundly-based (not justified or consistent with national policy).