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SENT BY E-MAIL AND POST

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Dear Sir / Madam

MELTON LOCAL PLAN PRE SUBMISSION CONSULTATION

Introduction

Thank you for consulting with the Home Builders Federation (HBF) on the above mentioned consultation. The HBF is the principal representative body of the house-building industry in England and Wales. Our representations reflect the views of our membership, which includes multi-national PLC's, regional developers and small, local builders. In any one year, our members account for over 80% of all new "for sale" market housing built in England and Wales as well as a large proportion of newly built affordable housing. We would like to submit the following representations and in due course attend the Examination Hearing Sessions to discuss matters in greater detail.

Duty to Co-operate

The Duty to Co-operate (S110 of the Localism Act 2011 which introduced S33A into the 2004 Act) requires the Council to co-operate with other prescribed bodies to maximise the effectiveness of plan making by constructive, active and on-going engagement. The high level principles associated with the Duty are set out in the National Planning Policy Framework (NPPF) (paras 156, 178 – 181) and twenty three paragraphs of the National Planning Practice Guidance (NPPG) provide more detail about the Duty. In determining if the Duty has been satisfactorily discharged it is important to consider the outcomes arising from the process of co-operation and the influence of these outcomes on the Local Plan. A fundamental outcome is the delivery of full objectively assessed housing needs (OAHN) for market and affordable housing in the Housing Market Area (HMA) as set out in the NPPF (para 47) including the unmet needs of neighbouring authorities where it is reasonable to do so and consistent with sustainable development (NPPF para 182).

It has been determined that Melton Borough Council is a constituent part of the Leicester & Leicestershire HMA together with Leicester City Council, Blaby, Charnwood, Harborough, Hinckley & Bosworth, North West Leicestershire and Oadby & Wigston District Councils. At this time in a signed Memorandum of Understanding the Leicester & Leicestershire HMA authorities have individually committed to meeting their own OAHN within their own administrative areas up

to 2028. However beyond this date the meeting of OAHN in the HMA is less certain particularly within the city of Leicester. Therefore post 2028 unmet housing needs may arise in the HMA and Melton Borough Council may have a role to play in meeting some of Leicester city's unmet housing needs as well as its own OAHN. It is also noted that Melton Borough Council is bordered by three other neighbouring authorities namely Rushcliffe District Council, South Kestevens District Council and Rutland Council which are not part of the Leicester & Leicestershire HMA.

At the time of this pre-submission consultation the Duty to Co-operate Statement November 2016 was not available for comment. On its publication the HBF may wish to submit further representations on compliance with the legal requirements of the Duty to Co-operate and the soundness of the Melton Local Plan at a later stage.

In the meantime on the evidence available the HBF consider that the Council has co-operated on an on-going basis with neighbouring authorities in particular those authorities within the Leicester & Leicestershire HMA. Therefore there has been compliance with the legal requirements of the Duty to Co-operate but satisfactory outcomes from that process in particular an up to date calculation of OAHN for the HMA and meeting any arising unmet needs for the period post 2028 are not yet concluded or resolved throwing into doubt the soundness of the basis on which the Melton Local Plan has been prepared. It is unfortunate that the Leicester & Leicestershire HMA authorities seem unable to co-ordinate the production of supporting evidence and Local Plan preparation in a timely manner. It is understood that the HMA authorities have commissioned an up to date Housing & Employment Needs Assessment (HEDNA) but this report remains unpublished even though it is believed that this work has been completed. This position is reminiscent of the North West Leicestershire Local Plan Examination Pre-Hearing Meeting (resulting in the Local Plan withdrawal from Examination in 2013) and the Charnwood Core Strategy Examination (suspended in 2014 to await publication of the previous SHMA).

On publication of the new HEDNA a revised Memorandum of Understanding may have to be negotiated and signed. There is also the possibility of the Leicester & Leicestershire HMA authorities coming together to form a Combined Authority.

The NPPF is explicit that the Local Plan should be based on adequate, up to date and relevant evidence (para 158) in terms of housing this is a SHMA (para 159). The Local Plan should be based on a strategy which seeks to meet OAHN (para 182) based on evidence (para 47) with emphasis on joint working on cross boundary issues and when housing needs cannot be wholly met within individual LPA areas (para 178 – 181). The 2014 SHMA is out of date and the more recent OAHN work prepared by JG Consulting is not a re-assessment of OAHN meaning that at the moment there is no clear evidence on an up to date OAHN, where housing needs will be met, if unmet needs arise or the role of individual LPAs in meeting any unmet needs. As the Melton Local Plan is based on these uncertainties this should be considered an unsound basis for plan making because the Plan cannot be positively prepared, justified, effective or consistent with national policy. Whilst there are benefits for development

management purposes of having an adopted Plan these benefits should not outweigh the requirements for a sound Plan based on up to date evidence.

It is also understood that the HMA authorities and Local Enterprise Partnership (LEP) are working on a non- statutory Leicester & Leicestershire Strategic Growth Plan for which a Draft Plan consultation is expected in Summer 2017. This Plan will set out in broad terms the amount and location of housing, economic and infrastructure growth until 2050. It is proposed that this strategic framework will be taken into account by Local Plans which will include an agreed spatial distribution, a housing land strategy to boost the speed of housing delivery and a refresh of the Strategic Economic Plan (SEP) incorporating the Midlands Engine for Growth proposals. At present the Melton Local Plan makes no reference to this proposed higher tier strategic planning document.

Policy SS6 – Alternative Development Strategies and Local Plan Review proposes that the Council will consider an early review if there are “*changes within the HMA to the objectively assessed need for development or the spatial distribution of growth across the HMA*” the HBF would suggest that if such changes have occurred then the Local Plan should be reviewed rather than the Council just considering a review. As currently worded the HBF is concerned that this proposed review policy contains no firm commitment to a review or a timescale for review. There is always the concern that a Council will not deliver in a timely manner on its commitment to an early review as set out in a Local Plan policy.

Moreover an early review is not the optimum mechanism by which to resolve unmet housing need because of the slow response time of such reviews. The release of reserve sites provides flexibility to respond quickly to changing circumstances in order to meet identified housing needs. It is noted that the Council is proposing to expedite the process via a reserved sites mechanism. This approach coincides with the recommendations of the Local Plans Expert Group (LPEG) Report which proposes that “*the NPPF makes clear that local plans should be required not only to demonstrate a five year land supply but also focus on ensuring a more effective supply of developable land for the medium to long term (over the whole plan period), plus make provision for, and provide a mechanism for the release of, developable Reserve Sites equivalent to 20% of their housing requirement, as far as is consistent with the policies set out in the NPPF*” (para 11.4 of the LPEG Report).

OAHN and Housing Requirement

Policy SS2 – Development Strategy proposes at least 6,125 dwellings (245 dwellings per annum) between 2011 – 2036. This housing requirement is based on an OAHN for Melton as set out in the Leicester & Leicestershire SMHA Report 2014 by G L Hearn. This calculation comprised of 2011 SNPP data, 5 year migration trends, inclusion of UPC, adjustment of HFR to 2008 based tracking / mid-point to compensate for past housing undersupply and an Experian economic forecast re-distributed on current jobs distribution. Previously at the Charnwood Local Plan Examination the HBF and other parties were critical of this calculation of OAHN for the following reasons :-

- 2012 SNHP should be the demographic starting point for the calculation of OAHN subject to sensitivity testing ;
- Any uplifts applied for worsening market signals were overly modest ;
- Economic growth was not aligned with the Leicestershire LEP SEP ;
- No consideration of increasing housing requirements to help deliver affordable housing to meet significant affordable housing needs.

These previous criticisms are not repeated in detail because the SHMA 2014 is now considered out of date indeed the HMA authorities have commissioned up dated evidence in the form of the HEDNA 2016. Moreover since the original SHMA was undertaken there have been a number of significant changes :-

- the 2014 SNPP & SNHP are now available which indicate household growth in the HMA over 10% higher than the unadjusted demographic starting point of the original 2014 SHMA ;
- in January 2016 the East Midlands Gateway Rail Freight Interchange (EMGRFI) was granted planning consent which will positively impact on future economic growth across the HMA and ;
- market signals continue to worsen with the ONS House Price Index identifying house price increases in Melton of 6.7% in the period between September 2015 – September 2016.

Unfortunately the HEDNA 2016 Report is not yet published even though it is believed to have been completed. However it is contended that as a commissioning authority of the new HENDA the Council must know the OAHN figures set out in the yet to be published report and whether or not the figure for Melton is above or below the 2014 SHMA calculation and therefore if the proposed housing requirement of 245 dwellings per annum is justified. The Council must also know the likelihood and extent of any unmet housing needs arising in the HMA which would necessitate a revision of the Memorandum of Understanding. It is suggested that the Council should provide further clarification concerning OAHN before submission of the Local Plan for Examination.

Housing Land Supply (HLS)

Under Policy SS2 the housing requirement is distributed as :-

- In Melton Mowbray Main Urban Area at least 3,980 dwellings representing 65% of the overall housing need of which 2,000 dwellings (1,700 dwellings in the plan period) (30%) are proposed on the Melton Mowbray South Sustainable Urban Extension (SUE) in **Policy SS4** and 1,700 dwellings (25%) are proposed on Melton Mowbray North SUE under **Policy SS5**. So it is assumed that the remaining 10% (398 dwellings) are proposed on other sites situated within the Melton Mowbray Main Urban Area ;
- The remaining 35% (1,822 dwellings) are proposed in Service Centres and Rural Hubs.

Policy C1 (A) – Housing Allocations sets out the Council’s proposed site allocations and in **Policy C1(B) – Reserve Sites** the Council sets out proposed

reserve sites. Although the HBF would not wish to comment on the merits or otherwise of individual sites proposed for allocation by the Council it is critical that the Council's assumptions about the deliverability of these sites are correct and realistic to provide sufficient headroom and flexibility in both the overall HLS and 5 YHLS throughout the plan period. When allocating sites the Council should be mindful that to maximize housing supply the widest possible range of sites, by size and market location are required so that house builders of all types and sizes have access to suitable land in order to offer the widest possible range of products. The key to increased housing supply is the number of sales outlets. Whilst some SUEs may have multiple outlets, in general increasing the number of sales outlets available means increasing the number of housing sites. The maximum delivery is achieved not just because there are more sales outlets but because the widest possible range of products and locations are available to meet the widest possible range of demand.

It is also important that the Council recognises the difficulties faced by rural communities in particular due to a lack of housing supply, high house prices and unaffordability. The NPPG emphasises that all settlements can play a role in delivering sustainable development in rural areas so blanket policies restricting housing development in some settlements and preventing other settlements from expanding should be avoided. One of the core planning principles of the NPPF (para 17) is to *"take account of the different roles and character of different areas ... recognising the intrinsic character and beauty of the countryside and supporting thriving rural communities within it"*. This principle is re-emphasised in para 55 which states *"to promote sustainable development in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities"*.

The Council has set out its 5 YHLS calculation October 2016 using a 20% buffer and the Liverpool approach to recouping shortfalls. The HBF's preference is for a Sedgefield approach to recouping shortfalls in the first five years in accordance with the NPPG (ID 3-035-20140306). The Council should fully justify its departure from the approach set out in the NPPG. Any delay in meeting unmet housing needs from earlier in the plan period is failing those households who needed both market and affordable homes since the start of the Plan. It is important to remember that this is not just a theoretical mathematical exercise there are households who need homes now so it is unreasonable and unequitable to expect them to wait until later in the plan period before their current housing needs are addressed.

The Council's assumptions on lead-in times and delivery rates of sites set out in the 5 YHLS should be realistic based on evidence supported by the parties responsible for housing delivery and sense checked by the Council based on local knowledge and historical empirical data. The HBF have not carried out a detailed analysis of the Council's 5 YHLS indeed other parties may be able to demonstrate that the Council's assumptions about individual sites are not robust thereby reducing the Council's 5 YHLS below 5 years on adoption. Without certainty about the 5 YHLS on adoption the Plan could not be found sound because it would not be positively prepared, justified, effective or consistent with national policy. Indeed without a 5 YHLS on adoption all policies relating to housing supply contained in the Plan would be instantly out of date in accordance with the NPPF (para 49) and also set out in the Court of Appeal

Judgement Richborough Estates Partnership LLP v Cheshire East Borough Council & SoS CLG (C1/2015/0894).

Housing Policies and Housing Standards

The latest SHMA Report August 2016 by JG Consulting provides insufficient justification for the Councils proposals on housing mix set out in **Policy C2**.

Policy C8 – Self-Build / Custom Build proposes that sites of 100 or more dwellings will supply at least 5% serviced plots for sale to self-builders. The HBF supports self-build / custom build in principle for its potential additional contribution to the overall housing supply where this is based on a positive policy approach by the Council to increase the total amount of new housing development and meet an identified and quantified self-build / custom build housing need. However the HBF is not supportive of a policy requirement for the inclusion of such housing on large sites (100+ dwellings) as proposed by the Council. This approach provides no additionality to land supply but merely changes production from one to another type of builder. There are also implementation practicalities associated with such a restrictive policy which have to be overcome including health & safety implications, working hours, length of build programmes, etc. Moreover the suggested cascade mechanism contained within the proposed policy will only work in practice if the self-build plots are at the back end of the build programme otherwise the efficient delivery of the site will be disrupted. The Council should refer to the East Devon Local Plan Inspector's Final Report which expresses reservations about the implementation difficulties associated with this sort of policy. In para 46 the Inspector states "*However, I don't see how the planning system can make developers sell land to potential rivals (and at a reasonable price)*". It is not evident that the Council has assessed such housing needs in its SHMA work as set out in the NPPG (ID 2a-021-20140306) the Council should collate from reliable local information the local demand for people wishing to build their own homes. Furthermore it should be viability tested the NPPG confirms that "*different types of residential development such as those wanting to build their own homes ... are funded and delivered in different ways. This should be reflected in viability assessments*" (ID 10-009-20140306). If this policy requirement is not deleted then it is suggested that the policy is reworded as encouragement rather than a requirement subject to viability considerations, specific site circumstances and based on evidence of an identified demand for such housing.

The Deregulation Act 2015 specifies that no additional local technical standards or requirements relating to the construction, internal layout or performance of new dwellings should be set in Local Plans other than the nationally described space standard, an optional requirement for water usage and optional requirements for adaptable / accessible dwellings. For energy performance the Council was only able to set and apply a Local Plan policy requiring an energy performance standard that exceeded the energy requirements of Building Regulations until commencement of amendments to the Planning and Energy Act 2008 in the Deregulation Act 2015 that date has now expired. So whilst the Council may still specify the proportion of energy generated from on-site renewables and / or low carbon energy sources it cannot set a local standard for energy efficiency above the current 2013 Building Regulations standard.

Therefore references to policy requirements on energy efficiency and carbon emissions standards exceeding existing Building Regulation requirements in **Policies SS4, SS5 and C1** should be deleted.

Moreover the Written Ministerial Statement (WMS) dated 25th March 2015 confirmed that *“the optional new national technical standards should only be required through any new Local Plan policies if they address a clearly evidenced need, and where their impact on viability has been considered, in accordance with the NPPG”*. It is noted that **Policy C2 – Mix** and **C9 – Healthy Communities** refer to adaptable homes. If the Council wishes to implement the higher optional standard of M4(2) adaptable / accessible homes of the Building Regulations the NPPG (ID 56-007 and ID 56-003) confirms such a policy requirement should be justified based on need and viability tested. The Council should provide such evidence.

Similarly **Policy C3** and **Policy C9** refer to 50% of dwellings meeting nationally described space standards subject to viability. The NPPG (ID: 56-020) confirms *“where a need for internal space standards is identified, local planning authorities should provide justification for requiring internal space policies”*. If the Council wishes to adopt this standard it should be justified by meeting the criteria set out in the NPPG including need, viability and impact on affordability. At this time the Council has not provided sufficient evidence to justify adoption of the nationally described space standard. The Council’s evidence is generic rather than specific. If it had been the Government’s intention that such generic arguments justified adoption of the higher optional standards for adaptable / accessible dwellings and / or the nationally described space standard then the logical solution would have been to incorporate the standards as mandatory via the Building Regulations which the Government has not done. Therefore it is incumbent on the Council to provide a local assessment evidencing the specific case for Melton which justifies these policy requirements.

The NPPF makes no reference to Health Impact Assessments indeed it is the responsibility of the Council to work with public health organisations to understand and improve the health and well-being of the local population rather than the responsibility of parties making planning permission applications (para 171). If **Policy C9 – Health Impact Studies** is not deleted then any retained requirement for a Health Impact Study should only be required if a significant impact has been identified rather than as a blanket requirement for all developments of more than 150 dwellings.

Policy D1 – Design refers to the use of Supplementary Planning Document (SPD). The Council is reminded that the NPPF is explicit that an SPD should not add to the financial burden of development (para 154). The Regulations are equally explicit in limiting the remit of an SPD so that policies dealing with development management cannot be hidden in an SPD.

Policy D1 also includes a reference to Building for Life 12. The HBF is supportive of the use of Building for Life 12 as best practice guidance to assist Local Planning Authorities, local communities and developers assess new housing schemes but it should not be included as a Local Plan policy requirement which obliges a developer to use this tool. The use of Building for

Life 12 should remain voluntary. If the Council wishes to refer to Building for Life 12 it should be in supporting text only.

Viability and Affordable Housing

Policy C4 – Affordable Housing proposes 37% affordable homes on sites of more than 6 dwellings subject to viability, infrastructure requirements and market conditions. With reference to the recent Court of Appeal judgement, subsequent changes to the NPPG and the Written Ministerial Statement dated 28th November 2014 the proposed site thresholds are not consistent with national policy therefore **Policy C4** should be modified before the Local Plan is submitted for examination.

If the Local Plan is to be compliant with the NPPF development should not be subject to such a scale of obligations and policy burdens that viability is threatened (para 173 & 174). The residual land value model is highly sensitive to changes in its inputs whereby an adjustment or an error in any one assumption can have a significant impact on viability. Therefore it is important that the Council understands and tests the influence of all inputs on the residual land value as this determines whether or not land is released for development. The Harman Report highlighted that “*what ultimately matters for housing delivery is whether the value received by land owners is sufficient to persuade him or her to sell their land for development*”. The Council should be mindful that it is inappropriate to have to negotiate every site on a one by one basis because the base-line aspiration of a policy or combination of policies is set too high as this will jeopardise future housing delivery.

It is noted that the Council has a new Local Plan & Community Infrastructure Levy (CIL) Viability Report dated October 2016 prepared by Cushman & Wakefield. However this report does not provide any definitive conclusions on viability. The report identifies the trade-off between affordable housing provision and CIL and the inverse relationship whereby the higher affordable housing provision then the lower the rate of CIL that is viable. So the Council will have to balance affordable housing provision and securing funding for infrastructure. The results vary across the four value areas tested with development in the high value rural area viable but in Melton Mowbray urban area development is not viable. The results also varied across the different site typographies tested with medium sized sites viable but small sites and SUEs unviable. If an affordable housing policy of circa 40% is applied only on medium sized sites in high and medium value rural areas is CIL viable.

Conclusion

For the Melton Local Plan to be found sound under the four tests of soundness as defined by the NPPF (para 182), the Plan should be positively prepared, justified, effective and consistent with national policy. The Plan is considered unsound because of :-

- a potential under estimation of OAHN which is not based on most up to date evidence available ;
- 5 YHLS which defers dealing with existing shortfalls as soon as possible;

- unjustified housing standards including policy requirements on energy efficiency and carbon emissions standards exceeding existing Building Regulation, higher optional standards for accessible / adaptable homes and the nationally described space standard ;
- an unviable affordable housing policy including inappropriate site thresholds ;

Therefore the Plan is inconsistent with national policy, not positively prepared, unjustified and ineffective. It is hoped that these representations are of assistance to the Council in preparing the next stages of the Melton Local Plan. In the meantime if any further information or assistance is required please contact the undersigned.

Yours faithfully
for and on behalf of **HBF**

A solid black rectangular box redacting the signature of Susan E Green.

Susan E Green MRTPI
Planning Manager – Local Plans