



Planning Policy
East Staffordshire Borough Council
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SENT BY E-MAIL AND POST

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Dear Sir / Madam

EAST STAFFORDSHIRE LOCAL PLAN MAIN MODIFICATIONS 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 appear at any resumed Examination Hearing Sessions to discuss these matters in greater detail.

Housing Need & Supply

MM18 to Policy SP3 : Provision of Homes proposes 11,648 dwellings over the plan period of 2012 – 2031 to be delivered on a stepped trajectory of 466 dwellings per annum between 2012/13 – 2017/18 and 682 dwellings per annum between 2018/19 – 2030/31.

The Council's proposed housing requirement of 11,648 dwellings (613 dwellings per annum) over the plan period of 2012 – 2031 is based on an objectively assessed housing need (OAHN) derived from a mid-point scenario from alternative demographic projections calculated using either fixed headship rates (596 dwellings per annum) or 2008 based headship rates (630 dwellings per annum) as set out in the original SHMAA (Document C1). However the Council's own evidence (Document F59) indicates that a re-calculation based on the latest DCLG household projections requires an additional 8 or 9 additional dwellings per annum thereby increasing the total to

622 dwellings per annum. The NPPG confirms that 2012-based household projections represent the most up to date estimate of future household growth (ID 2a-016-20150227). The NPPG also states that demographic projections are just the starting point for the calculation of OAHN so after taking into account employment forecasts and the economic growth aspirations of the Stoke on Trent & Staffordshire LEP (see AM7 in Document F48) together with worsening market signals such as overcrowding, higher rents in the private rented sector and increasing housing benefit payments (paragraph 4.43 SHMA and paragraph 4.146 key conclusions of the Local Plan) there should be a further upward adjustment to the housing requirement. Indeed the Inspector's Interim Conclusions (Document E19) confirm that "*on the evidence available, it appears that, at very least, the higher figure of 630 dpa should be taken as the OAHN*" (paragraph 19). Therefore it is contended that the housing requirement should be not less than 630 dwellings per annum (11,970 dwellings). Moreover the housing requirement set out in **Policy SP3** should be expressed as a minimum figure.

The proposed stepped trajectory as set out in **MM18** delays the majority of housing delivery to beyond 2017/18. It is contended that this approach is contrary to the fundamental thrust of national policy as set out in the NPPF. By the introduction of a stepped trajectory the Council is no longer meeting its OAHN nor boosting significantly the supply of housing by providing a sufficient supply of sites against its housing requirement as set out in paragraph 47 of the NPPF. The requirement to meet the full OAHN for market and affordable housing is an absolute one excepting there is no inconsistency with other policies set out in the NPPF in the case of East Staffordshire there are no such circumstances to justify not meeting OAHN by constraining the supply of housing.

So the question arises as to whether or not the Local Plan is sound in only proposing to deliver annualized housing figures below full OAHN in the early years of the plan period. The Council has not demonstrated that the need for housing is any less in the early years of the plan period nor conversely any higher in the later years. The Council's reasons to justify the stepped trajectory are associated with the prevailing economic climate, low house building rates and the longer lead in times of Sustainable Urban Extensions (SUEs) which are not equivalents to the policy considerations set out in the NPPF to justify a constrained approach to meeting OAHN and the supply of housing. Paragraph 47 of the NPPF sets out that the Council should provide a sufficient supply of sites to provide 5 years worth of housing against its housing requirement plus an appropriate buffer in the case of East Staffordshire a 20% buffer is applicable. As also set out in paragraph 47 the housing trajectory (as drawn in **MM20**) should be for illustrative purposes only to show that a 5 YHLS is maintainable. The housing trajectory should not determine the 5 YHLS and its calculation.

If as claimed by the Council in **MM19** delivery from the Council's chosen supply of housing sites will not meet its housing requirement in the early years of the Plan then the Council should increase the supply of sites as suggested by the Inspector in paragraph 23 of his Interim Findings. It is a matter of fact 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. So for any given time period, all else being equal, overall sales and build out rates are faster from 20 sites of 50 units than 10 sites of 100 units or 1 site of 1,000 units. 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. A wider variety of sites in the widest possible range of locations also ensures all types of house builder have access to suitable land which in turn increases housing delivery.

As discussed above the stepped trajectory is non-compliant with national policy and unsound because it is not a positive planning response, it is unjustified and ineffective in meeting OAHN and boosting housing supply. Therefore a 5 YHLS calculation based on a stepped trajectory is also inappropriate and unsound.

When calculating the 5 YHLS the buffer of 20% should be added to the shortfall and annualised housing requirement as stated most recently in :-

- the Warwick Local Plan Examination Inspector's letter dated 1st June 2015 (paragraph 41) *"in terms of a five year supply of housing sites, a buffer of 20% should be applied therefore. This buffer should be applied once the shortfall from the plan period so far has been added to the basic requirement of 720 dwellings per annum"* ;
- the letter dated 10th August from the Inspector examining the Amber Valley Local Plan *"the joint letter from Ms Kingaby (Inspector examining the South Derbyshire Local Plan) and myself dated 10 December referred to appeal ref 2199085 as the SoS's model for adding the buffer to the sum of the 5-yr target and the shortfall. Although the Council refers to the Cheshire East decision ref 2209335 (Gresty Lane) where the SoS took a different approach, PINS is not aware of any other SoS decision in which the calculation was made in that way. The Cheshire East method is outside the SoS's 'normal' approach. The model set out in 2199085 is therefore the one which should be followed"* ;
- the West Dorset Weymouth & Portland Joint Local Plan Inspector's Final Report dated 14th August 2015 (paragraphs 85 & 86) *"having regard to my conclusions in relation to the housing target for the plan period I consider the five year housing requirement is derived from an annualised requirement of 775 dwellings to which a buffer of 20% (775) is added because of past under-delivery and a further 1004 (837 units x 20%) to compensate for the shortfall in delivery since the start of the plan period in 2011"* and *"the calculation of a five year housing land requirement in accordance with the NPPF (paragraph 47) is relatively straightforward. The Councils accept a 20% 'buffer' is necessary, because completions have not matched targets in recent years although they did not apply it to the shortfall. An appeal decision*

(APP/H1840/A/13/2199085) by the Secretary of State has endorsed the need to do so meaning that sufficient land to accommodate at least 5,645 dwellings in the first five year period should be provided rather than the 5,487 suggested by the Councils”.

So although the Council refer to the Secretary of State Appeal Decision (APP/R0660/A/13/2209335) this misinterprets the function of the buffer. The logic of paragraph 47 is that enough land is available to enable the Council to achieve its housing target. If there is a shortfall from under-delivery of housing from previous years then this shortfall should be recouped in the 5 year period (as per Sedgefield methodology) so logically the housing target for this 5 year period has been increased. If the buffer is not provided for this higher target then the buffer is no longer representative of 5 or 20% respectively and therefore its effectiveness is diminished. As the buffer is eroded so the chances of achieving the housing target becomes less likely and the task is made increasingly difficult. For example as an illustration only :-

- If the Council wants to achieve delivery of 1,000 houses from 1,000 plots of land it is setting the ambitious task of achieving 100% out of 100% ;
- The task is made more achievable by including a 5% buffer 1,000 houses from 1,050 plots of land. The task is made even more achievable by including 20% buffer 1,000 houses from 1,200 plots of land ;
- If the target is 1,000 houses plus 200 houses shortfall from under-delivery in previous years and no buffer is added to the shortfall the task becomes harder 1,200 houses from 1,250 plots of land or 1,200 from 1,400 plots of land meaning that the buffer has actually been reduced to only 4% and 15% respectively. However if the buffer had been added to the shortfall too in order to achieve 1,200 houses from 1,260 plots of land or 1,200 houses from 1,440 plots of land the status quo of the buffer would have been maintained together with its effectiveness in increasing the chances of achieving the target in terms of both the annualised housing requirement and the shortfall.

The calculation of the Council’s 5 YHLS position on the basis that the annualised housing requirement is increased to 630 dwellings per annum plus 20% buffer on this annualised requirement and the shortfall is precarious as identified by the Council in Document F67. Using the Council’s own evidence from Document F67 the HBF previously re-calculated the 5 YHLS as between 4.2 – 4.8 years depending on the shortfall figure used. Whilst the HBF do not comment on the merits or otherwise of individual sites it is known that other parties have seriously criticised the Council’s assumptions on the deliverability of some sites. The previous submissions of other parties have estimated the 5 YHLS to be only circa 3 years. Therefore as there is not a reasonable certainty that the Council has a 5 YHLS the Local Plan cannot be sound as it would be neither effective not consistent with national policy. Moreover if the Plan is not to be out of date on adoption it is critical that the land supply requirement is achieved as under paragraph 49 of the NPPF *“relevant policies for the supply of housing will not be considered up to date if the LPA cannot demonstrate a five year supply of deliverable housing sites”.*

Furthermore although the stepped trajectory enables the Council to fudge the 5 YHLS calculation on adoption of the Plan it is unlikely that 5 YHLS can be successfully maintained throughout the plan period without allocating further sites. If the housing requirement is increased to 11,960 there is insufficient headroom (7 dwellings) between this housing requirement figure and the overall supply of only 11, 967 dwellings. It is contended that the Council's strategy provides insufficient flexibility to deal with unforeseen circumstances.

It is acknowledged that under **MM7** the Council is encouraging rather than prioritising the use of brownfield land.

Local Plan Review

MM25 states "*Where there are significant changes to evidence on need and demand for development or within 5 years of the adoption of the plan, whichever is sooner, the Council will undertake a Local Plan Review*". However this proposal is only set out in supporting text rather than actual policy. It is suggested that this proposal is incorporated into policy. It is also suggested that **MM25** is more precisely defined as the wording "*will undertake a Local Plan review*" is too vague and non-comital. The Council should commit to the preparation and submission to the Secretary of State for examination the Local Plan Review where there are significant changes to evidence on need and demand for development or within 5 years of adoption whichever is soonest.

Neighbourhood Planning

Paragraph 184 of the NPPF requires that Neighbourhood Plans should be aligned with the strategic needs and priorities of the wider area, therefore Neighbourhood Plans must be in general conformity with the strategic policies of the Local Plan. The Neighbourhood Plan only takes precedence over non-strategic policies of the Local Plan (paragraph 185) in the determination of decisions on planning applications (paragraph 183).

MM17 introduces a new policy which sets out the strategic Local Plan policies with which Neighbourhood Plans must conform including **SP2 - Settlement Hierarchy**, **SP3 - Provision of Homes**, **SP4 – Distribution & Housing Growth**, **SP16 – Meeting Housing Needs** and **SP17 – Affordable Housing**. Future development will be distributed in SUEs south of Burton on Trent and west of Uttoxeter and in strategic villages (Tiers 1, 2 and 3) as described in the supporting text of **MM21**. The Table in **MM23** sets out development requirements as per the Settlement Hierarchy. Neighbourhood Plans also have the ability to add and / or extend settlement boundaries and to plan for more growth than specified in the Local Plan.

With regards to the relationship between Neighbourhood Plans, settlement boundaries, non-rural / rural exception sites and the amount of affordable housing provision as set out in **MM23**, **MM29** and **MM48** together with conformity with the strategic policies of the Local Plan (**MM17**) are confusing. The Council should provide further clarity.

Under **MM26** the proposal to prepare a Site Allocations Development Plan Document (DPD) if Neighbourhood Plans do not come forward as planned is too vague in order to be effective a specific timescale should be set out.

Affordable Housing

MM47 proposes that only 13% of affordable housing provision will be provided on-site the remainder will be in the form of S106 commuted sums to be spent by the Council on addressing housing need for example on funding extra-care affordable housing, assisting households to buy market housing, resolving overcrowding, or buying existing homes for affordable housing. However it is questionable whether or not this proposal is compliant with the S106 pooling restrictions introduced in April 2015. The Council should re-consider and confirm that this approach is still possible and valid post April 2015.

MM48 to Policy 17 – Affordable Housing changes the site thresholds to 6+ in designated rural areas and 11+ elsewhere as per the Written Ministerial Statement dated 28th November 2014. If the Council wishes to re-consider these proposed thresholds in light of the recent High Court judgement any further changes should be subject to consultation.

Under **MM48** the affordable housing targets sought are 25% on brownfield sites in Burton upon Trent and Uttoxeter, 35% on greenfield sites in Burton upon Trent and Uttoxeter and 40% on all other sites elsewhere subject to viability. The Council cannot attempt to future proof **Policy 17** with the wording “*the percentages shown may be revised during the lifetime of the plan in the light of updated viability evidence*”. If the Council wished to amend the Policy this should be done by review of the policy which should be consulted upon together with any new supporting evidence.

There are numerous concerns about **Policy 17** and the Council’s viability testing. If the East Staffordshire Local Plan is to be compliant with the NPPF, the Council needs to satisfy the requirements of paragraphs 173 and 174 whereby development should not be subject to such a scale of obligations and policy burdens that viability is threatened. The most recent viability assessment is contained within the report “Local Plan and Community Infrastructure Levy (CIL) Viability Testing” dated November 2013 by HDH Planning & Development Ltd. The Council should accept that the cumulative impact of Local Plan policy requirements should not overly burden development. Indeed Paragraph 2.4 of the HDH Viability Report states that “*a typical site should be able to bear whatever target or requirement is set*” and Paragraph 10.14 advises the Council “*not to introduce policies which push viability to the limits*”. The sensitivity testing undertaken on house prices and build cost changes demonstrates that relatively small changes adversely impact on deliverability of development (paragraph 10.28). Whilst the principle to negotiate viability on a site by site basis as proposed in **Policy 17** is acceptable, its application should be an exception rather than in the majority of cases. The base-line aspiration of a policy or combination of policies should not be set unrealistically high so that the most sites have to be individually negotiated causing additional cost and time delay which will jeopardise future

housing delivery. Under paragraph 174 of the NPPF the Council must properly assess viability.

The new definitions of extra care housing (**MM85**), Housing for Older People (**MM86**) and Retirement Housing (**MM89**) are confusing. It is doubtful that these new definitions correspond with the type of extra care / sheltered housing viability tested in the Council's assessment undertaken in 2013. Therefore the requirements for affordable housing provision from such developments in **Policy 17** have not been proven to be viable.

Moreover the referencing to yet to be determined housing mix (**MM43**) and on / off site provision of affordable housing provision in locations outside of Burton upon Trent and Uttoxeter causes further uncertainty for developers especially given that these unknowns have not been viability tested and the consequential impact may make development unviable.

In conclusion even without further viability testing of specialist housing schemes, housing mix and on / off site affordable housing provision the report confirms that brownfield sites are not viable (paragraphs 10.12 and 12.5) which is significant as 25% of SHLAA sites are brownfield. The report also questions the viability of the large green-field strategic site in Burton upon Trent suggesting that the Council works closely with the developers of this site (paragraph 10.13) on a separate site specific viability assessment.

Other Policies

The Government wishes to streamline the planning system and to rationalise many differing existing standards into a simpler system which will reduce policy burdens and deliver more much needed housing. The Deregulation Bill 2015, which received Royal Assent in March 2015, specifies that Councils should not set any additional local technical standards or requirements relating to the construction, internal layout or performance of new dwellings. The only technical standards that can now be considered and incorporated into DPDs are restricted to the nationally described space standard, an optional requirement for water usage and optional requirements for adaptable / accessible dwellings. However to do so the Council should provide supporting evidence on need, viability, affordability and timing in order to assess the impact and effect of this policy in the local area. The Written Ministerial Statement dated 25th March 2015 confirms 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"*. The Council has provided no evidence to justify its proposed optional requirements for M4(2) in **MM40** and **MM42**.

Conclusions

For the East Staffordshire Local Plan to be found sound under the four tests of soundness defined by paragraph 182 of the NPPF, the Plan should be :-

- positively prepared, meaning that it should be prepared based on a strategy which seeks to meet objectively assessed development and infrastructure requirements ;
- justified, meaning that it should be the most appropriate strategy, when considered against reasonable alternatives, based on proportionate evidence ;
- effective in the sense that it should be deliverable over its period ;
- compliant with national policy in facilitating sustainable development in accordance with the policies of the NPPF.

The Local Plan is not compliant with national policy. It is not positively prepared and properly justified meaning it will be ineffective. The East Staffordshire Local Plan is unsound because of :-

- not meeting OAHN by planning for a housing requirement of 613 dwellings per annum rather than 630 dwellings per annum ;
- using a stepped housing trajectory to not meet OAHN in early years of the plan period and to constrain the supply of housing land ;
- no 5 YHLS on adoption combined with insufficient flexibility in overall housing land supply if the housing requirement is increased ;
- an inadequate whole plan viability assessment of policy requirements resulting in an unviable Affordable Housing Policy.

It is hoped that these representations are of assistance to East Staffordshire Borough Council and the Inspector in informing the next stages of the Local Plan Examination process. If any further information or assistance is required please contact the undersigned.

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



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