



The Community Planning Team  
Amber Valley Borough Council  
Town Hall  
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SENT BY E-MAIL AND POST

4th September 2015

Dear Sir / Madam

## **AMBER VALLEY FURTHER PROPOSED CHANGES TO CORE STRATEGY 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 responses and in due course attend any resumed Examination Hearing sessions to discuss these matters in greater detail.

### **OAHN and Housing Requirement**

As determined by the Inspector's examining the Amber Valley Core Strategy and the South Derbyshire Local Plan the objectively assessed housing need (OAHN) for the Derby Housing Market Area (HMA) is 33,388 dwellings for the period 2011 – 2028 comprising :-

- 7,395 dwellings in Amber Valley ;
- 9,605 dwellings in South Derbyshire ;
- 16,388 dwellings in Derby.

It is also confirmed by the Derby HMA authorities that the recently published 2012 household projections do not change this OAHN figure of 33,388 dwellings. The Council's consultants calculate OAHN based on 2012 household projections for the Derby HMA is 32,207 dwellings.

Furthermore the Derby HMA authorities agree that the city of Derby is unable to meet its full OAHN within its own administrative boundaries therefore it is proposed to re-distribute OAHN across the HMA as follows :-

- 11,000 dwellings in Derby ;
- 9,770 – 9,849 dwellings in Amber Valley ;
- 12,539 – 12,618 dwellings in South Derbyshire ;
- 33,309 – 33,467 dwellings in Derby HMA.

The OAHN and its proposed distribution are set out in the amended Table in Appendix A. As previously set out in HBF representations to consultations held by the Derby HMA authorities and in Examination Hearing Statements as listed below :-

- Amber Valley Draft Local Plan consultation ended 23 August 2012 ;
- Amber Valley Pre Submission Local Plan consultation ended 29 November 2013 ;
- Amber Valley Local Plan Statements for 25 & 26 March 2014 Examination Hearing Sessions ;
- Amber Valley Local Plan Statement for 1 May 2014 Examination Hearing Sessions ;
- Amber Valley Proposed Changes consultation ended on 8 September 2014 ;
- Amber Valley Further Proposed Changes consultation 8 December 2014 ;
- South Derbyshire Draft Local Plan consultation 5 November 2013 ;
- South Derbyshire Pre Submission Local Plan consultation 22 April 2014 ;
- South Derbyshire Local Plan Examination Hearing Statements for Matters 1 & 2 ;
- Derby Draft Local Plan consultation ended on 20 December 2013

33,388 dwellings is considered to be an overly pessimistic OAHN which will not significantly boost housing supply across the Derby HMA over the next 13 years as required by paragraph 47 of the NPPF. As set out in previous representations the HBF's opinion is that the Council's OAHN gives insufficient consideration to household formation rates, employment forecasts, upward adjustments for market signals and the provision of affordable housing.

The proposed amendment to **Policy SS1** of the Amber Valley Core Strategy increases the housing requirement from a minimum 9,400 dwellings (2008 – 2028) to a minimum 9,770 – 9,849 dwellings (2011 – 2028). For consistency it is recommended that the word "minimum" is also retained rather than deleted from the proposed amendment to the 2<sup>nd</sup> paragraph on page 14.

With regards to the currently proposed range of housing requirements for Amber Valley and South Derbyshire it is recommended that the upper end of the range is used. If the proposed bottom end of this range is used full OAHN across the HMA would not be met. Such an approach was confirmed by both

the North Somerset Local Plan Inspector who found that “*the selection of the bottom end of the range was not in the spirit of positive planning and the national objective to boost significantly supply*” and the Brighton & Hove Local Plan Inspector who concluded “*the Framework’s requirement that a LPA should assess their full housing needs ... my view is that the Plan should indicate that the full OAHN is at the higher end of the range*”.

## **Plan Period**

It is noted that if the Amber Valley Core Strategy is adopted in 2015 only thirteen years will remain before the end of the plan period. The NPPF recommends a 15 year timeframe for DPDs (paragraph 157). Whilst other Local Plans have been adopted with a shorter than 15 year timespan these Plans also rely upon an early review mechanism to rectify this deficiency, for example, in the case of the Swindon Local Plan there is less than 12 years to go before the end of the plan period (31 March 2026) and the housing provision is set in the context of the Council’s intention to undertake an immediate review of the Plan to ensure development provision looks to an appropriate long term end date. Under main modifications a new policy confirmed that the Swindon Local Plan would be reviewed by 2016 at the latest to assess future levels of need for new homes over the period to 2031. The use of a strategic review at an early stage in the life of a development plan has also been successfully defended in a High Court Judgment in relation to the Dacorum Core Strategy (Neutral Citation Number [2014] EWHC 1894 (Admin)) in which a main modification committed the Council to aim to adopt its reviewed Plan by 2017/18. Paragraph 51 of that judgment refers to the NPPG, which states that: “*Local Plans may be found sound conditional upon a review in whole or in part within five years of the date of the adoption.*” The Written Ministerial Statement dated 22<sup>nd</sup> July 2015 also refers to such matters. Therefore if the Amber Valley Core Strategy is to be progressed with a truncated plan period then an early review policy should be included. This should be a policy commitment to the preparation and submission to the Secretary of State for examination a reviewed Local Plan by a specified deadline within 5 years of adoption. The Council should give further consideration to the plan period.

## **Land Supply**

The proposed scale and location of growth in Amber Valley is set out in the amended Table in Appendix B. The further proposed changes include the deletion of 3 housing sites and the addition of 1 site resulting in a net reduction of 530 dwellings to the overall land supply. However since the last consultation the Council has granted more planning consents for residential development and the Council is also proposing a higher windfall allowance for sites under 10 units in size (57 dwellings per annum). So the overall housing land supply is calculated as 9,879 dwellings.

It is agreed that the Council is required to recover previous shortfalls in housing delivery from 2011 – 2014 as soon as possible within the next 5 years in accordance with the NPPG and to provide a 20% buffer as set out in paragraph 47 of the NPPF. However the method of calculation for the 5 YHLS

is subject to disagreement regarding whether or not the 20% buffer should be applied to the shortfall as well as the annualised housing requirement.

Whilst the Derby HMA authorities refer to the Secretary of State's Appeal Decision (APP/R0660/A/13/2209335) to support their argument that the buffer should be excluded from the shortfall in the 5 YHLS calculation this misinterprets the function of the buffer. It is noted that the Inspector's letter dated 10<sup>th</sup> December 2014 stated that the buffer should be applied to the housing requirement and the shortfall. This opinion is re-affirmed by Mr Foster in his letter dated 10<sup>th</sup> August 2015 to the Council. The same opinion is also held by the Inspector's examining the Warwick Local Plan and the West Dorset Weymouth & Portland Joint Local Plan. The Council is referred to paragraph 41 of the Inspector's letter dated 1<sup>st</sup> June 2015 to Warwick District Council and paragraphs 85 and 86 of the Inspector's Final Report on West Dorset Weymouth & Portland Joint Local Plan dated 14<sup>th</sup> August 2015 respectively.

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 Sedgfield 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. So for illustrative purposes only :-

- If the Council wanted to achieve delivery of 1,000 houses from 1,000 plots of land this is an overly ambitious and difficult task involving the achievement of 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 a 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 buffers have actually been reduced to only 4% and 15% respectively. However if the buffers are 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 is maintained together with its effectiveness in increasing the chances of achieving the target in terms of both the annualised housing requirement and the shortfall.

It also noted that the overall housing land supply of 9,879 dwellings against the upper range of the proposed housing requirement (9,849) provides no headroom (only 30 dwellings) for unforeseen circumstances. The Council should be providing a greater degree of flexibility. The Council should ensure sufficient headroom is available by the application of appropriate non implementation / lapse rates in its land supply calculations together with

appropriate and realistic delivery rates and lead in times in its housing trajectory.

The Council should also 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. So for any given time period, all else been 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. This 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.

At this time the Council has not calculated its 5 YHLS position the HBF reserves its right to make further comments on this issue when more information is provided by the Council. However from previous calculations it is believed that the 5 YHLS position is precarious. If the Core Strategy is not to be out of date on adoption it is critical that 5 YHLS is achieved. 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”*. So if there was not reasonable certainty that the Council had a 5 YHLS the Core Strategy would not be sound as it would be neither effective not consistent with national policy.

## **Sustainability Appraisal**

It is noted that the Council’s consultation (4<sup>th</sup> September to 16<sup>th</sup> October) on the updated Sustainability Appraisal has not been contemporaneously timed with this further proposed changes consultation (ended 4<sup>th</sup> September). Therefore after reviewing the updated Sustainability Appraisal the HBF may have additional comments to make which will be submitted by the deadline of 16<sup>th</sup> October 2015.

## **Conclusions**

As discussed above there remain serious concerns about the soundness of the Amber Valley Core Strategy which have not been resolved by the further proposed changes put forward by the Council in this consultation. Paragraph 182 of the NPPF sets out four tests of soundness. At this time the Amber Valley Core Strategy remains unsound because :-

- full OAHN is not met ;
- insufficient land supply over the entire plan period ;
- lack of 5 YHLS on adoption and ;
- a proposed plan period of less than 15 years.

Therefore the Core Strategy is not compliant with national policy. It is not positively prepared and properly justified meaning it will be ineffective.

It is hoped that these representations are of assistance to the Council in preparing the next stages of the Core Strategy. In the meantime if any further information or assistance is required please contact the undersigned.

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



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