



Planning Policy  
Economy and Environment  
Walsall Council  
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SENT BY E-MAIL AND POST

2nd November 2015

Dear Sir / Madam

## **DRAFT WALSALL SITE ALLOCATIONS PLAN - PREFERRED OPTIONS 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 future Examination Hearing Sessions to discuss these matters in greater detail.

### **Duty to Co-operate**

Under S110 of the Localism Act 2011 which introduced S33A into the 2004 Act the Council must co-operate with other prescribed bodies to maximise the effectiveness of plan making. The Duty to Co-operate requires the Council to "*engage constructively, actively and on an on-going basis*". The high level principles associated with the Duty to Co-operate are also set out in the National Planning Policy Framework (NPPF) (paragraphs 156, 178 – 181). In addition there are twenty three paragraphs in the National Planning Practice Guidance (NPPG) concerning the Duty to Co-operate.

In considering if the Duty to Co-operate has been satisfied it is important to consider the outcomes arising from the process and the influence of these outcomes on the Plan. One of the required outcomes is the delivery of full objectively assessed housing needs (OAHN) for market and affordable housing in a housing market area (HMA) as set out by paragraph 47 of the

NPPF including the unmet needs of neighbouring authorities where it is reasonable to do so and consistent with sustainable development (paragraph 182 of the NPPF).

In this context Walsall Council forms part of the Greater Birmingham HMA. Therefore as a consequence Walsall Council has a role to play in the resolution of at least 40,000 dwellings of unmet housing needs arising from Birmingham city over the period 2011 – 2031.

## **Housing Need**

The Black Country Core Strategy adopted in 2011 pre-dates the NPPF. It proposes at least 63,000 new homes over the period 2006 – 2026 of which 11,973 dwellings are in Walsall.

However it is noted that the latest estimate of OAHN set out in the “Greater Birmingham & Solihull Local Enterprise Partnership and Black Country Local Authorities Strategic Housing Needs Study Stage 3 Report” by Peter Brett Associates dated August 2015 identifies a figure greater than the 63,000 dwellings proposed in the pre-NPPF adopted Core Strategy. The latest demographic projections span a range between 63,344 dwellings (ONS/PBA 2012 model) and 66,524 dwellings (CLG 2012 model) for the Black Country sub market comprising of Dudley, Sandwell, Walsall and Wolverhampton. In Walsall the demographic projections identify an OAHN between 14,412 dwellings (ONS/PBA 2012 model) and 15,875 dwellings (CLG 2012 model). As these demographic projections represent just the starting point for the calculation of OAHN (NPPG ID 2a-015-20140306) the figures may be even higher after further consideration of other factors to support economic growth, upward adjustment for worsening trends in market signals and meeting affordable housing needs (NPPG ID 2a-018-20140306 -2a-020-20140306).

Therefore the Walsall Site Allocations Plan should be planning for a housing requirement greater than 11,973 dwellings.

## **Housing Supply**

Of the 11,973 dwellings proposed in Walsall to date there have been 5,238 completions, 669 dwellings are under construction, 4,034 dwellings have planning consent granted meaning 2,032 dwellings remain to be allocated. Accordingly **Policy HC1** lists 98 sites totalling approximately 4040 dwellings. However the list does not distinguish between permissioned and non-permissioned sites so it is impossible to ascertain if the Council has allocated sufficient housing land to meet its housing needs in the immediate future or over the entire plan period (2006 – 2026). It is suggested that the Council provides further clarification on this matter.

Moreover as set out in the preceding section on Housing Needs the Council should be planning for more than 11,973 dwellings. As a consequence if a higher figure is used there will be a deficit between housing need and housing supply in Walsall but also across the Black Country sub market which is set out in the “Greater Birmingham & Solihull Local Enterprise Partnership and

Black Country Local Authorities Strategic Housing Needs Study Stage 3 Report". In Walsall a deficit of at least 173 dwellings per annum is identified which is even greater if OAHN is more than 14,412 dwellings (ONS/PBA 2012 model). In summary the Council needs to be increasing its housing land supply by allocating more sites.

Furthermore if on adoption of the Walsall Site Allocations Plan there is not reasonable certainty that the Council has a 5 year housing land supply (YHLS) the Plan would be unsound because it would be neither effective nor consistent with national policy. So if the Plan is not to be out of date on adoption it is critical that the land supply requirement is achieved otherwise *"relevant policies for the supply of housing will not be considered up to date if the Local Planning Authority cannot demonstrate a five year supply of deliverable housing sites"* (paragraph 49 of the NPPF).

When considering the allocation of additional sites Walsall 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. 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. In summary a wider variety of sites in the widest possible range of locations ensures all types of house builder have access to suitable land which in turn increases housing delivery.

It is noted that paragraph 3.2.3 of the Plan proposes a "brownfield first emphasis". If by this emphasis the Council is prioritising brownfield before green-field then this approach would be contrary to national policy. Therefore it is suggested that the wording of this paragraph is changed to encourage the re-use of previously developed land. The core planning principle set out in paragraph 14 of the NPPF is to *"encourage the effective use of land by re-using land that has been previously developed (brownfield land)"* such encouragement is not setting out a principle of prioritising brownfield before green-field land. Similarly paragraph 111 of the NPPF states that *"Local Planning Authorities may continue to consider the case for setting a locally appropriate target for the use of brownfield land"* again there is no reference to prioritising the use of brownfield land. The Council's proposal to emphasis brownfield first relates back to previous national policies which are now inconsistent with current national policy. In paragraph 17 of his determination of the Planning Appeal at Burgess Farm in Worsley Manchester (APP/U4230/A/11/215743) dated July 2012 (4 months after the introduction of the NPPF) the Secretary of State confirmed that *"national planning policy in the Framework encourages the use of previously developed land but does not promote a sequential approach to land use. It stresses the importance of achieving sustainable development to meet identified needs"*.

## Plan Period

If the Walsall Site Allocations Plan is adopted in 2016 only ten years will remain before the end of the plan period. The NPPF recommends a fifteen year timeframe for Plans (paragraph 157). Whilst other Local Plans have been adopted with shorter timespans these Plans rely upon an early review mechanism to rectify this deficiency, for example, the Swindon Local Plan. 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 *“a commitment to an early review of a Local Plan may be appropriate as a way of ensuring that a Local Plan is not unnecessarily delayed by seeking to resolve matters which are not critical to the plan’s soundness or legal competence as a whole”*. Therefore it is suggested that the plan period is extended or an early review policy should be included. Any early review should be a Policy commitment rather than just a reference in supporting text. This policy should commit the Council to preparing and submitting to the Secretary of State for examination its reviewed Plan by a specified date within 5 years of adoption.

## Viability and Affordable Housing

If the Plan is to be compliant with the national policy, the Council must satisfy the requirements of paragraphs 173 and 174 of the NPPF whereby development should not be subject to such a scale of obligations and policy burdens that viability is threatened. As adoption of the Black Country Core Strategy pre-dates the NPPF it is unlikely that the affordable housing targets and other policy requirements were whole plan viability tested. Therefore it is suggested that an up to date viability assessment is undertaken by the Council in order to justify the proposed policy requirements of **Policy HC3**.

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 to understand and test 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”*.

It is also noted that **Policy HC3** – Affordable Housing refers to a Supplementary Planning Document (SPD) the Council should be mindful that the NPPF (paragraph 154) is explicit that SPDs should not add to the financial burden of development. The Regulations are equally explicit in limiting the

remit of an SPD so that policies dealing with development management are not inappropriately hidden.

## **Conclusions**

For the Walsall Site Allocations Plan to be found sound under the four tests of soundness as defined by paragraph 182 of the NPPF, the Plan should be positively prepared, justified, effective and compliant with national policy. Therefore it is necessary for the Council to re-consider the Draft Walsall Site Allocations Plan in respect to issues discussed above on the Duty to Co-operate, plan period, housing needs, housing supply and whole plan viability testing without doing so the resultant Plan would be unsound by failing to be consistent with national policy, positively prepared, properly justified and so ultimately it would be ineffective.

It is hoped that these representations are of assistance to the Council in preparing the next stages of the Walsall Site Allocations Plan. 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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