



Planning Policy Team (Local Plan)
Derbyshire Dales District Council
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SENT BY E-MAIL AND POST

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Dear Sir / Madam

DERBYSHIRE DALES DRAFT LOCAL PLAN 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 appear at the Examination Hearing Sessions to discuss these matters in greater detail.

Objectively Assessed Housing Needs (OAHN) and Housing Requirement

Policy S6 : Strategic Housing Development proposes a housing requirement of 6,015 dwellings (300 dwellings per annum) for the plan period of 2013 – 2033 against an OAHN of 6,440 dwellings (322 dwellings per annum) resulting in an unmet housing need of 425 dwellings. The OAHN is set out in the Derbyshire Dales Housing & Economic Development Needs Assessment 2015. This report calculates OAHN as follows :-

- 244 dwellings per annum based on 2012 SNPP plus vacancy rate and second home allowance but this figure would not support any growth in the workforce ;
- 301 dwellings per annum to allow for an adjusted employment growth of 1,700 jobs ;
- 322 dwellings per annum after an additional upward adjustment for worsening market signals.

The Council has also identified an affordable housing need of 100 dwellings per annum.

The National Planning Policy Framework (NPPF) requires the Council to meet in full OAHN for market and affordable housing in the Housing Market Area (HMA) as far as consistent with the policies of the NPPF. The National Planning Practice Guidance (NPPG) defines a HMA as a geographical area reflecting the key functional linkages between places where people live and work.

The NPPG sets out that household projections produced by DCLG are the starting point for OAHN (ID 2a-015-20140306). The NPPG confirms that the 2012 Sub National Household Projections (SNHP) are the most up to date estimate of household growth. Whilst it is agreed that the appropriate starting point for the calculation of OAHN is the 2012 SNHP as set out in "PAS Objectively Assessed Need and Housing Targets Technical Advice Note Second Edition" dated July 2015 further sensitivity testing of migration trends and household formation rates (HFR) may also be necessary. This approach is also proposed in the recommendations of Local Plans Expert Group (LPEG) Report published in March 2016 as a standardised methodology for the calculation of OAHN.

Furthermore the NPPG confirms that worsening trends in market signals should be considered which may necessitate an upward adjustment above demographic projections (ID 2a-018-20140306 & 2a-019-20140306). The NPPG is explicit in stating that a worsening trend in any one of the market signal indicators will require an upward adjustment to planned housing numbers (ID : 2a-020-20140306). The LPEG Report recommends up to 25% uplift for worsening market trend dependant on the severity of house price and rental affordability ratios.

Moreover supporting economic growth is important factor which plan makers should assess (ID : 2a-018-20140306). It is essential that housing and employment strategies are properly aligned.

Finally the NPPF (para 47) requires the Council to assess the OAHN for both market and affordable dwellings. The NPPG states that an increase in the total housing included in a Plan should be considered where it could help to deliver the required number of affordable homes (ID : 2a-029-20140306). This approach was reinforced by Stewart J in *Satnam Millennium Ltd v Warrington Borough Council* (2015). The LPEG Report also recommends uplifts to meet in full OAHN for affordable housing.

The HBF submits the following concerns about the Council's calculation of OAHN :-

- The HMA covers only Derbyshire Dales but the District is not without connections into its neighbouring authorities. As stated in the LPEG Report " ... *industry concerns of a trend towards the adoption by authorities ... of smaller and smaller HMAs in an apparent attempt to avoid the full implications of the Duty to Cooperate and even of some*

authorities treating their own administrative boundaries as the extent of their housing market area, which seems inherently unlikely to be the case” (para 3.6). Indeed at the previous Local Plan Examination the Inspector found that “the HMA extends across Derbyshire into East Staffordshire and Sheffield” (para 7 of Inspector’s Note on Examination of Derbyshire Dales Local Plan dated July 2014) ;

- Insufficient sensitivity testing of demographic projections. Although the 2012 SNHP draw upon long term trends since 1971 the methodology applied by DCLG means there is a greater reliance upon trends experienced over the last 10 years than to those experienced over the longer term. The implication of this bias is that the latest SNHP continue to be affected by recently observed suppressed trends in HFRs associated with the impacts of the economic downturn, constrained mortgage finance, past housing undersupply and the preceding period of increasing unaffordability. Younger households were particularly affected by these past trends and evidence shows that HFR for these groups are likely to recover as the economy improves (Town & Country Planning Tomorrow Series Paper 16, “*New estimates of housing demand and need in England, 2001 to 2031*” by Alan Holman). The Council is reminded that at the previous Local Plan Examination the Inspector also considered it “*prudent to assume HFR unlikely to remain suppressed over whole plan period ... sensible to return to higher levels*” (para 10 of Inspector’s Note on Examination of Derbyshire Dales Local Plan dated July 2014) ;
- Insufficient adjustments to support economic growth. Again the Council is reminded that at the previous Local Plan Examination the Inspector found that “*to maintain jobs and support economic growth would require 360 dwellings per annum*” (para 11 of Inspector’s Note on Examination of Derbyshire Dales Local Plan dated July 2014) ;
- Insufficient adjustments for worsening market signals. An uplift of only 21 dwellings per annum equivalent to only 7% is overly modest. In comparison, for example, in the Eastleigh Local Plan Inspector’s Preliminary Conclusions on Housing Need a 10% uplift was proposed as a cautious approach to modest pressures on market signals whilst the Uttlesford Local Plan Inspector’s Conclusions found an overall increase of 10% was appropriate to achieve the objective of improving affordability.
- No uplift to meet significant affordable housing needs identified. In comparison other Local Plans have included significant uplifts to meet affordable housing needs for example in Canterbury there is an uplift of 30% (paragraphs 20, 25 & 26 Canterbury Local Plan Inspectors Note on main outcomes of Stage 1 Hearings dated 7 August 2015) and in Bath & North East Somerset there is an increase of 44% (paragraphs 77 & 78 BANES Core Strategy Final report 24 June 2014).

In conclusion an OAHN of 6,440 dwellings and a housing requirement of only 6,015 dwellings is considered to be too low. Previously the Inspector found

that the housing requirement for Derbyshire Dales should be “*at least 6,500 dwellings for the plan period*” (para 14 of Inspector’s Note on Examination of Derbyshire Dales Local Plan dated July 2014).

Duty to Co-operate and Unmet Housing Needs

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 are set out in the NPPF (paras 156, 178 – 181). In addition there are twenty three paragraphs in the NPPG concerning the Duty.

In considering if the Duty has been satisfied it is important to consider the outcomes arising from the process and the influence of these outcomes on the Plan. A required outcome is the delivery of full OAHN for market and affordable housing in the HMA (para 47 NPPF) including the unmet needs of neighbouring authorities where it is reasonable to do so and consistent with sustainable development (para 182 NPPF).

Derbyshire Dales has undertaken an assessment of housing needs for its own administrative area rather than a wider HMA but the District is not without connections to its surroundings. Derbyshire Dales adjoins seven other Local Planning Authorities (LPA) namely Sheffield City Council, High Peak Borough Council, Staffordshire Moorlands District Council, East Staffordshire District Council, South Derbyshire District Council, Amber Valley District Council and North East Derbyshire District Council as well as the Peak District National Park. At the previous Local Plan Examination the Inspector found that “*the HMA extends across Derbyshire into East Staffordshire and Sheffield. The Council needs to work closely with other authorities ... re-open discussions with adjoining authorities under the provisions of the Duty to Co-operate*” (paras 7 and 34 of Inspector’s Note on Examination of Derbyshire Dales Local Plan dated July 2014). When the new Local Plan is submitted for examination a Statement of Co-operation and / or accompanying signed Memorandums of Understanding with neighbouring authorities will have to demonstrate that the Council has satisfied the legal requirements of the Duty and appropriately dealt with any arising unmet housing needs especially if the previous criticism that the Council had “*comprehensively failed to achieve effective co-operation*” (para 26 of Inspector’s Note on Examination of Derbyshire Dales Local Plan dated July 2014) is to be avoided.

If the Council is not meeting its full OAHN then the meeting of any unmet needs (425 dwellings) elsewhere should be resolved with neighbouring authorities. When carrying out the balancing exercise of para 47 of the NPPF it is insufficient for the Council to determine the maximum housing supply available and constrain housing provision targets to that figure. A distinct assessment of whether and if so to what extent other policies dictate or justify constraints on future development should be evidenced. It is incumbent on the Council to demonstrate the significant and demonstrable adverse impacts as assessed against the NPPF as a whole that outweigh the benefits of meeting

OAHN in full. It is noted that previously the Inspector found that the “*SHLAA November 2013 suggested sufficient potential housing land for 6,419 dwellings ... get closer to meeting OAHN without serious adverse impact on high quality Derbyshire Dales landscape*” (para 5 of Inspector’s Note on Examination of Derbyshire Dales Local Plan dated July 2014). This suggests that OAHN in full could be met in Derbyshire Dales so that no unmet housing needs would occur.

Housing Land Supply

Policy HC2 : Housing Land Allocations allocates 3,177 dwellings on 33 sites. **Policy S3 : Settlement Hierarchy** proposes a six tiered settlement hierarchy comprising of Market Towns, Local Service Centres, Accessible Settlements with limited facilities, Accessible Settlements with minimal facilities, Infill & Consolidation Villages and Other Rural Areas. **Policy S6** sets out **Development within defined settlement boundaries**. Since 2013 2,000 dwellings have been built and / or granted planning permission of which 400 dwellings are allocated in Neighbourhood Plans.

Although the HBF would not wish to comment on the merits or otherwise of individual sites contained within the Council’s housing trajectory it is critical that the Council’s assumptions on lapse rates / non implementation allowance, lead in times and delivery rates contained within its calculations are correct and realistic to provide sufficient flexibility in its land supply. When allocating sites the Council is reminded 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. 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. On adoption of the Local Plan the Council should demonstrate a 5 YHLS otherwise the Plan would be unsound for failing to be positively prepared and effective.

Policy HC3 : Self Build Housing Provision proposes that “*provision will be made ... as part of all housing allocations*”. The HBF supports self-builders and / or custom builders in principle for its potential additional contribution to overall housing supply where this is based on a positive policy approach to increase the total amount of new housing development and to meet an identified and quantified self-build housing need. However the Council’s proposal is a restrictive policy requirement for the inclusion of such housing on all site allocations. This proposal provides no additionality to land supply but merely changes house construction from one to another type of builder. It is suggested that the Council gives further consideration to the practical workings of **Policy HC3** including the implications on responsibilities under health & safety legislation, working hours, length of build programmes, etc. The Council should also refer to the East Devon Inspector’s Final Report which also expresses reservations about the implementation difficulties associated with this sort of policy. Therefore it is recommended that any policy

to encourage self-builders is based on evidence of demand for such housing and a positive addition to overall housing land supply.

Policy HC1 : Location of Housing Development sets out a proposed review mechanism but the policy is too weak to be effective. The policy should specify the triggers which would prompt a review of the Local Plan.

Housing Standards

It is noted that **Policy PD1 : Design & Place Making** contains out of date references to Lifetime Homes and Code for Sustainable Homes which should be removed. The reference to Secure By Design in the policy is unnecessary as recent changes to Part Q of the Building Regulations appropriately deals with security measures.

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 Plans other than the nationally described space standard, an optional requirement for water usage and optional requirements for adaptable / accessible dwellings. **Policy HC10 : Mix & Type** proposes that 90% of all houses are built to the higher optional standard of M4(2) adaptable / accessible homes of the Building Regulations and 10% of all houses are built to M4(3). As set out in the NPPG (ID 56-007 & ID 56-003) this policy requirement should be justified based on need and viability tested. Moreover the Council should only request the M4(3) standard for dwellings over which the Council has occupier nomination rights (ID 56-008). **Policy HC10** also introduces the nationally described space standard. If the Council wishes to adopt this standard it should be justified by meeting the criteria set out in the NPPG (ID 56-020) including need, viability and impact on affordability. The Council should provide further supporting evidence to justify **Policy HC10**. The Council should also re-consider the proposed housing mix set out in **Policy HC10** which is overly prescriptive (90% 2 & 3 bedroom / 5% 4 bedroom) and provides an inflexible policy response to the realities of purchaser expectations in the for sale housing market.

Policy HC18 : Car Parking Standards & Appendix 4 set maximum car parking spaces per dwelling. It is suggested that the Council re-checks this policy and Appendix for compliance with national policy as set out in the Written Ministerial Statement dated 25th March 2015 which states *“This government is keen to ensure that there is adequate parking provision both in new residential developments ... The imposition of maximum parking standards under the last administration lead to blocked and congested streets and pavement parking. Arbitrarily restricting new off-street parking spaces does not reduce car use, it just leads to parking misery. It is for this reason that the government abolished national maximum parking standards in 2011. The market is best placed to decide if additional parking spaces should be provided. However, many councils have embedded the last administration’s revoked policies. Following a consultation, we are now amending national planning policy to further support the provision of car parking spaces. Parking standards are covered in paragraph 39 of the NPPF. The following text now needs to be read alongside that paragraph: “Local Planning Authorities should*

only impose local parking standards for residential and non-residential development where there is clear and compelling justification that it is necessary to manage their local road network.”

Housing Policies and Viability

If the Derbyshire Dales 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 (paras 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 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*”.

At the moment the Council's latest SHLA & CIL Viability Study prepared by Cushman & Wakefield dated September 2015 concludes that in “*mid to low value areas where the majority of the District's future development is anticipated to come from is unable to withstand this level of requirements at the current time ... to ensure the cumulative impact of all planning gain does not place delivery at risk*”. Whilst it is accepted that developers can negotiate lower affordable housing provision on the grounds of viability such negotiations inevitably incur additional costs in terms of both time and money which impairs housing delivery. It is unrealistic 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. The purpose of whole plan viability assessment is to ensure that the bar of policy expectations is not set unrealistically high. If the bar is set too high then the majority of schemes instead of the exception will be subject to site by site viability negotiations.

Policy HC4 : Affordable Housing proposes on sites of 3+ dwellings 30% affordable housing provision (including 80% social rent tenure) subject to viability. The changes in the level of social rent announced in the Summer Budget 2015 have serious implications for the viability of development. These implications involve lower transfer values offered by RSLs to developers for social rent affordable housing identified as the Council's preferred tenure and also a greater perceived risk associated with developing social rent affordable housing which should be reflected in profit margins. It is suggested that the Council re-considers its policy requirements under **Policies HC4 and HC10** (see comments above) in relation to viability and deliverability.

The Council should acknowledged that as a consequence of the Housing & Planning Act 2016, other recent Government consultations and the Court of Appeal judgement on The Secretary of State for Communities & Local Government v West Berkshire Council & Reading Borough Council **Policy HC4 : Affordable Housing** may change before the Local Plan is submitted for examination. Therefore at the appropriate time the HBF may wish to submit further comments on any changes proposed by the Council. These

changes may include the mandatory requirement for a proportion of starter homes on sites and / or the exemption of sites of 10 or less units from affordable housing provision.

Conclusions

For the Derbyshire Dales 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. It is suggested that the Council gives further consideration to the above mentioned concerns in order to produce a sound Local Plan. Without further amendments the Plan would be unsound because of inconsistencies with national policy, not positively prepared, unjustified and therefore ineffective. This further re-consideration should include :-

- The definition of HMA ;
- The calculation of OAHN ;
- The demonstration of significant adverse effects of meeting in full OAHN in the Plan area ;
- If any unmet needs occur the explanation of where these needs will be met as an outcome of on-going co-operation with neighbouring authorities under the Duty to Co-operate ;
- The justification for policies on self build and housing standards ;
- The unviable affordable housing policy in mid to low value areas ;
- The implications of the Housing & Planning Act 2016 and The Secretary of State for Communities & Local Government v West Berkshire Council & Reading Borough Council Court of Appeal judgement on **Policy HC4**.

We hope that these initial comments are helpful in informing the next stages of the Derbyshire Dales Local Plan. In the meantime if you require any further assistance or information please contact the undersigned.

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



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