



Planning Policy Team (Local Plan)
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SENT BY E-MAIL AND POST

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Dear Sir / Madam

DERBYSHIRE DALES PRE SUBMISSION 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.

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 are set out in the National Planning Policy Framework (NPPF) (paras 156, 178 – 181). In addition there are 23 paragraphs in the National Planning Practice Guidance (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 objectively assessed housing needs (OAHN) for market and affordable housing in the housing market area (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).

The NPPF requires the Council to meet in full OAHN for market and affordable housing in the HMA as far as consistent with the policies of the NPPF. The NPPG defines a HMA as a geographical area reflecting the key functional linkages between places where people live and work. Derbyshire Dales adjoins seven other Local Planning Authorities (LPA) namely Sheffield, High Peak, Staffordshire Moorlands, East Staffordshire, South Derbyshire, Amber Valley and North East Derbyshire District Council as well as the Peak District National Park.

A main criticism is that the Council has only undertaken an OAHN for Derbyshire Dales itself rather than a wider HMA. Such poor practice is commented upon in the recently published (March 2015) Local Plans Expert Group (LPEG) Report which refers to *“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 this criticism is acknowledged by the Council in its Housing & Economic Development Needs Assessment report dated 2015. The report concludes that *“levels of self-containment of migration are insufficient for the District to be regarded as a HMA in its own right ... both migration and commuting evidence suggests that different parts of the District fall in separate HMAs – with the northern part of the District relating to Chesterfield and Sheffield and the southern part more towards Derby ... the inter-relationships identified between Derbyshire Dales and adjoining authorities in this section are however relevant in respect of the Duty to Co-operate particularly in respect of housing provision. The evidence points suggest that the strongest migration links are with Sheffield, Amber Valley, North East Derbyshire, Chesterfield and Derby”* (paras 17.7, 17.8 & 17.20). Moreover 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).

It is noted that the Council has prepared a Duty to Co-operate Interim Statement dated August 2016 to accompany this pre-submission Local Plan consultation. However when the Plan is submitted for examination an up dated Statement of Co-operation will have to demonstrate that the Council has satisfied the legal requirements of the Duty with particular regard to meeting OAHN in full across the wider identified HMAs. Previously the Council was found to have *“comprehensively failed to achieve effective co-operation”* (para 26 of Inspector’s Note on Examination of Derbyshire Dales Local Plan dated July 2014). It is suggested that when the Local Plan is first reviewed it should be undertaken on the basis of a commitment to becoming an integral part of a wider HMA. In the meantime the Plan should set out more clearly the relationship with the Peak District National Park and the meeting of its unmet housing needs by Derbyshire Dales District Council.

Objectively Assessed Housing Needs (OAHN) and Housing Requirement

The HBF is supportive of the Council's proposal to increase the housing requirement from 6,015 dwellings in the draft Local Plan to at least 6,440 dwellings as set out in the pre submission Local Plan. Accordingly **Policy S6 : Strategic Housing Development** proposes a housing requirement of at least 6,440 dwellings (322 dwellings per annum) for the plan period of 2013 – 2033 based on an OAHN 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 Sub National Population Projections (SNPP) / 2012 Sub National Household Projections (SNHP) plus vacancy / second home conversion rate representing the demographic starting point but which would not support any growth in the workforce ;
- An uplift to 301 dwellings per annum to allow for an adjusted employment growth of 1,700 jobs ;
- A further uplift to 322 dwellings per annum to allow for an additional upward adjustment for worsening market signals.

The Council has also identified an affordable housing need of 101 dwellings per annum.

The HBF have a number of concerns about the Council's calculation which under-estimates the OAHN. These five concerns are outlined below :-

No adjustment to demographic projections despite evidence to justify increases based on sensitivity testing

The NPPG sets out that the SNHP are the starting point for OAHN (ID 2a-015-20140306). The HBF agree that this is the appropriate starting point but 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. In the recommendations of LPEG Report for a standardised methodology for the calculation of OAHN a similar approach for an upward adjustment after sensitivity testing of long / short term migration trends and HFR in 24 – 35 age group are also proposed. The HBF is concerned that even though sensitivity testing of migration trends showed higher figures no adjustments were undertaken to demographic projections and although HFR in younger age groups were shown to be declining only a modest adjustment based on the return of 25 – 34 years age group back to 2001 levels of ownership by 2033 (para 6.49 of Derbyshire Dales Housing & Economic Development Needs Assessment 2015) was applied as a market signal adjustment.

At this time it is suggested that the Council should also consider if there are any implications arising from the publication of the 2014 SNHP. However the Council should be mindful that a re-assessment of OAHN is only necessary if

a meaningful change has been identified by the publication of these projections (NPPG ID 2a-016-20140306).

Inappropriate use of an adjustment to HFRs as the uplift mechanism for worsening market signals

It is agreed that an adjustment to HFR in younger age groups is appropriate (NPPG para 2a-017-20140306) because although the 2012 SNHP draw on long term trends since 1971 the methodology applied 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 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 which particularly affected younger households. As evidence shows HFR for these groups are likely to recover as the economy improves (see Town & Country Planning Tomorrow Series Paper 16, “*New estimates of housing demand and need in England, 2001 to 2031*” by Alan Holman). 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).

However the HFR adjustment is used as mechanism to respond to market signals in order to improve affordability. This approach is inappropriate and the impact is not considered to properly account for either demographic change or identified worsening market signals. It is noted that recently the Inspector’s conclusions on the Arun Local Plan confirmed that a HFR adjustment should be considered independently of a market signals adjustment stating “*The Hearn report’s upward adjustment of 26-28dpa (rounded to 25pa) should be added to the 820pa to assist an increase in household formation for the key 25-34 age group, mainly as a demographic adjustment*” (para 1.28 of Arun Local Plan: Inspector’s OAN Conclusions dated 2nd February 2016). This is also the approach recommended in the LPEG Report for a standard methodology for OAHN whereby adjustments to HFR in younger age groups and for worsening market signals are separate and both are required (Flowchart Steps A & B in Appendix 6). Indeed the adjustment to HFR in younger age groups (25 – 44 years old) recommended as an adjustment of 50% between 2008 and 2012 HFR is proposed at the beginning of the assessment in the same way as any 10 year migration adjustment in order to establish the demographic starting point before any further uplifts to support economic growth and / or worsening market signals are applied.

The market signal uplift is overly modest

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). There is concern that the adjustment for worsening market signals is insufficient. An uplift of only 21 dwellings per annum equivalent to only 7% is overly modest. By way of 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. The LPEG Report recommends up to 25% uplift for worsening market trend dependant on the severity of house price and rental affordability ratios however given that "*affordability ratios in Derbyshire Dales are high – above the national and county averages. Median house prices in Derbyshire Dales are 8.6 times the median earnings in the District compared to national rate of 6.5 and a county rate of 5.5. The lower quartile ratio is slightly worse at 9.3 indicating the problem is more acute at the lower end of the market*" (para 17.48) Derbyshire Dales would be at the upper end of the LPEG suggested range of upward adjustments.

Insufficient uplift to support economic growth

It is necessary for housing and employment strategies to be properly aligned and supporting economic growth is important factor which plan makers should assess (NPPG ID : 2a-018-20140306). The HBF's concern is that insufficient adjustments to support economic growth have been applied. 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 consideration of increasing the housing requirement to deliver affordable housing

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 Local 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 HBF's concern is insufficient consideration by the Council of whether or not an uplift should be applied to assist in delivering affordable housing. 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). Most recently the Gloucester, Cheltenham & Tewkesbury Joint Core Strategy Inspector's Interim Conclusions proposes a 5% uplift to help deliver affordable housing needs. The Forest of Dean Inspector is also suggesting a 10% uplift in his Interim Findings "*to seek to deliver all of the identified affordable housing need as a proportion of market housing would result in unrealistic and undeliverable allocations. But it does not necessarily follow that some increased provision could not be achieved ...I consider that an uplift of 10%,*

which has been found reasonable in other plan examinations, would be more appropriate here” (para 63). The LPEG Report recommends significant uplifts to meet in full OAHN for affordable housing too (see Flowchart Steps C & D in Appendix 6 of the LPEG Report).

In conclusion the housing requirement of 6,440 dwellings is based on an under-estimation of OAHN. Therefore the Council should re-consider both its OAHN calculation and proposed housing requirement before submission of the Derbyshire Dales Local Plan for examination. Furthermore the Local Plan should separately refer to the identified need for 436 C2 bed spaces over and above the OAHN. The Plan should also provide better clarity concerning housing needs from the Peak District National Park to be met in Derbyshire Dales Local Plan area.

Housing Land Supply

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 S4** sets out **Development within defined settlement boundaries** and **Policy S5 – Development in Countryside** which restricts housing development outside settlement boundaries. **Policy HC2 : Housing Land Allocations** allocates 3,515 dwellings on 28 Sites ((a) to (bb)).

The Council’s overall housing land supply is calculated as 6,571 dwellings comprising of :-

Land Source	Number of Dwellings
Completions 2013 – 16	402
Commitments at April 2016	1,785
National Park contribution	358
Windfalls	261
Sites with resolution to grant consent	577
Allocations	3,188
TOTAL	6,571

This housing land supply of 6,571 dwellings against a housing requirement of 6,440 dwellings provides very little contingency (2%) if unforeseen circumstances arise. It is considered that this will provide insufficient flexibility and the Local Plan will not be able to respond to rapidly changing circumstances.

The DCLG presentation slide from the HBF Planning Conference in September 2015 illustrates a 10 – 20% non-implementation gap together with a 15 – 20% lapse rate (see below). This slide also suggests “*the need to plan for permissions on more units than the housing start / completions ambition*”. Whilst it is acknowledged that this presentation slide shows generic percentages across England the Council should provide robust evidence to

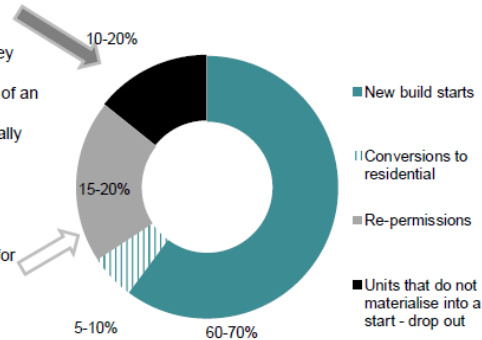
demonstrate that sufficient headroom is been provided in the proposed HLS for Derbyshire Dales.



In recent years there has been a 30-40% gap between permissions and housing starts

- **Gap of around 30-40%** between the number of permissions given for housing and starts on site within a year. Estimate that for a year's permissions for housing around:
- **10-20%** do not materialise into a start; the permission 'drops out': this could be because -
 - the landowner cannot get the price for the site that they want
 - a developer cannot secure finance or meet the terms of an option
 - the development is later not considered to be financially worthwhile
 - there are supply chain constraints hindering a start.

There may be scope to reduce this through policy.
- **15-20%** are not abandoned but a **re-permission** is sought, for example to make a major change to plans or to extend the development period.
- Recent data and realities of private market suggests need to **plan for permissions on more units than housing start/completion ambition.**



Extract from slide presentation "DCLG Planning Update" by Ruth Stanier Director of Planning - HBF Planning Conference Sept 2015

The recently published Local Plans Expert Group (LPEG) Report also recommends 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).

One other question is whether or not the overall capacity within the proposed settlement boundaries is sufficient to satisfactorily accommodate the minimum housing requirement for the District. If the proposed settlement boundaries are too tightly drawn there will be no flexibility and sustainable development will be prevented from coming forward since development outside the settlement boundaries is restricted.

It is suggested that more sites are allocated drawn from omission sites been promoted by other parties and / or the wording of **Policy S4** is amended to be more flexible to allow development abutting settlement boundaries in the higher tier settlements of **Policy S3**.

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. These rates should be supported by parties responsible for delivery of housing.

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.

At this time the Council has not provided an up to date assessment of its 5 YHLS position. When this information is available the HBF reserves the right to make further comments on whether or not there will be 5 YHLS on adoption of the Local Plan. Without a demonstrable 5 YHLS on adoption the Local Plan would be unsound for failing to be positively prepared and effective. The HBF would expect the Council to use the Sedgefield approach to shortfalls together with 20% buffer applied to both the annualised requirement and the shortfall.

It is noted that **Policy HC1 : Location of Housing Development** sets out a proposed review mechanism however as worded the policy is too weak to be effective. The policy should precisely specify the triggers which would prompt a review of the Local Plan.

Affordable Housing 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 for the Council 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”*.

Policy HC4 : Affordable Housing proposes on sites of 10+ dwellings 30% affordable housing provision (including 80% social rent tenure) subject to viability. However 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 under **Policy HC4** 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. The Council's own evidence demonstrates that **Policy HC4** is unviable therefore it is recommended that the policy is modified to accord with the conclusions of the Council's whole plan viability assessment.

Other Housing Policies

Policy HC3 : Self Build Housing Provision it is noted that this policy has been re-worded since the draft Local Plan consultation. This re-wording is welcomed however it is suggested that the policy is subject to the following minor wording modification so "*the Council will have regard to considerations of viability and site specific circumstances*" rather than developers as currently worded.

It is unclear if **Policy HC11 : Housing Mix & Type** introduces the nationally described space standard. The NPPF states that Local Plan policies must be clear so that applicants know what to do to submit an planning application that is likely to be approved and decision makers know how to react to that application for planning permission (paras 17 & 154).

Policy HC11 proposes that on sites of more than 10 dwellings 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). The Written Ministerial Statement dated 25th March 2015 stated 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*". If the Council wishes to adopt the higher optional standards for accessible & adaptable homes and / or the nationally described space standard the Council should only do so by applying the criteria set out in the NPPG. The NPPG sets out that "*Where a need for internal space standards is identified, local planning authorities should provide justification for requiring internal space policies. Local Planning Authorities should take account of the following areas need, viability and timing*" (ID: 56-020-20150327).

It is incumbent on the Council to provide a local assessment evidencing the specific case for Derbyshire Dales which justifies the inclusion of the nationally described space standard and / or optional higher standards for accessible / adaptable homes in its Local Plan policy. The Council should also revise **Policy HC11** as the NPPG confirms that "*Local Plan policies for wheelchair accessible homes should be applied only to those dwellings where the local authority is responsible for allocating or nominating a person to live in that dwelling*" (ID 56-009-20150327).

It is suggested the proposed housing mix set out in **Policy HC11** is re-considered as it 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.

The Deregulation Act 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 Local Plans are restricted to the nationally described space standard, an optional requirement for water usage and optional requirements for adaptable / accessible dwellings. The Council's proposals under **Policy S4** Bullet Point (c) on private amenity space are beyond these permissible standards and therefore non-compliant with national policy. **Policy S4** Bullet Point (c) should be deleted.

Similarly it should be clear that in **Policy PD7 : Climate Change** the Council is not setting own standards or opting for higher standards so no misunderstandings arise between developers and the Council.

Policy HC21 : Car Parking Standards & Appendix 2 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."*

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 modifications the Local Plan would be unsound because of inconsistencies with national policy, not positively prepared, unjustified and therefore ineffective. The Local Plan is unsound in relation to :-

- An OAHN based on a District only HMA assessment rather than a wider HMA with implications under the Duty to Co-operate ;
- The calculation of OAHN and its under-estimation ;
- The lack of justification for policies on housing standards ;

- An unviable affordable housing policy in mid to low value areas ;

It is suggested that the Council re-considers these matters in order to avoid submitting an unsound Plan for examination. In the meantime it is hoped that these representations are helpful in informing the next stages of the Derbyshire Dales Local Plan. If you require any further assistance or information please contact the undersigned.

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



Susan E Green MRTPI
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