



North East Derbyshire District Council  
Planning Policy Team  
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SENT BY E-MAIL AND POST

7<sup>th</sup> April 2017

Dear Sir / Madam

## **NORTH EAST DERBYSHIRE 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 attend the Examination Hearing Sessions to debate 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 twenty three 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 Local Plan. One required outcome is the delivery of full objectively assessed housing needs (OAHN) for market and affordable housing in a housing market area (HMA) as set out in the NPPF (para 47) including the unmet needs of neighbouring authorities where it is reasonable to do so and consistent with sustainable development (NPPF para 182).

The NPPG defines a HMA as a geographical area reflecting the key functional linkages between places where people live and work. It has been determined that North East Derbyshire is part of the North Derbyshire / North Nottinghamshire HMA together with Bassetlaw, Bolsover and Chesterfield District Councils. However in the Housing Topic Paper dated 2015 it is acknowledged that *“it should be recognised that there are economic links more widely across the Sheffield City Region”* (para 2.2.3) and *“overall evidence does point towards a set of relationships towards the larger economic centres to the north such as Sheffield”* (para 2.2.8). At this time it is not known if Sheffield will meet the city’s OAHN in full within its own administrative boundaries or whether unmet needs will have to be accommodated elsewhere such as in North Derbyshire which abuts the city’s boundary. As stated in the SHMA Report the Council will *“need to consider the Sheffield City Region and unmet needs of other areas”* (Paragraph 1.12 North Derbyshire & Bassetlaw SHMA Final Report 2013). It is important that these wider inter relationships are taken into account in both defining the relevant HMA and the OAHN. This unresolved strategic matter should be addressed sooner rather than later by the Council.

It is also understood that the North Derbyshire / North Nottinghamshire SHMA is to be updated and therefore OAHN / housing requirements may change. As an integral part of this updating it is suggested that the North Derbyshire / North Nottinghamshire HMA authorities co-ordinated plan periods in their respective Local Plans. Currently plan periods are not aligned the respective Local Plan periods are North East Derbyshire 2011 – 2033, Chesterfield 2016 – 2033, Bassetlaw 2019 – 2034 and not explicitly stated for Bolsover.

In addition to the North Derbyshire / North Nottinghamshire HMA authorities North East Derbyshire has two other neighbouring authorities namely Derbyshire Dales (defined as its own HMA) and Amber Valley (part of the Derby HMA) District Councils. North East Derbyshire also extends up to the Peak District National Park.

There are two Local Enterprise Partnerships (LEPs) for the Sheffield City Region and Derbyshire & Nottinghamshire D2N2. There are proposals by D2N2 LEP for a North Midlands Combined Authority which in the future may prepare a strategic spatial plan.

At the time of this Draft Local Plan consultation the Council has not produced an up to date Duty to Co-operate Statement. Before the pre submission Local Plan consultation a Duty to Co-operate Statement should be prepared setting out the Council’s compliance with the legal requirements of the Duty and the outcomes of collaborative working in order to find the Local Plan sound. Any Statement of Co-operation should clearly explain the complex relationships arising from over lapping HMAs and the impacts of future proposals for a Combined Authority with its associated growth agenda. Indeed by the time of the North East Derbyshire Local Plan Examination a Statement of Common Ground explaining cross boundary working as proposed in the recently published Housing White Paper *“Fixing The Broken Housing Market”* may also be required. This Statement should address the Government’s criticism that Councils are not undertaking an honest assessment of the need for new

homes and working together to ensure difficult decisions are not ducked. When more information is available the HBF may submit further comments on the Council's legal compliance with the Duty and any implications for the soundness of the Local Plan in representations to the pre submission consultation.

## **OAHN and the Housing Requirement**

**Policy SS2 – Scale of Development** proposes a minimum housing requirement of 6,600 dwellings (300 dwellings per annum) over the plan period of 2011 – 2033. The Council's OAHN is set out in two documents comprising North Derbyshire & Bassetlaw SHMA Final Report dated November 2013 by G L Hearn and North Derbyshire & Bassetlaw SHMA Sensitivity Testing Analysis dated March 2014 by G L Hearn. These reports are now somewhat dated. The findings of these Reports is summarised as :-

- 270 - 310 dwellings per annum in the original SHMA ;
- 268 – 285 dwellings per annum after further sensitivity testing.

The Council has chosen a housing requirement mid-way between the upper figures of the two alternative ranges of OAHN. It is the Council's opinion that a housing requirement of 300 dwellings per annum will meet OAHN, economic growth and deliver affordable housing. In submitted representations to the previous consultation on the Draft Local Plan ended on 25<sup>th</sup> March 2015 the HBF expressed the following concerns about the Council's OAHN which may have resulted in an under-estimation of housing needs :-

- an over reliance on demographic projections ;
- the limited assessment of employment trends which may have necessitated an upward adjustment above demographic projections (ID 2a-018-20140306) ;
- the limited assessment of worsening trends in any market signals which may have required an upward adjustment to planned housing numbers compared to ones based solely on household projections (ID 2a-020-20140306) ;
- an identified affordable housing need of 482 dwellings per annum but no increase in the total housing figures included in the Local Plan to help deliver the required number of affordable homes (ID 2a-029-20140306). The Council's inappropriate consideration that it is unrealistic to expect this level of affordable housing to be delivered and any shortfall will be met by the private rented sector ;
- the publication of 2014 SNPP and SNHP.

Previously the adopted East Midland Regional Spatial Strategy set a housing target of 380 dwellings per annum for North East Derbyshire which is significantly higher than the proposed housing requirement of only 300

dwellings per annum. It is questionable if the proposed housing requirement is sufficient to significantly boosted housing supply (NPPF para 47).

It is understood that the North Derbyshire / North Nottinghamshire SHMA is subject to further updating. The Local Plan states that evidence on housing and employment targets are under review (paras 4.10 & 4.23) and this updating may affect the housing requirement figure. When the SHMA is updated it is suggested that :-

- any meaningful change from the 2014 SNHP is taken into account (NPPG ID 2a-016-20140306) ;
- economic growth aspired to by the LEPs is supported by the alignment of economic and housing strategies ;
- account is taken of any unmet needs from elsewhere in particular Sheffield.

It is noted that the recently published Housing White Paper points out that some Councils are not undertaking an honest assessment of housing needs. As set out in the Housing White paper the Government expects the Council to prepare an up to date sufficiently ambitious Plan which recognises and plans for the homes that are needed. The Housing White Paper proposes a standard methodology for the assessment of housing needs / requirements. The Council should give consideration to the implications of this proposal. By the time of the North East Derbyshire Local Plan Examination it may be necessary for the Council to prepare an assessment of its housing needs based on this standard methodology especially given that from April 2018 this is the baseline figure against which the Council's 5 YHLS and Housing Delivery Test will be calculated in the absence of an up to date Local Plan (defined as a Plan that is less than 5 years old).

Before the pre submission Local Plan consultation the Council should give further consideration to its OAHN and the housing requirement as set out in **Policy SS2**. When more information is available the HBF may submit further comments on the Council's up dated OAHN calculations and proposed housing requirement in representations to the pre submission Local Plan consultation.

### **Housing Land Supply (HLS)**

Under **Policy SS3 – Hierarchy** the Council proposes that housing growth is distributed according to a defined four tiered settlement hierarchy. In this settlement hierarchy Dronfield and Clay Cross are defined as principal towns (Level 1a) whilst Eckington and Killamarsh are defined as secondary towns (Level 1b). There are eleven named large settlements (Level 2), twenty six named small settlements (Level 3) and eight named very small villages & hamlets (Level 4). The remainder of the District is defined as countryside.

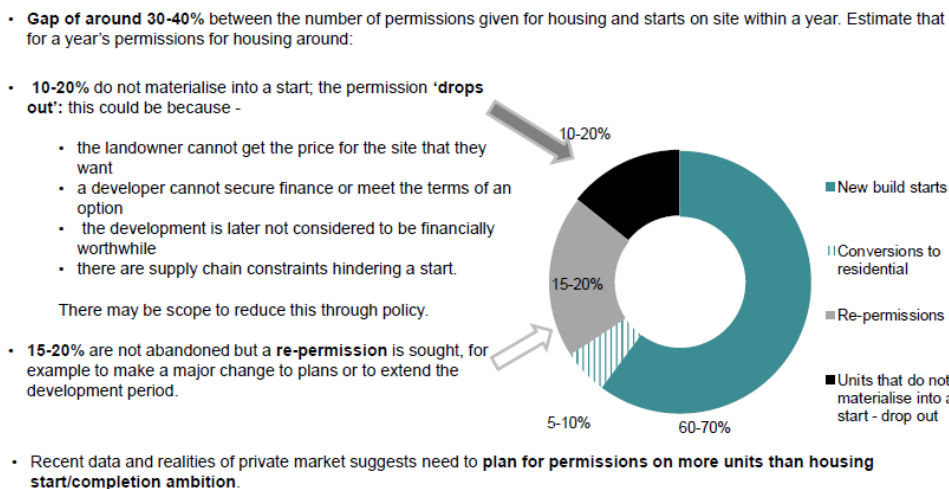
The total growth of 6,600 dwellings is distributed as 2,508 dwellings in the towns (Level 1) and 1,962 dwellings in the large villages (Level 2). There are two strategic housing site allocations in **Policy SS4 – The Avenue Wingerworth** for 710 dwellings and **Policy SS5 – Former Bwaters Clay**

**Cross** for 560 dwellings. **Policy LC1 – Housing Allocations** proposes forty three residential development sites ranging in size from 10 dwellings to 710 dwellings. There are no housing requirements set out for Level 3 and 4 settlements and no housing site allocations. The Council’s policy approach to development for these settlements is set out in **Policy SS12 – Development on unallocated land within settlements with defined settlement development limits** and **Policy SS13 – Development in small villages & hamlets**. **Policy SS8 – Coalite Priority Regeneration Areas** includes development proposals for this regeneration site which is not part of the District’s housing requirement. The Council should provide further clarification about this site. **Policy SS10 – Safeguarded Land** removes land from the Green Belt for development needs up to 2033.

The Council has calculated its overall HLS as 6,756 dwellings comprising of site allocations for 5,740 dwellings and 1,016 existing completions. The Council contends that a surplus of 156 dwellings (2%) plus existing planning consents not aligned with the Local Plan’s proposed spatial strategy and residential development on sites of less than 10 dwellings provides further flexibility to the HLS sufficient to deal with any unforeseen circumstances. However the HBF would recommend a larger contingency given that the housing requirement is a minimum not a maximum figure. The HBF always suggests a 20% contingency in order to respond rapidly to changing circumstances. Indeed the Department of Communities & Local Government (DCLG) presentation slide from the HBF Planning Conference in September 2015 illustrated a 10 – 20% non-implementation gap together with a 15 – 20% lapse rate. The slide emphasised “*the need to plan for permissions on more units than the housing start / completions ambition*” (see below). The Council should demonstrate that its proposed limited contingency is adequate.



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



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



The HBF suggests that the Council considers providing greater flexibility by varying **Policies SS12** and **SS13** to include sustainable development which is adjacent to as well as within development boundaries. The Council should also re-consider whether or not the level of protection proposed in **Policy SS11 – Local Settlement Gaps** is justified.

Furthermore the Local Plans Expert Group (LPEG) Report recommended 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). It is suggested that the Council considers the allocation of reserve sites.

The HBF do not comment on the merits or otherwise of individual sites therefore our representation is submitted without prejudice to any comments made by other parties on the deliverability of specific sites included in the Council’s HLS. However it is essential that the Council’s assumptions on lead-in times, lapse rates and delivery rates for sites in the HLS as set out in Appendix C – Estimated Housing Completions for period 2016 – 2033 are realistic. These assumptions should be supported by parties responsible for delivery of housing and sense checked by the Council using historical empirical data and local knowledge. Under the recently published Housing White Paper’s proposals from November 2017 the Council will be subject to the Housing Delivery Test.

If it is determined that the Council’s housing requirement should be increased because of an under-estimation of OAHN then a corresponding increase in site allocations will be necessary. It is noted that the Council is proposing a variety of housing site allocations which is an appropriate approach that the Council should continue to follow. The widest variety of sites by size, location and market type should be considered to enable the house building industry to maximise housing delivery. This approach is also advocated in the Housing White Paper because a good mix of sites provides choice for consumers, allows places to grow in sustainable ways and creates opportunities to diversify the construction sector.

As part of the Draft Local Plan consultation the Council has not provided a 5 YHLS calculation. The HBF preferences for the calculation of 5 YHLS include 20% buffer applied to both annualised housing requirement and any shortfalls which should be recouped as quickly as possible using the Sedgefield approach (NPPG ID 3-035-20140306). If there is not reasonable certainty that the Council has a 5 YHLS the Local Plan cannot be considered sound as it would be neither effective nor consistent with national policy as set out in the NPPF (para 47). Moreover if the North East Derbyshire Local 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 LPA cannot demonstrate a five year supply of deliverable housing sites”* (NPPF para 49).

In conclusion when more information on the Council's overall HLS and 5 YHLS is available the HBF may submit further comments on the HLS during the pre submission Local Plan consultation.

## **Other Housing Policies**

**Policy LC2 – Affordable Housing** requires on sites of 10 or more dwellings 40% affordable housing provision in the West sub area and 30% affordable housing provision elsewhere subject to viability. However it is noted that the Council's viability assessment is dated 2011 which pre dates the NPPF requirement for whole plan viability testing (paras 173 & 174). It is confirmed that an up dated whole plan viability assessment will be commissioned (para 5.70). If the Local Plan is to be compliant with the national policy the Council must satisfy the requirements of the NPPF whereby development should not be subject to such a scale of obligations and policy burdens that viability is threatened. 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 that the Council understands and tests 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*". When more information is available the HBF may submit further comments on **Policy LC2** during the pre-submission Local Plan consultation.

**Policy LC4 – Type & Mix of Housing** introduces the nationally described space standard on all dwellings. The Written Ministerial Statement dated 25<sup>th</sup> 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*". So if the Council wishes to adopt 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) :-

- Need - it is incumbent on the Council to provide a local assessment evidencing the specific case for North East Derbyshire which justifies the inclusion of the nationally described space standard in a Local Plan policy. If it had been the Government's intention that generic statements justified adoption of the nationally described space standards then the logical solution would have been to incorporate the standards as mandatory via the Building Regulations which the Government has not done. The nationally described space standards should only be introduced on a "need to have" rather than a "nice to have" basis. The identification of a need for the nationally described space standard must be more than simply stating that in some cases

the standard has not been met it should identify the harm caused or may be caused in the future ;

- Viability - the impact on viability should be considered in particular an assessment of the cumulative impact of policy burdens. There is a direct relationship between unit size, cost per square metre, selling price per metre and affordability. The Council cannot simply expect home buyers to absorb extra costs in an area where there exists severe affordability pressures. There is also an impact of larger dwellings on land supply. The requirement for the nationally described space standard would reduce site yields or the number of units on a site. Therefore the amount of land needed to achieve the same number of units must be increased. The efficient use of land is less because development densities have been decreased. At the same time the infrastructure and regulatory burden on fewer units per site intensifies the challenge of meeting residual land values which determines whether or not land is released for development by a willing landowner especially in lower value areas and on brownfield sites. Alternatively it may undermine delivery of affordable housing at the same time as pushing additional families into affordable housing need because they can no longer afford to buy a nationally described space standard compliant home ;
- Timing - the Council should undertake an assessment of these impacts. The Council should take into consideration any adverse effects on delivery rates of sites included in the housing trajectory. The delivery rates on many sites will be predicated on market affordability at relevant price points of units and maximising absorption rates. An adverse impact on the affordability of starter home / first time buyer products may translate into reduced or slower delivery rates. As a consequence the Council should put forward proposals for transitional arrangements. The land deals underpinning the majority of identified sites will have been secured prior to any proposed introduction of nationally described space standards. These sites should be allowed to move through the planning system before any proposed policy requirements are enforced. The nationally described space standards should not be applied to any outline or detailed approval prior to the specified date and any reserved matters applications should not be subject to the nationally described space standards.

**Policy LC4** also proposes 20% M4(2) accessible and adaptable standards on sites of more than 10 dwellings. The Written Ministerial Statement dated 25<sup>th</sup> 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 the Council should only do so by applying the criteria set out in the NPPG. It is incumbent on the Councils to provide a local assessment evidencing the specific case for North East Derbyshire which justifies the inclusion of optional higher standards for accessible / adaptable homes in its Local Plan policy.



**Policy LC5 – Self Build** proposes 5% self-build plots on sites of more than 20 dwellings to be marketed for 12 months before reverting back to the original house builder for delivery. If the Council continues to pursue **Policy LC5** then the definition of self-build / custom build should be set out in the glossary. The HBF is supportive of self-build for its additionality to housing supply. The HBF is less supportive of a housing mix approach whereby a requirement to provide self-build plots is imposed on sites of a certain size. Such a policy approach only changes the house building delivery mechanism from one form of house building company to another without any consequential additional contribution to boosting housing supply. If these self-build plots are not developed then the Council has effectively caused an unnecessary delay to the delivery of these homes by more than 12 months. The Council should also give detailed consideration to the practicalities (for example health & safety implications, working hours, length of build programme, etc.) of implementing any such policy approach. The Council should refer to the East Devon Inspector's Final Report dated January 2016 which expresses reservations about the implementation difficulties associated with this sort of policy. The Inspector states "*However, I don't see how the planning system can make developers sell land to potential rivals (and at a reasonable price)*" (para 46 of Inspector's Final Report). If the Council wishes to promote custom build it should do so on the basis of evidence of such need identified in its SHMA work as set out in the NPPG (ID 2a-021-20140306) whereby the Council should collate from reliable local information the local demand for people wishing to build their own homes. It is noted that to date there are only 4 entries on the Council's Self Build Register. Any proposed self-build policy should also be viability tested. The NPPG confirms that "*different types of residential development such as those wanting to build their own homes ... are funded and delivered in different ways. This should be reflected in viability assessments*" (ID 10-009-20140306).

It is noted that **Policy SP2 – Clay Cross** refers to Local Labour Agreements. The HBF would query if this policy requirement meets all three tests of the NPPF (para 204). It is unlikely that a Local Labour Agreement is necessary to make development acceptable in planning terms. It is suggested that this Bullet Point is deleted from **Policy SP2**.

## Conclusions

For the North East Derbyshire Local Plan to be found sound under the four tests of soundness defined by the NPPF the Local Plan should be positively prepared, justified, effective and compliant with national policy (para 182). At present the Draft Local Plan is unsound because of a number of unresolved matters which are summarised as :-

- no Statement of Co-operation justifying the defined HMA, its relationship with other neighbouring authorities and the resolution of any unmet housing needs ;
- a proposed housing requirement which is not based on an up to date OAHN ;

- the lack of flexibility in the HLS in order to pass the Government's proposed Housing Delivery Test and maintain a 5 YHLS throughout the plan period ;
- an out of date whole plan viability assessment ;
- no evidence to justified policy requirements on housing standards and self -build.

It is hoped that these comments are helpful to the Council in informing the next stages of the North East Derbyshire Local Plan. In the meantime if any further assistance or information is required please contact the undersigned.

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



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