



Local Plan Team  
Amber Valley Borough Council  
Town Hall  
Market Place  
Ripley  
Derbyshire  
DE5 3BT

SENT BY E-MAIL AND POST

28<sup>th</sup> April 2017

Dear Sir / Madam

## **AMBER VALLEY 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 responses and in due course attend the Amber Valley Local Plan 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. When determining 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. A required outcome of co-operation is the delivery of full objectively assessed housing needs (OAHN) for market and affordable housing in the 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 (para 182 NPPF).

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 Amber Valley forms part of the Derby HMA together with South Derbyshire District Council and Derby City Council. However Amber Valley Borough Council has six other neighbouring authorities namely Erewash Borough Council and Broxtowe District Council (part of Greater Nottingham HMA), Ashfield District Council (part of outer Nottingham HMA), Bolsover District Council and North East Derbyshire District Council (part of North Derbyshire / North Nottinghamshire HMA), and Derbyshire Dales District Council (defined as its own HMA).

When the Amber Valley Local Plan is submitted for examination, the Council will have to demonstrate collaborative working within the wider context of its eight neighbouring authorities and not just those authorities within its own HMA. Just as the administrative areas of individual authorities are not self-contained entities with border controls neither are HMAs. Therefore it is important to consider inter relationships between neighbouring authorities and HMAs when formulating housing and development policies. The Council's Duty to Co-operate Statement dated December 2015 acknowledges such inter-relationships and over-laps between the Derby HMA and other authorities and HMAs.

By the time of the Amber Valley 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 be required. If a Statement of Common Ground is prepared the HBF may wish to 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 Local Plan consultation.

## **OAHN and Housing Requirement**

**Policy SS2** proposes a minimum housing requirement of 9,770 dwellings for the plan period 2011 – 2028 based on the OAHN for the Derby HMA. In chronological order the calculation of OAHN for the Derby HMA is summarised as follows :-

- The Derby HMA SHMA Update Final Report dated July 2013 by consultants G L Hearn calculated an OAHN of 35,354 dwellings for the HMA over the period 2008 – 2028 based on the current Sub National Population Projections (SNPP) / Sub National Household Projections (SNHP) with downward adjustments for Household Formation Rates (HFR) and migration plus an uplift for housing shortfalls from previous years ;
- The 2014 Sensitivity Testing Paper and 2014 SNPP (2012) Housing Requirement Update tested HFR, internal and international migration and Unattributable Population Change (UPC) assumptions of the demographic projections and calculated a revised OAHN of 33,388

dwellings for the period 2011 – 2028 comprising 7,395 dwellings in Amber Valley, 9,605 dwellings in South Derbyshire and 16,388 dwellings in Derby ;

- The letter dated 10<sup>th</sup> December 2014 from Ms. Kingaby (Inspector examining South Derbyshire Local Plan Part 1) and Mr Foster (Inspector examining Amber Valley Core Strategy Local Plan subsequently withdrawn in December 2015) endorsed the housing requirement of 33,388 dwellings for the Derby HMA ;
- 26<sup>th</sup> March 2015 letter from Derby HMA authorities to both Inspector’s set out an updated figure of 32,142 dwellings based on 2012 SNHP as the OAHN up to 2028 but confirmed that the proposed housing requirement of 33,388 dwellings should not change ;
- An Addendum Report dated November 2016 identified OAHN range of 7,123 – 7,242 dwellings for Amber Valley based on 2014 SNHP. It is agreed that a change of 2 – 3.5% is not significant however the Council has not provided any data for the HMA based on the 2014 SNHP.

The Duty to Co-operate Compliance Statement dated December 2015 confirms that the Derby HMA authorities have undertaken to meet full OAHN of the HMA within the administrative boundaries of the three authorities as set out below :-

	OAHN (dwellings)	Re-distributed OAHN (dwellings)
Derby City	16,388	11,000
South Derbyshire	9,605	12,618
Amber Valley	7,395	9,770
TOTAL	33,388	33,388

The Duty to Co-operate Compliance Statement also confirms that no unmet needs will arise from the Derby HMA and so no unmet needs will be met in neighbouring authorities or HMAs. Likewise no unmet needs from elsewhere outside the Derby HMA will be met within the Derby HMA.

Throughout the Derby HMA authorities plan making processes it was the HBF’s opinion that a housing requirement of 33,388 dwellings was based on an under-estimation of OAHN. In previous HBF representations to the withdrawn Amber Valley Core Strategy, South Derbyshire Local Plan Part 1 and Derby City Local Plan Part 1 Draft and pre submission consultations and subsequent Examination Hearing Statements it was considered that a housing requirement of 33,388 dwellings was an overly pessimistic figure which would not significantly boost housing supply across the Derby HMA up to 2028. As set out in previous representations the Council’s methodological approach to demographic projections was reasonable but the assessment gave insufficient consideration to HFR, employment forecasts, upward adjustments for market signals and the delivery of affordable housing. Indeed this under estimation was illustrated during these previous Examinations by the submitted evidence of other parties identifying alternative OAHN for the Derby HMA ranging between 42,340 dwellings (Gladman) to 47,000 dwellings (Pegasus). The HBF’s criticisms included :-

- The Council's assessment is overly focussed on demographic projections including sensitivity testing of internal / international migration, UPC and HFR ;
- There is very limited consideration of employment trends in the assessment even though the NPPG identifies that plan makers should assess employment trends (ID 2a-018-20140306) ;
- The NPPG also sets out that worsening trends in market signals should be considered. This consideration 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 Council's assessment does not consider worsening market trends except for overcrowding. This lack of assessment of market signals meant no uplifts were applied ;
- In Amber Valley an affordable housing need of 2,228 dwellings between 2011 – 2028 was calculated. There was no consideration of increasing the housing requirement to help deliver affordable housing needs (NPPG ID 2a-029-20140306).

Whilst it is acknowledged that these criticisms were not accepted by Inspector's Examining South Derbyshire and Derby City Local Plans. 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 a consequence 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 Amber Valley Local Plan Examination it may be necessary for the Council to prepare an assessment of housing needs based on this standard methodology especially given that from April 2018 this is the baseline against which 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). If a new assessment of housing needs is undertaken using the standardised methodology then the HBF may wish to submit further comments on OAHN for the Derby HMA and the housing requirement for Amber Valley during the pre submission Local Plan consultation.

## **Plan Period**

If the Amber Valley Local Plan is adopted in 2018 only ten years will remain before the end of the plan period. The NPPF recommends a 15 year timeframe for Plans (para 157). It is suggested that the Council gives further consideration to its plan period. Whilst other Local Plans have been adopted with a shorter than 15 year timespan including the South Derbyshire Local Plan Part 1 this Plan includes an early review mechanism. The NPPG states that "*Local Plans may be found sound conditional upon a review in whole or in part within five years of the date of the adoption*". The Written Ministerial Statement dated 22<sup>nd</sup> July 2015 also refers to such matters. Therefore if the Amber Valley Local Plan is to be progressed with a truncated plan period then an early review policy should be included. The recently published Housing

White Paper proposes that Local Plans are kept up to date and reviewed at least once every five years. Therefore any early review policy should be a commitment to the preparation and submission for examination of a reviewed Local Plan by a specified date within 5 years of adoption.

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

As agreed by the Derby HMA authorities the most sustainable form of development is achieved by meeting housing needs where these needs originally arise. Therefore development should be located within the administrative boundaries of the city itself and / or as close to the edge of the city as possible in neighbouring authorities. In the Amber Valley Local Plan the focus for growth is Alferton, Belper, Heanor, Ripley, the edge of Derby and Denby as set out in **Policy SS2**. A settlement hierarchy is set out in **Policy SS3**. However there is an anomaly between **Policies SS2** and **SS3**. It is noted that the edge of Derby is not identified as a location for growth in the settlement hierarchy. It is suggested that the Council rectifies this anomaly before the pre submission Local Plan consultation.

**Policies HGS1** to **HGS18** propose twenty three Housing Growth Sites for 3,916 dwellings. These site allocations include a range of sites ranging between 10 – 1,100 dwellings. The HBF commend the Council for proposing a mix of sites sizes. If more allocations are required then this approach should be continued because 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. 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.

The HBF do not comment on the merits or otherwise of individual sites therefore our representations are submitted without prejudice to any comments made by other parties on the deliverability of specific sites included in the Council's overall HLS, 5 YHLS and housing trajectory. However it is essential that the Council's assumptions on lead-in times, lapse rates and delivery rates for sites in the HLS 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.

As the proposed housing requirement in **Policy SS2** is a minimum figure it should not be treated as a ceiling. The Local Plan should identify a HLS including contingencies over the plan period which is flexible enough to respond rapidly to changing circumstances. The HBF always recommends as large a contingency as possible preferably at least 20%. The DCLG presentation slide from HBF Planning Conference September 2015 (see below) illustrates 10 – 20% non-implementation gap together with 15 – 20%



lapse rate. The slide suggests “*the need to plan for permissions on more units than the housing start / completions ambition*”.



Department for  
Communities and  
Local Government

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

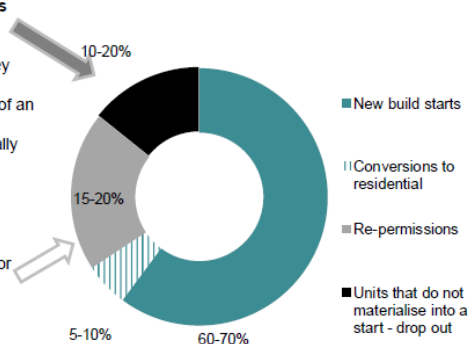
- **Gap of around 30-40%** between the number of permissions given for housing and starts on site within a year. Estimate that for a year's permissions for housing around:

- **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

Whilst it is acknowledged that this presentation slide shows generic percentages across England it provides an indication to the Council of the level of contingency needed. It is noted that the Council has a HLS of 11,704 dwellings against a housing requirement of 9,770 dwellings which provides a contingency of 1,934 dwellings. The Council’s housing trajectory is extremely challenging in proposing to increase housing delivery from the past average rate of 309 dwellings per annum to over 1,000 dwellings per annum. The Council should confirm that this contingency will provide sufficient flexibility. The Council should also consider the allocation of developable reserve sites together with an appropriate release mechanism as recommended by Local Plans Expert Group (LPEG) Report (para 11.4 of the LPEG Report).

The Council’s latest 5 YHLS position is calculated as 5.83 years (Appendix 1). This calculation is based on the HBF’s preferences for the Sedgefield approach to shortfalls and a 20% buffer applied to both the annualised housing requirement and any shortfalls. However the HBF would question the quantum of a number of HLS sources such as the windfall allowance and the Draft Plan allocations. If there was not reasonable certainty that the Council had a 5 YHLS on adoption of the Local Plan then the Plan is not sound as it would be neither effective nor consistent with national policy. Furthermore if the Local Plan is not to be out of date on adoption it is critical that 5 YHLS 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). Under the Housing White Paper’s proposals it is likely that from November 2017 the Council will be subject to the Housing Delivery Test. Since the start of the plan period the Council has only delivered circa 50% of its housing requirement therefore an Action Plan will be required to get house building back on track. It is suggested that the

Council considers greater flexibility for sustainable development adjacent to settlement boundaries in Key Villages and smaller settlements in **Policies H1** and **H2**.

When more information is available the HBF may wish to submit further comments on HLS during the pre submission Local Plan consultation.

### **Other Housing Policies**

If the Amber Valley 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*”. The Council’s viability evidence originates from 2013 and therefore is considered out of date. It is recommended that a Whole Plan Viability Assessment is carried out before the pre-submission consultation. When more information is available the HBF may submit further comments. **Policy H5** proposes up to 30% affordable housing provision subject to viability on sites of 15 or more dwellings. **Policy H6** sets out viability criteria. It should be clearly set out in these policies that any site which is policy compliant in providing up to 30% affordable housing should not be subject to any review mechanism to maximise planning gain over time. The Council should also consider the Government’s proposals for Starter Homes as set out in the Housing White Paper whereby the Councils may deliver Starter Homes as part of a mixed package of affordable housing alongside other affordable home ownership and rented tenures determining the appropriate level of provision for the locality in agreement with developers.

Under **Policy H7** the Council should clarify the meaning of “*will seek to secure the provision of sufficient opportunities to meet demand for self build and custom build dwellings*”. The HBF is supportive of self-build / custom build for its additionality to housing supply by land allocation on Council owned sites and exception sites. The HBF is not 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. 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 a housing mix 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. In para 46 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)”. The Cornwall Local Plan Inspector has also commented on this matter stating “The Council’s published change on this policy was too prescriptive in requiring larger developments to provide at least 5% of development as serviced plots for self build / custom-build. There is not yet the evidence to justify this level of prescription and there must be considerable uncertainty as to whether plots on large new housing estates would be attractive to self-build/custom builders.” (para 168 of Cornwall Inspector’s Final Report). If the Council wishes to promote custom build / 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. At the present time the number of entries on the District Council’s Self-Build and Custom Housebuilding Register is unknown and it is not apparent whether or not all entries are likely to bring forward self-build housing developments solely within the plan area. On this basis, there is no known demand for self-build / custom build properties within the plan area and therefore insufficient evidence to justify a policy which ‘requires’ a developer to make provision for any self-build / custom build properties. Any proposed 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).*

## **Conclusions**

If the Amber Valley Local Plan is to be found sound under the four tests of soundness as defined by the NPPF the Plan should be positively prepared, justified, effective and consistent with national policy (para 182). At this time the Draft Amber Valley Local Plan is unsound because of :-

- an under-estimation of OAHN ;
- potentially no 5 YHLS on adoption ;
- a proposed plan period of less than 15 years ;
- no whole plan viability assessment to justify its affordable housing policy ;
- no justification for self build / custom build requirements under **Policy H7**.

Therefore the Draft Local Plan is not compliant with national policy. It is not positively prepared and properly justified meaning it will be ineffective. It is hoped that these representations are of assistance to the Council in preparing the next stages of the Local Plan. In the meantime if any further information or assistance is required please contact the undersigned.

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



**Susan E Green MRTPI**  
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