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Amber Valley Borough Council
Town Hall
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SENT BY E-MAIL AND POST

14th December 2017

Dear Sir / Madam

AMBER VALLEY LOCAL PLAN PRE SUBMISSION 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. In 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).

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 and Broxtowe District Councils (part of Greater Nottingham HMA), Ashfield District Council (part of outer Nottingham HMA), Bolsover and North East Derbyshire District Councils (part of North Derbyshire / North Nottinghamshire HMA), and Derbyshire Dales District Council (defined as 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. This Statement confirms that the Derby HMA authorities have undertaken to meet full OAHN of the HMA within the administrative boundaries of the three authorities so no unmet needs will arise from the Derby HMA to be met elsewhere in neighbouring authorities or HMAs. Likewise no unmet needs from elsewhere outside the Derby HMA will be met within the Derby HMA.

However by the time of the Amber Valley Local Plan Examination a Statement of Common Ground explaining cross boundary working as proposed in the Housing White Paper (HWP) "*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 written Hearing Statements and during oral discussions at the Examination Hearing Sessions.

OAHN and Housing Requirement

Under the NPPF the Council should be proactively supporting sustainable development to deliver the homes needed by identifying and then meeting housing needs (para 17) in particular the Council should be significantly boosting the supply of housing (para 47). The Council should ensure that the assessment of and strategies for housing, employment and other uses are integrated taking full account of market and economic signals (para 158). The Council should use its evidence base to ensure that the Local Plan meets in full OAHN as far as consistent with the framework including identifying key sites critical to the delivery of the housing strategy over the plan period (para 47). The NPPG advises that housing need should be assessed in relation to the relevant functional area known as the HMA (ID 2a-008). An OAHN should be unconstrained (ID 2a-004) and strongly recommends the use of its standard methodology (ID 2a-005). This methodology is a three stage process comprising :-

- Demographic (based on past population change and HFR) (ID 2a-015 – 017) ;
- Economic (to accommodate and not jeopardise future job growth) (ID 2a-018) ;

- Market signals (to consider undersupply relative to demand) (ID 2a-019 & 020) ;
- Affordable housing need is separately assessed (ID 2a-022 – 028) and delivering affordable housing can be a consideration for increasing planned housing provision (ID 2a-029).

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

- 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 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 ;
- 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 ;
- Letter dated 10th 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 ;
- 26th 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. A change of 2 – 3.5% for Amber Valley may not be significant (NPPG ID 2a-016) but there is no confirmation from the Council about such updated data for the HMA as whole and whether or not any change is significant.

The Duty to Co-operate Compliance Statement dated December 2015 confirms that the Derby HMA authorities have undertaken to meet OAHN in full within the HMA 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

It is the HBF's opinion that a housing requirement of 33,388 dwellings for the Derby HMA is based on an under-estimation of OAHN. In HBF representations to the withdrawn Amber Valley Core Strategy, South

Derbyshire Local Plan Part 1 and Derby City Local Plan Part 1 pre submission consultations and Examination Hearing Sessions 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. As set out in these previous representations the HBF's criticisms included :-

- overly focussed on demographic projections including sensitivity testing of internal / international migration, UPC and HFR ;
- very limited consideration of employment trends in the assessment ;
- lack of assessment of market signals meant no uplifts were applied ;
- no consideration of increasing the housing requirement to help deliver affordable housing needs despite an identified affordable housing need of 2,228 dwellings between 2011 – 2028 in Amber Valley.

The HBF acknowledge that these criticisms were not accepted by Inspector's Examining South Derbyshire and Derby City Local Plans. However in the HWP the Government points identifies that an honest assessment of housing needs may not have been undertaken by Councils. As a consequence the Government has consulted on a standard methodology for the assessment of OAHN. This standardised methodology comprises of :-

- Demographic baseline based on annual average household growth over a 10 year period ;
- Workplace-based median house price to median earnings ratio ;
- Adjustment factor = $\frac{\text{Local affordability ratio} - 4}{4} \times 0.25$;
- Local Housing Need = (1 + adjustment factor) x projected household growth.

Using the proposed standard methodology the OAHN for the Derby HMA increases to 1,883 dwellings per annum from 1,236 dwellings per annum. By the time of the Amber Valley Local Plan Examination (if the Plan is submitted for examination post March 2018) it may be necessary for the Council to prepare an assessment of housing needs based on this standard methodology. The Council should give consideration to the implications of the Government's proposed standard methodology. 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 in written Hearing Statements and during oral discussions at the Examination Hearing Sessions.

Plan Period and Local Plan Review

The NPPF recommends a 15 year timeframe for Local Plans (para 157). If the Amber Valley Local Plan is adopted in 2018 only ten years will remain before the end of the plan period. 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 22nd July 2015 also refers to such matters. It is acknowledged that other Local Plans have been adopted with a shorter than 15 year timespan including the South

Derbyshire Local Plan Part 1 but these Plans include either an early review policy or mechanism. The HWP proposes that Local Plans are kept up to date and reviewed at least once every five years. If the Amber Valley Local Plan is to be progressed with a truncated plan period then an early review policy should be included. There is always the concern that a Council will not deliver in a timely manner on its commitment to an early review as set out in a Local Plan policy. Therefore any early review policy should be a commitment to a specified timeframe for the commencement of the review (within 3 months of adoption of the Local Plan) and the submission for examination (within 2 years) of the reviewed Local Plan.

It is also known that an early review of a Local Plan is not the optimum policy mechanism by which to respond to meeting increased housing need because of the slow response time of such reviews. Therefore ahead of any early review the Council should provide a greater contingency within its overall Housing Land Supply (HLS) together with potential reserve sites subject to appropriate triggers for release in order to have additional flexibility to respond quickly to meeting higher housing needs.

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 Amber Valley the focus for growth is Alferton, Belper, Heanor, Ripley, the edge of Derby and north of Denby Bottles as set out in **Policy SS2**. A settlement hierarchy is set out in **Policy SS3** comprising Urban Area, 17 Key Villages, 22 Other Villages and Settlements and Countryside. Although there has been no comprehensive Green Belt Review **Policy SS10** removes land north of Denby Bottles for mixed use development including 1,100 new dwellings during the plan period.

Policy HGS1 allocates nineteen Housing Growth Sites for circa 3,536 dwellings. **Policies HGS2 – HGS15** are site specific policies. These site specific allocations include a variety of locations and a range of site sizes from 16 – 1,100 dwellings. The HBF commend the Council for proposing a diverse mix of sites. 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 increasing housing supply is increasing the number of sales outlets which means the allocation of more sites. 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 HWP 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. The Council's HLS assumes that all of the allocations in the Local Plan will be found sound. However the soundness of individual allocations will be discussed throughout the course of the examination if any are found to be unsound these will need to be deleted from the HLS accordingly. It is also 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. It is not clear from the Council's evidence if lapse rates have been applied.

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 especially given the out datedness of the Council's evidence on OAHN and the truncated plan period of only circa 10 years. The Council's proposed overall HLS is 11,063 dwellings (Appendix 1) against a housing requirement of 9,770 dwellings. So there is contingency of circa 13% (+1,293 dwellings) to cater for slower than expected delivery, non-implementation of existing consents, economic change, and flexibility and choice in the housing market. However this level of contingency is below the DCLG presentation slide from the HBF Planning Conference September 2015 (see below) which illustrates a 10 – 20% non-implementation gap together with 15 – 20% lapse rate. Even though the slide is based on generic percentages across England it is an indication of the level of contingency needed. Therefore the HBF always recommends as large a contingency as possible because of *"the need to plan for permissions on more units than the housing start / completions ambition"* as suggested by the DCLG slide.



Department for
Communities and
Local Government

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

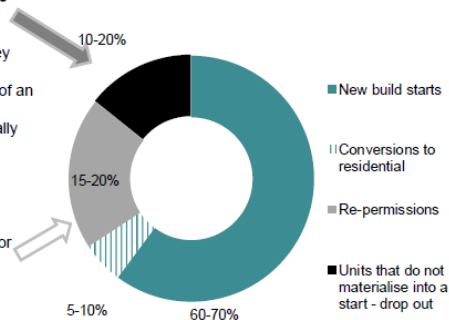
- Gap of around 30-40% between the number of permissions given for housing and starts on site within a year. Estimate that for a year's permissions for housing around:

- 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

The Council's housing trajectory is also extremely challenging which increases housing delivery from the past average rate of 309 dwellings per annum to over 1,000 dwellings per annum. The Council should consider the allocation of developable reserve sites with appropriate release mechanisms as recommended by Local Plans Expert Group (LPEG) Report (para 11.4) as an additional contingency to assist if needed in achievement of this step change. The 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"*.

5 Year Housing Land Supply (YHLS)

The 5 YHLS is a snap shot in time which can change very quickly. The following analysis addresses matters of principle rather than detailed site specific analysis. Using the HBF's preferences for the Sedgefield approach to shortfalls as set out in the NPPG (ID 3-035) and a 20% buffer applied to both the annualised housing requirement and any shortfalls the Council's latest 5 YHLS position is calculated as 5.03 years (Appendix 1). Without reasonable certainty that the Council has a 5 YHLS on adoption the Plan is unsound as it would be neither effective nor consistent with national policy. Indeed on adoption *"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). Therefore as much HLS contingency as possible is recommended in order to sustain a plan led approach. It is noted that **Policies H1** permits sustainable development on land adjacent to Urban Areas and Key Villages and **Policy H2** permits development within other Villages and Settlements or adjacent if supporting existing services / facilities.

Since the start of the plan period the Council has only delivered circa 50% of its housing requirement so the Council will also fail the Government's proposed Housing Delivery Test. The HBF contend that this shortfall should be recouped as soon as possible. This is not just a mathematical calculation but represents households in need of housing and it is inappropriate to put off meeting this housing need over the next twelve years. The Council should be facilitating the delivery of as much housing as possible as soon as possible by significantly boosting the supply of housing by increasing its HLS. There should not be an automatic default to Liverpool (using the alternative Liverpool approach the Council's 5 YHLS is 6.02 years).

When more information on HLS becomes available the HBF may wish to submit further comments in written Hearing Statements and during oral discussions at the Examination Hearing Sessions.

Other Housing Policies

Affordable Housing and Viability

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. 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 latest Viability Report by PBA demonstrates that on brownfield and greenfield sites in Alfreton, Heanor and Ripley proposed policy requirements are too onerous and all sites will be subject to viability negotiations. The evidence shows that policy trade-offs are required between affordable housing provision and infrastructure. The Council should be mindful that the cumulative burden of policy requirements are not set so high that sites are only deliverable if these sites are routinely rather than occasionally negotiated on the grounds of viability. It is recommended that based on its own viability evidence the Council re-considers the affordable housing provision set out in **Policy H5**. It is suggested that differential affordable housing provision by sub-market, site size and / or site typologies is more appropriate than the currently proposed “blanket” approach. **Policy H5** should be modified before the Amber Valley Local Plan is submitted for examination.

Self / Custom Build

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”* in **Policy H7** which is unsound because it is ineffective. 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. This policy approach only changes housing delivery from one form of house building company to another without any consequential additional contribution to boosting housing supply. If self / custom 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 is referred 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 *“I don’t see how the planning system can make developers sell land to potential rivals”* (para 46). The Cornwall Local Plan Inspector has also commented on this matter stating *“there must be considerable uncertainty as to whether plots on large new housing estates would be attractive to self-build/custom builders.”* (para 168). 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) 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. 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).

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 Amber Valley Local Plan is unsound because of :-

- Low housing requirement based on an under-estimation of OAHN ;
- insufficient flexibility in overall HLS and potentially no 5 YHLS on adoption ;
- plan period of less than 15 years and no early review policy ;
- unviable affordable housing policy ;
- unjustified self / custom build policy.

Therefore the 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**



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