

Derby City Council

Response to Mr Moore's Letter dated 27 January 2016

Attachment 1: Duty to Co-operate

- **Statement of Continued Joint Working – signed 8 February 2016**
- **Amber Valley Committee Report (27 January 2016)**



Statement on Continuing Joint Working between Amber Valley Borough Council, Derby City Council, Derbyshire County Council and South Derbyshire District Council - February 2016



Statement on Continuing Joint Working between Amber Valley Borough Council, Derby City Council, Derbyshire County Council and South Derbyshire District Council - February 2016

1. Introduction

- 1.1 The Derby Housing Market Area (HMA) comprises the administrative areas of Amber Valley Borough Council, Derby City Council and South Derbyshire District Council.
- 1.2 Amber Valley Borough Council, Derby City Council, Derbyshire County Council and South Derbyshire District Council are committed to close co-operation and liaison on Development Plan matters at both the local and wider Housing Market Area (HMA) level. This involves on-going constructive and active engagement on strategic matters in the preparation of development plan documents and associated activities in-line with the Duty to Co-operate (Localism Act, Section 110¹).
- 1.3 This co-ordinated approach began in 2009 and has continued as the decision not to have a joint HMA Plan or Principal Urban Area Site Allocations document was made but more appropriately have aligned Local Plans.
- 1.4 This approach has provided the HMA authorities with the opportunity to address a number of cross-boundary, strategic issues, such as the scale and location of housing and employment land, transport, social infrastructure and Green Belt.

2. Purpose of the Statement on Continuing Joint Working

- 2.1 The principle of joint working within the HMA was established in the East Midlands Regional Plan. Following its revocation in 2013, the HMA authorities have considered that a formal agreement would provide long-term surety to both local communities and the Government that joint working would continue both up to and after the respective Local Plans have been adopted.

3. Planning For Housing Growth

- 3.1 Paragraph 47 of the National Planning Policy Framework (NPPF) requires local planning authorities to set housing targets at the local level and that Local Plans should meet the full objectively assessed needs for housing in the housing market area.

¹ <http://www.legislation.gov.uk/ukpga/2011/20/section/110/enacted>
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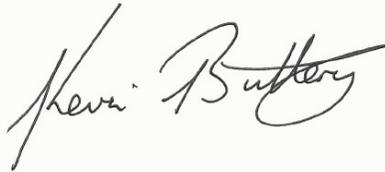
- 3.2 The Derby HMA has developed a shared evidence base to ensure that the three authorities meet the requirements of the NPPF. Government projections suggest that the HMA's population will continue to grow. However, the HMA's Housing Requirements Study (HRS) indicates that the increases will not be as high as the national projections suggest.
- 3.3 The Strategic Housing Market Assessment (SHMA) update took account of the HRS work undertaken to consider further evidence and concluded with a revised housing total. Following this piece of work, Amber Valley undertook their hearings on their Local Plan – Part 1 in May 2014 where following a request from the Inspector sensitivity testing of the housing numbers from the SHMA update was undertaken. The result of this was the recommendation of a higher housing target across the HMA based on a plan period starting from 2011 and running to 2028.
- 3.4 This work was further subjected to examination through South Derbyshire's initial hearings in December 2014 through a joint session presided over by both Amber Valley's and South Derbyshire's Inspectors (Mr Foster & Ms Kingaby). Following this session the Inspectors wrote to the Derby HMA on the 10th December to confirm that 33,388 dwellings "represented the best estimate of objectively assessed housing need (OAN) for the Derby HMA, 2011-2028".
- 3.5 As part of this letter further work was asked to be undertaken to consider further how Derby's unmet housing of 5,388 dwellings was to split across Amber Valley and South Derbyshire. This work was undertaken and a further joint hearing session held.
- 3.6 From this work, the HMA authorities have agreed that provision should be made for 33,388 new homes across the HMA for a re-based plan period of 2011-2028. This figure has been endorsed by the two Inspectors Examining Amber valley's and South Derbyshire's Plans. This is to be split across the HMA as follows:
- | | |
|------------------|------------------|
| Amber Valley | 9,770 dwellings |
| Derby City | 11,000 dwellings |
| South Derbyshire | 12,618 dwellings |
- 3.7 Amber Valley formally withdrew their Local Plan Part 1 Core Strategy on 11 December 2015, on the basis that it was no longer confident that it could demonstrate a 5 year supply of deliverable housing land. However, it remains committed to securing an up to date adopted Local Plan as soon as possible, with an indicative timetable to achieve this by March 2018. The housing target of 9,770 dwellings in Amber Valley between 2011-2028 remains in place, despite the withdrawal of the Core Strategy'.

Short term actions

- 3.8 It is agreed that the HMA authorities will continue to work together pro-actively.

Longer term actions

- 3.9 It is agreed that the HMA authorities will work co-operatively with partners on any future strategic review of housing growth and distribution. If evidence identifies a significant change in the housing requirement, the HMA authorities will commit to an early review of their Local Plans (either in full or in part). Reflecting current practice, the timetables for any review will be aligned if possible.

Agreement				
	Amber Valley Borough Council	Derby City Council	Derbyshire County Council	South Derbyshire District Council
Name	D. Stafford	P. Clarke	M. Ashworth	S. Batchelor
Title	Assistant Director (Planning & Regeneration)	Head of Planning	Strategic Director – Economy, Transport and Environment	Director of Community and Planning
Date	09/02/16	09/02/16	09/02/16	09/02/16
Signature				
Name	Cllr K Buttery	Cllr M Rawson	Cllr S Marshall-Clarke	Cllr P Watson
Title	Cabinet Member for Regeneration	Deputy Leader and Cabinet Member for Communities and City Centre Regeneration	DCC Member for the Derby HMA Joint Advisory Board	Environmental and Development Services Chairman
Date	09/02/16	09/02/16	09/02/16	09/02/16
Signature				

Amber Valley Borough Council		Status	Final	Agenda Item No	12(b)
Report To	Full Council		Date	27 January 2016	
Report By	Assistant Director (Planning & Regeneration)				
Report Title	Amber Valley Borough Local Plan – Part 1: The Core Strategy				
Portfolio	Regeneration				

1. Purpose of Report

- 1.1 To update the Council on the decision to withdraw the Core Strategy and to set out the next steps in order to maintain the Council's commitment to securing an up to date adopted Local Plan for Amber Valley as soon as possible.

2. Recommendations

- 2.1 That the Council notes the update in relation to the decision to withdraw the Core Strategy.
- 2.2 That the Council notes the next steps that will be required in order to secure an up to date adopted Local Plan for Amber Valley as soon as possible.
- 2.3 That the Executive Director (Operations), in consultation with the Leader of the Council, the Cabinet Member for Regeneration and the Local Plan Member/Officer Working Group, be authorised to undertake the necessary steps towards securing the adoption of an up to date Local Plan.

3. Reasons for Recommendations

- 3.1 To update members in relation to the decision taken on 10 December 2015 by the Executive Director (Resources), following consultation with the Leader of the Council, to withdraw the submitted Core Strategy from examination.
- 3.2 To ensure that the Council is aware of the steps that are now required in order to continue to work towards the adoption of an up to date Local Plan as soon as possible.
- 3.3 To enable the Council to move forward towards securing the adoption of an up to date Local Plan.

4 Consultation

- 4.1 Councillor Kevin Buttery, Cabinet Member for Regeneration – 14 January 2016.

5 Strategic (making a difference)

- 5.1 The adoption of a Core Strategy (as Part 1 of a new Local Plan) has been identified as a priority in the Council's 2015-18 Corporate Strategy.

6 Background Information and Options

- 6.1 At their meeting on 18 November 2015, the Council resolved to approve an updated position regarding the need to demonstrate a five year housing land supply, in advance of the reconvened examination hearings for the Core Strategy examination, which were due to commence on 15 December 2015.

- 6.2 The officers' report to the 18 November 2015 meeting, as amended, stated that the Council could expect to see the delivery of a total of 5,198 dwellings in the 5 year period 1 April 2015 to 31 March 2020, against a requirement for 5,052 dwellings over that period and that this would represent a housing land supply of 5.14 years. The report also included figures, as requested by the Inspector, for the 6 year period 1 April 2015 to 31 March 2021, stating that 5,987 dwellings could be expected to be delivered, against a requirement of 5,627 dwellings over that period, representing a housing land supply of 6.38 years.
- 6.3 Officers concluded that the up to date information set out in the 18 November 2015 report, as amended, would enable the Council to demonstrate a secure 5 year supply of deliverable housing land in Amber Valley, sufficient to meet the objectively assessed housing need for that period, taking into account the agreed contribution to be made within the Borough towards meeting the unmet housing need arising within Derby City, as well as the need arising within Amber Valley itself.
- 6.4 However, following the 18 November 2015 Council meeting and in advance of the scheduled resumed hearings, officers received information which undermined the assumptions on which their confidence had been based, such that they then concluded that the Council would be unable to defend the updated position at the reconvened examination hearings.
- 6.5 The information, which was received by officers in discussions with relevant landowners/site promoters, from 4 December 2015, led officers to reluctantly conclude that the number of dwellings that had been shown in Appendix B ('Table 1 – Deliverable Sites And Indicative Trajectories') to the 18 November 2015 report, as amended, would have to be reduced by some 226 dwellings.
- 6.6 The effect of this reduction was that the Council's stated 5 year supply figure, as set out in Appendix B ('Revised Table 3 – Summary of 5 Year Housing Land Supply Provision') to the 18 November 2015 report, would have to be reduced from 5,198 dwellings to 4,972 dwellings, against a 5 year supply requirement of 5,052 dwellings. This would reduce the total supply to 4.92 years.
- 6.7 In addition to the above, officers had also considered the various statements submitted by other parties, in response to the publication of the updated 5 year supply position, as agreed by the Council on 18 November 2015 and on which the Inspector had invited comments by 2 December 2015. Following the consideration of these statements, officers had to conclude that a number of other revisions would have to be made to the schedule of sites, to delete three sites where planning permission had now lapsed and to correct the figure for another site with planning permission to accurately reflect the number of dwellings still to be completed on that site. The combination of these other revisions meant a further reduction of 84 dwellings from the 5 year supply provision, reducing the figure to 4,888 dwellings, representing a supply of 4.84 years.

- 6.8 The effects of the various necessary reductions to the housing land supply, as set out in paragraphs 6.5 to 6.7 above, was that the stated 6 year supply figure would have to be reduced by 350 dwellings, from 5,987 dwellings to 5,637 dwellings, against a 6 year supply requirement of 5,627 dwellings. Whilst this would represent a total supply of 6.01 years, officers were conscious that the requirement to demonstrate a 5 year supply as at 1 April 2016, for the period up to 31 March 2021, would rely on the number of completed dwellings in the current year (2015-16) to be at or above the total currently anticipated in 2015-16 and that the Council would not be in a position to demonstrate whether or not this number of dwellings had been delivered, until at least April 2016.
- 6.9 Whilst officers remained of the view that the Council could defend its position in response to the wider range of comments from the other parties in relation to the housing land supply, they concluded that given the need to reduce the total 5 year supply figure below the requirement of 5,052 dwellings up to 31 March 2020, to 4,888 dwellings (a supply of 4.84 years), for the reasons set out in paragraphs 6.5 to 6.7 above, the Council would not be able to demonstrate a 5 year supply, even if, following examination, none of the arguments put forward to justify further reductions in the supply figure, could be substantiated.
- 6.10 Officers also concluded that it would not be practical to achieve a demonstrable 5 year supply, through the identification of further sites for housing development, without re-visiting the Council's overall strategy for housing growth. Officers have anticipated that the process of reviewing the growth strategy and reaching a conclusion as to an alternative approach, including appropriate public consultation and engagement, will take in excess of 12 months.
- 6.11 In these circumstances and in the light of the concerns expressed by the Inspector in his letter to the Council dated 2 November 2015, officers concluded that the Council had no option but to withdraw the Core Strategy from examination at this stage.
- 6.12 Following consultation with the Leader of the Council, officers formally wrote to the Inspector on 10 December 2015, advising that it wished to withdraw the Core Strategy from examination. The letter included the reasons for this decision, as set out above. A specific record of the decision, which was taken by the Executive Director (Resources), following consultation with the Leader of the Council, under the Scheme of Delegations to Officers No G18, was subsequently published on the Council's website.

The Next Steps

- 6.13 Following the withdrawal of the Core Strategy and having regard to the reasons for withdrawal, officers have given further consideration to the consequences of this decision for the Council and how it can achieve its priority objective of securing an up to date Local Plan for Amber Valley, as soon as possible.
- 6.14 The Government has publicly stated that it expects all relevant local planning authorities to have an up to date Local Plan in place by 2017. Whilst the details of this expectation are not clear, advice received by officers from the Planning Advisory Service (PAS) suggests that authorities will be expected to have a 'published' Plan by the end of March 2017. This is the stage in the Plan process immediately before formal submission to the Secretary of State for examination.

- 6.15 The Government has also publicly stated that it would intervene where local planning authorities do not have an up to date Plan in place by 2017. The details of what this might involve are also unclear, but the recent proposals to reform the Government's New Homes Bonus scheme, which have been published for consultation up to 10 March 2016, include a suggestion that for those authorities without an up to date Local Plan in place by the start of 2017-18, any New Homes Bonus funding due in that year could be either withheld or deferred.
- 6.16 The policies of the Adopted Amber Valley Borough Local Plan 2006 are becoming increasingly out of date with the National Planning Policy Framework (NPPF) and where conflict arises between local and national policies, the national policies will prevail. In particular, the continued absence of a demonstrable 5 year housing land supply will mean that the Council will continue to have limited control over the scale and location of proposals for housing development, providing such proposals can be shown to constitute sustainable development.
- 6.17 It is therefore critical that the Council continues to work towards securing an adopted, up to date Local Plan for Amber Valley as soon as possible, for the reason set out in paragraphs 6.14 to 6.16 above.
- 6.18 Given the difficulties in being able to demonstrate a five year housing land supply, the Council will need to re-visit the range of potential housing sites, as set out in the Strategic Housing Land Availability Assessment (SHLAA) for Amber Valley. This will involve a further 'call for sites', providing landowners/prospective developers with the opportunity to review sites previously identified and/or to identify additional potential sites.
- 6.19 The revised list of potential sites will then need to be subject to a robust assessment as to their suitability, having regard to the principles of sustainable development, but also to assess their deliverability against both the overall objectively assessed housing need for the Plan period, but also having regard to the need to demonstrate a 5 year housing supply throughout the Plan period. This will establish the overall strategy for housing growth.
- 6.20 In terms of the assessment of potential housing sites, the range of further evidence required will be influenced by whether the end date of the Plan period can be maintained as per the Core Strategy i.e. 31 March 2028. Of particular importance is the evidence undertaken by consultants GL Hearn, which established the objectively assessed housing need for Amber Valley, along with that for Derby and South Derbyshire (which collectively make up the Derby Housing Market Area), for the period up to 2028. The Council has previously agreed a target of 9,770 dwellings in Amber Valley between 2011 and 2028, which would meet all of the objectively assessed need within Amber Valley (7,395 dwellings), together with a contribution (2,375 dwellings) towards meeting the unmet need within Derby. This agreed target remains in place despite the withdrawal of the Core Strategy.

- 6.21 Members are advised that paragraph 157 of the NPPF states that local plans should...‘be drawn up over an appropriate time scale, preferably a 15-year time horizon, take account of longer term requirements, and be kept up to date’. However, advice from PAS has suggested that the Government’s priority of having up to date local plans in place by 2017 is likely to be more critical than the end date for a Plan period. This suggests that the Council should not be distracted from this priority, by undertaking or commissioning a more extensive range of evidence that would be required, should the Plan period be extended beyond 2028.
- 6.22 The withdrawal of the Core Strategy will now mean that the Council will need to prepare a single Local Plan, rather than prepare a Core Strategy (Part 1) followed by a document containing non-strategic policies (Part 2).
- 6.23 Officers have established that the range of further evidence required to secure an up to date Local Plan is likely to include some or all of the following:-
- Review of objectively assessed housing needs assessment (may not be required if the end date for the Local Plan can be maintained as 31 March 2028)
 - Employment land needs assessment (could be combined with any review of housing needs, if required)
 - Heritage environmental statement (an extension of that previously undertaken by consultants ECUS, to cover additional potential sites and to extend to other parts of the Borough)
 - Landscape impact assessment
 - Review of Green Belt boundaries (the need or otherwise for this assessment can be more readily identified once the Council has received up to date information on potential sites following the further ‘call for sites’)
 - Review of settlement boundaries
 - Review of strategic flood risk assessment
 - Viability assessment of potential sites
 - Update of sports playing pitch strategy/built sports facilities strategy/sports strategy
 - Update of infrastructure delivery plan
 - Update transport modelling (may not be required if the end date for the Local Plan can be maintained as 31 March 2028).
- 6.24 The Council will also need to undertake the process of sustainability appraisal of the emerging policies and proposals of the Local Plan, throughout the Plan process.
- 6.25 Following the receipt of the range of further evidence, the Council will then need to apply that evidence to the preparation of appropriate policies and proposals to be included in the Local Plan, including identifying sufficient sites for housing which will contribute to meeting objectively assessed need and the need to provide and maintain a demonstrable 5 year housing land supply. This process, which will need to include consultation and engagement with relevant statutory consultees and other key stakeholders, can be expected to take approximately 6 months.
- 6.26 The policies and proposals will then be included within a Draft Local Plan, to be published for formal public consultation, in accordance with Regulation 18 of the Town and Country Planning (Local Planning) (England) Regulations 2012.

6.27 The following indicative timetable sets out the key stages in the preparation of the Local Plan, on the basis of the Council being in a position to publish of a Draft Plan in March 2017 and formal submission in June 2017, with the subsequent anticipated dates for taking the Local Plan through examination and Modifications, to adoption in March 2018.

- Call for sites (January to March 2016)
- Undertake/commission further evidence (March to September 2016)
- Assessment of housing need/sites against study evidence; prepare policies, consult with key stakeholders (September 2016 to March 2017)
- Publication of Draft Local Plan (March 2017) (6 weeks public consultation)
- Submission of Local Plan to Secretary of State for examination (June 2017)
- Examination (October 2017)
- Inspector's Report (November/December 2017)
- Consultation on Modifications (January to February 2018)
- Adoption (March 2018)

6.28 Members are advised that in order for the Council to deliver against the above timetable, it is critical that sufficient resources are assigned to the Local Plan process through to adoption. Officers are currently assessing the options as to how these resources can be put in place, within the Council's overall revenue budget. Alongside its own resources, the Council will need to continue to work with its partners and other key organisations, including Derbyshire County Council (as the strategic planning authority) and neighbouring authorities (in relation to cross-boundary issues, as well exploring the potential for support from PAS in relation to project planning and establishing a robust evidence base.

7 Implications

7.1 Legal

7.1.1 The Planning and Compulsory Purchase Act 2004 requires Local Planning Authorities to prepare a Local Plan.

7.1.2 In accordance with the Town and Country Planning (Local Planning) (England) Regulations 2012, the Council will need to demonstrate that it has taken properly into account any representations received from statutory and other consultees and from any other individuals and organisations, in agreeing the content of the Local Plan.

7.2 Resources

7.2.1 Financial – Provision of £210,000 was made in the 2015/16 Revenue Budget for estimated costs of the Local Plan. A transfer of £145,000 from the Operational Reserve to the General Fund Reserve was also made in the 2015/16 Revenue Budget to bring the net budget to £65,000. Forecasted costs for 2016/17 were £155,000 (with a transfer from the Operational Reserve to the General Fund Reserve of £90,000, again, to bring the net budget to £65,000).

- 7.2.2 Costs incurred to date in 2015/16 are £95,800. Provision of £150,000 has been included in the Draft 2015/16 Revised Revenue Budget (with a transfer from the Operational Reserve to the General Fund Reserve of £85,000, again, to bring the net budget to £65,000). Provision of £65,000 (net) has been included in the Draft 2016/17 Revenue Budget – a detailed schedule of future estimated costs has not yet been quantified.
- 7.2.3 Costs included in the Draft 2015/16 Revised Revenue Budget in respect of the Ripley Neighbourhood Plan and the Idridgehay & Alton & Ashleyhay Neighbourhood Plan are £23,700 and £5,600 respectively. £60,000 income from government grants has been included in the Draft 2015/16 Revised Revenue Budget in respect of the Ripley Neighbourhood Plan and the Idridgehay & Alton & Ashleyhay Neighbourhood Plan.
- 7.2.4 The balance of earmarked monies held in the Operational Reserve at 1 April 2015 in respect of the Local Plan was £265,000 with an estimated £85,000 to be used in 2015/16 (see paragraph 7.2.2 above). This would leave a balance of £180,000 for supporting any Local Plan costs in future years.
- 7.2.5 The Provisional Local Government Finance Settlement issued by DCLG prior to Christmas included options for amending the distributing New Homes Bonus to local authorities from 2017/18 onwards. The proposals are currently the subject of a formal consultation exercise which ends in March. Amongst the proposals are options to withhold NHB payments to local authorities where no Local Plan has been produced in accordance with the Planning and Compulsory Purchase Act 2004, and/or reducing payments for homes built on appeal.
- 7.2.6 The Council's provisional NHB allocation for 2016/17 is £381,567 (paid for six years). Historically this grant has been used to support the delivery of housing projects via the capital programme although it is non-ring-fenced and may be used to support the Council's revenue budget.
- 7.2.7 Personnel - None arising from this report. Any impact on staff resources will be detailed within a further Management Team report as required.

7.3 Human Rights

- 7.3.1. None arising from this report.

7.4 Equality Impact Assessment

- 7.4.1 None required as a result of the recommendations contained within this report. Any consultation exercises and documents associated with producing the Local Plan Strategy will be subject to Equality Impact Assessments.

7.5 Risk Identification and Management

7.5.1 The risk is assessed as high.

Strategic Risk	Risk Detail	Action	Rating
Strategic	No up to date Local Plan – inability to resist proposals for major housing development through planning applications, or to successfully defend any refusal of planning permission for such proposals through the appeal process	Secure a Local Plan as soon as possible	High
Operational	Extended demand on staff resources	Ensure sufficient staff resources are in place to deliver to timetable	High
Regulatory	Failure to demonstrate that the Council has taken properly into account any representations received from statutory and other consultees and from any other individuals and organisations, in agreeing the content of the Local Plan The Town and Country Planning (Local Planning) (England) Regulations 2012	Ensure that the Council demonstrates that any representations have been properly taken into account in agreeing the content of the Local Plan	High High
Financial	Without an up to date Local Plan the costs of defending planning decisions at appeal would be significant	Secure a Local Plan as soon as possible	High
Reputation	The submitted Local Plan being determined to be unsound following examination	Ensure that the policies and proposals in the submitted Local Plan will meet the test of soundness	High
Information	None	None	Low
People and Management	None	None	Low

7.6 Sustainability Impact Assessment

7.6.1 All policies contained within the Core Strategy are required to be the subject of a Sustainability Appraisal.

7.7 References

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Documents used in Preparing this Report			
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Index of Appendices			
Forward Plan Reference	Ref No:		Contact:
Forward Plan Description			