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Dear Mr Lee

Examination of Derby Local Plan Part 1: Core Strategy

1. As you will know I have been appointed to examine the Derby City Local Plan – Part 1: Core Strategy – August 2015 (CS). In the initial part of my examination my primary focus has been on the duty to co-operate and certain specific strategic matters which experience has shown can result in significant problems for a plan. Accordingly, my preliminary read through the CS and assessment of background documents and representations has been directed to these considerations. As a result I have a number of initial queries to which I am seeking your response. I stress that this is without prejudice to anything that may need to be explored later in the examination, including at the hearings, and that it does not necessarily cover all the points on which I may need further information or clarification in due course.

Duty to co-operate and objectively assessed housing needs

2. Amended section 20(7B) of the 2004 Act establishes that the duty to co-operate is incapable of modification at examination. It is therefore important that this is considered at an early stage because if the legal requirement is not fulfilled then an Inspector has no choice other than to recommend non-adoption of a local plan.
3. The focus for co-operation on strategic cross boundary matters under the duty has been the Derby Housing Market Area (HMA). The Council's Duty to Co-operate Compliance Statement (CD003) documents the actions taken with Prescribed Bodies to meet this requirement, in particular with South Derbyshire District and Amber Valley Borough Councils and with Derbyshire County Council. In this context, it has been the intention for the City Council and the District and Borough Councils to produce aligned core strategies that seek to deliver a co-ordinated strategic plan for the HMA. Amongst other things, the Councils have agreed that Derby cannot meet all of its objectively assessed

- housing needs within its boundary and that these unmet needs should be addressed by its neighbours. There is clear evidence in the Compliance Statement of sustained joint working on this and a number of other strategic matters, involving the HMA authorities and other organisations as appropriate.
4. Both the District and Borough Councils have already submitted core strategies for examination that sought to include provision for Derby's unmet housing needs. However, on 11 December 2015 Amber Valley withdrew its plan from this process. You have indicated that this was because it was no longer confident that it could demonstrate a 5-year supply of deliverable housing land. The National Planning Policy Framework ('the Framework') expects local planning authorities to demonstrate evidence of having effectively (my emphasis) co-operated to plan for issues with cross boundary impacts.
 5. There have been a series of formal agreements between the HMA authorities on joint working on strategic issues, the most recent being dated November 2015. This includes an agreed split of housing provision between the Councils that would meet Derby's unmet needs as identified in the evidence base. However, the latter agreement was signed by Amber Valley on 4 December 2015, prior to withdrawal of its plan. I should be grateful if the Council would obtain written confirmation from Amber Valley as to whether, in the light of withdrawal, it is still committed to accommodating its share of the City Council's unmet housing needs as set out in the November agreement. Are there any indications as yet as to the process and timescale within which Amber Valley intend to submit a new plan for examination that will address the matters that led to withdrawal?
 6. The Council has set out in its Interim Housing Position Statement (CD025) the process by which the HMA authorities have approached identifying the objectively assessed needs for housing (OAN) and distributing it between the three Council areas. In so doing you refer to conclusions reached by the Inspectors at the Amber Valley and South Derbyshire examinations (at CD025 paras 3.7 and 3.12 for example). Furthermore, the two Inspectors asked the Councils to consider whether the 2012-based sub national household projections, published in February 2015, had any implications for those plans (CD025 para 3.12). In response you refer to further work by G L Hearn which concludes that the HMA OAN figure remains appropriate.
 7. The correspondence between the other Inspectors and HMA authorities is not within the submitted evidence base. Neither is the further G L Hearn work. If the Council is relying on conclusions reached by my colleagues and other evidence relevant to OAN that they took into account then I should be grateful if I could be provided with copies of the appropriate documents, which should also be added to the examination library. I should also be grateful for a copy of any notes of the joint hearing of the Amber Valley and South Derbyshire examinations that took place on 23 October 2015.
 8. The OAN for the period 2011-2028 is established in the CS (para 5.6.2) and in CD025 (para 3.6) as 33,388 for the HMA as a whole and 16,388 for Derby City. However, I am unable to find the technical justification for these figures in the evidence base. The Strategic Housing Market Assessment Update 2013 (CD020) (SHMA) establishes the relevant figures as 31,914 and 14,612 (Figure 129, p161). They do not appear to be changed by the sensitivity testing

(CD023). The review undertaken in the light of the 2012-based sub national population projections concludes that the figures are 32,142 and 15,212 respectively (EB041, Table 9, p33). It may be that the OAN conclusion in CD025 is a result of the examinations of the Amber Valley and South Derbyshire plans and included in a document that I have requested above. In any event, while these figures are not greatly different, for clarity I should be grateful if you could point me to where the technical justification for the OAN used in the CS and CD025 can be found.

Housing trajectory and five-year housing land supply

9. The basis for the calculation of the Council's five year land supply on adoption of the plan and the housing trajectory for the plan period are set out in CD019. The Council has concluded that there has been persistent under delivery and therefore, in calculating the land supply at 5.55 years, a 20% buffer has been applied in accordance with the Framework. This conclusion is in part based on performance against the CS target of 11,000 dwellings since 2011. However, that would not have been the extant plan target throughout that time. I note that the annual requirement has not been met since 2008. Is there evidence as to how the Council performed over the last 15 years, say, set against the targets that prevailed at the time?
10. The Council has not applied the 20% buffer to the shortfall in completions since 2011, the plan base year, against the CS target. In support of this, in CD025 reference is made to an appeal decision in Somerset and a decision by the Secretary of State in Cheshire East where that approach was taken. However, I am aware from representations made that the Amber Valley Inspector wrote to that authority on 10 August 2015 (repeating an earlier conclusion jointly agreed with the South Derbyshire Inspector) in summary indicating that the buffer should be applied to the shortfall. He indicated that the Cheshire East decision was outside the Secretary of State's 'normal' approach and that PINs was not aware of any other decision by him in which the calculation had been made that way. In those circumstances, I should be grateful for the Council's comments on why I should take a different approach to that which appears to have been agreed elsewhere in the HMA. In any event, I should be grateful if the Council could provide me with a revised copy of the land supply calculation that includes the application of the buffer to the shortfall.
11. The land supply calculation has made an allowance for windfall sites. This is supported by the Framework where there is compelling evidence. However, in the early years of the supply period windfall completions are likely to relate to sites that already have planning permission and have been accounted for already in the land supply. In that context, to what extent does the Council's windfall assumption double count some sites with planning permission?
12. Turning to the trajectory, the plan provides for 11,000 dwellings. The detail behind the housing trajectory at Appendix B of the CS is contained in CD019. This identifies a net total of 8,234 dwellings on developable sites between 2015 and 2028. To this must be added the dwellings completed between 2011 and 2015 (1,509) and the Local Plan Part 2 allocations, yet to be identified (1,294), giving a total by my estimation of 11,037 dwellings. This broadly equates with

the 11,000 figure in CS Table 1 and the table in CD025 para 2.17. I should be grateful if the Council would confirm my understanding of that.

13. There needs to be reasonable certainty that the Local Plan Part 2 requirement for 1,294 dwellings in non-strategic allocations can be achieved. CD025 para 2.73 indicates that evidence supports the view that there are enough dwellings potentially from the Strategic Housing Land Availability Assessment (SHLAA) sites. It states that there are 400 dwellings on sites considered to be developable at the present time. However, it is not clear from the evidence base as to how these conclusions are reached. I note that the SHLAA site assessment sheets (EB027) identify the number of 'developable dwellings' on each site. For clarity and the avoidance of doubt I should be grateful if the Council could provide a list of the sites it regards as providing the 400 dwellings. This leaves some 900 homes to be found on other sites. Is there further evidence that the Council can point to or provide that would give confidence that these additional allocations could be identified in Part 2?

Gypsies and travellers

14. The CS includes a criteria-based policy as a basis for determining planning applications or identifying sites for Gypsies and Travellers, but contains no target. I note that a Gypsy and Traveller Accommodation Assessment for Derbyshire and East Staffordshire has recently been published (EB043). However, CD025 indicates that it is the intention for a specific target and identification of sites to be established in Part 2 of the Local Plan. In this context, the Local Development Scheme (LDS) (CD004) at Appendix A includes in its description of the content of the Part 2 plan "subject to evidence, it will also identify a target sites for Gypsy and Travellers". There may be a typographical error here (should it refer to "target and sites"?). However, under the Act it is the LDS that should set out the subject matter of a plan. I should be grateful therefore if you could clarify the Council's intentions in this regard.

Infrastructure

15. The details of the infrastructure required to deliver the CS are contained in the Infrastructure Delivery Plan (IDP). This categorises the priority status of each element of infrastructure as 'High', 'Medium' or 'Low'. I note that very few items are regarded as Low whereas the majority are High. For example, all of the education infrastructure is regarded as High priority. It would be helpful to my understanding of the deliverability of the development envisaged in the plan if those items in the IDP that are critical could be identified by the Council. This is infrastructure the absence of which would prevent development from taking place or require the development to be phased until it was available. Clearly where the delivery of such essential infrastructure is uncertain then the consequences of that for the effectiveness of the plan must be considered.
16. The CS and IDP rely on developer contributions to deliver certain key infrastructure. However, given the limitations on pooling s106 contributions where the infrastructure could otherwise be provided through the Community Infrastructure Levy (CIL), can the Council provide evidence to reassure that this would not be an issue here? I note that the Council's viability evidence is

directed towards the introduction of a CIL. Is the Council intending to introduce a CIL and, if so what would be the timescale?

Modifications

17. The submitted documents include a Schedule of Minor Modifications (CD002). While some of these concern typographical errors or corrections, others relate to changes the Council considers necessary to address consistency with national policy (for example, to reflect the outcome of the Government's housing standards review) or to meet concerns raised in representations. As no consultation has taken place on these proposed modifications, the starting point for my examination will be the Derby City Local Plan – Part 1 – Core Strategy: Pre Submission August 2015 document.

Conclusion

18. As I indicated at the beginning of this letter, my initial consideration of the plan and its supporting evidence has been selective and directed at these particular matters. If the answers to some of my queries can be found in the submitted evidence base then please direct me to the relevant paragraphs. I stress that the queries do not mean that I have concluded that the LP is unsound or is not legally compliant at this point.
19. I should be grateful for a prompt reply as the points I have raised are mainly seeking clarification and explanation. The Council should already have the evidence on which it is relying. A response by 10 February 2016 at the latest would be appropriate, unless there are particular reasons why the Council would need more time.

M J Moore

Inspector