



Acres Land & Planning Ltd

'Acres of space'

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British & Continental Co. Ltd
Respondent No. 1045
Matter: Housing Land Supply update.

DERBY CITY LOCAL PLAN PART 1: CORE STRATEGY EXAMINATION

Follow up representations on Housing Land Supply by Acres Land & Planning Ltd in response to Derby City Council's submission dated 19th May 2016.

Introduction.

The purpose of the information request by the Inspector was to clarify the Council's 5 year housing position in the absence of critical housing delivery and supply data at the recent Derby Local Plan EIP. More specifically, the aim is to verify whether the Council will be able to demonstrate a continuous 5 year housing supply, if and when the emerging Derby City Local Plan is adopted, against the Government's planning policy commitment to 'significantly boost housing supply' outlined in paragraph 47 of the National Planning Policy Framework.

The requests were made by the Inspector at the Examination Hearing on 27 April 2016 and in subsequent letters dated 29 April 2016 and 5 May 2016. He requested that the following information should be provided as set out in the following Appendices:-

APPENDIX A - A 2016-based 5-year housing land supply calculation having regard to that submitted to the examination by DPDS Consulting.

APPENDIX B - Evidence on past windfall rates and planning permissions on small sites

APPENDIX C - Details of the basis for the Council's conclusions on individual sites. This Appendix also includes comments from the Council on the conclusions on the delivery of individual sites in the 5-year supply by DPDS Consulting (and other parties) in their hearing statement(s).

APPENDIX D - The basis for the assumed number of house completions in 2016/17 used in the Council's 2017-based 5-year housing land supply calculation.

APPENDIX E - Calculations for both the 2016 and 2017 bases using the Liverpool method.

APPENDIX F - 5 Year Supply Position (May 2016 update) - Methodologies

APPENDIX G - Updated 5 Year Supply Delivery Tables (May 2016).

General Comments.

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In order to find the Submitted Derby Local Plan 'sound' in all respects, the inspector will need to be convinced that the Local Plan is justified, effective, consistent with national policy and, above all, positively prepared. In this context, the Council will need to show that the Local Plan is 'significantly boosting housing supply' in the City and that the proposals within the Plan actually meet the Vision and Objectives set out in the document.

Against that background, it is important to take a 'step-back' and consider the purpose of the Government's 5 year housing supply imperative. The overriding emphasis within current Government policy is that local planning authorities should plan positively and cater for peoples full and legitimate housing needs – both for market and affordable housing. Clearly unless Councils can identify sufficient housing sites they will not have the capacity or the flexibility to deliver their objectively assessed housing requirement, let alone, boost the supply of housing – as required by paragraph 47 of the NPPF.

In our experience, many authorities tend to limit the release of land and rely on too little housing land to bring forward their housing provision. They often focus on a few large strategic sites, in the hope and in expectation that housing will come forward quickly and without any technical, practical or legal difficulties. In practice there can be a whole range of constraints – including lack of infrastructure, delay in discharging conditions etc - which can hold back sites from delivery which are neither the fault of the LPA or the developer.

We expressed concerns, both prior to and during the Examination in Public, that the submitted Derby Local Plan fell short of delivering sufficient housing to meet the objectively assessed needs within both the wider Derby Housing Market Area and more specifically within the Derby City Council area. We also raised concerns about the arrangements reached with two of the adjacent local authorities (South Derbyshire District and Amber Valley Borough), which was resulting in housing being deflected well beyond the normal housing and economic market area of Derby – especially to the north and east of Derby. We also highlighted the point that part of Erewash Borough which borders the City on its eastern side, fell logically within the Derby Housing Market Area and yet was excluded from the formal HMA.

We emphasised the point that the Green Belt had not been comprehensively reviewed prior to the Local Plan Review to address the wider needs of Derby, nor had the Council's review of their Green Wedges been sufficiently thorough to release enough land to satisfy Derby's housing needs, leaving some sites (for example our client's derelict site at Derby Road/Acorn Way), marooned within a Green Wedge when arguably it makes no discernible contribution to Green Wedge objectives. We now notice that two sites have been removed from the green wedge in an ad hoc way as a means of overcoming the housing supply shortfall.

We therefore support the Council's suggestion during Day 4 of the EIP that Stage 2 of the Local Plan review should include a proper re-assessment of the city's Green Wedges to 'flush out' sites which no longer serve a valid 'green wedge' purpose or where the green wedge could be improved through development – such as at Derby Road/Acorn Way. We respectfully suggest that this needs to be included within the Inspector's recommendation.

The following comments address the Council's further information presented in their Appendices A to G.

Appendix A: Basing the housing land supply on April 2016 (rather than April 2017).

The Government's Planning Practice Guidance in Paragraph: 035 Reference ID: 3-035-20140306 states that *'the examination of Local Plans is intended to ensure that up-to-date housing requirements and the deliverability of sites to meet a five year supply will have been thoroughly considered and examined prior to adoption, in a way that cannot be replicated in the course of determining individual applications and appeals where only the applicant's/appellant's evidence is likely to be presented to contest an authority's position'*.

With that in mind, it is vitally important that the 5 year supply picture is properly scrutinised through the Local Plan review. This is not always easy. In this particular case, there were relatively few private sector participants involved at the EIP. Most would not have the incentive or the budget to properly test the genuine availability of sites. We have certainly not had the time (nor do we have the resources) to explore the circumstances of each site to verify its availability. We have therefore relied on the experience of others, for example DPDS who are based locally, who have knowledge and experience of specific sites. (The Council's updated schedules are also very helpful in this respect).

In terms of the start date, April 2016 or 2017, in our experience, housing land supply statements are normally based on the latest full year's supply figures using completions statistics up to the most recent benchmark – in this case 2016. This is the only accurate way of measuring actual supply without making potentially inaccurate assumptions. We therefore support the DPDS analysis presented to Day 2 of the EIP which shows the Council reaching a 4.78 year supply – subject to further reductions in the delivery of specific sites. We are not convinced by the argument that the HLS Statement should be re-based to 2017 – which the Council indicate would deliver a 5.22 year supply.

Why are the two results different and why does it matter?

The 2017 method uses assumptions rather than actual figures for completions in Year 1 which cannot be verified at this stage (and happen to be significantly higher than the previous estimates). Further optimistic assumptions are then made for future years by extending the 5 year period to 2022 which then has the effect of enhancing the 5 year supply delivery figure. So the results are improved without actually adding any further land into the equation. It matters because the purpose of the 5 year supply statement is to give an accurate picture of future supply – not an aspirational figure – and the objective is to boost supply, not to adjust the figures to reach the right number.

In our view there is no substitute to releasing further land, either:-

firstly, through withdrawal of the Local Plan to bring forward additional sites,

secondly, by releasing more sites through Stage 2 of the process, or

thirdly, (in view of the pressure being imposed by Government to adopt plans) by adopting this Plan for a shorter timescale and then conducting an immediate Local Plan review once this plan is adopted to extend the time period.

We are not persuaded by the comment in paragraph 2.1.7 that the release of further sites would cause a significant delay in the adoption of the Plan – the Plan has already taken over 7 years to come forward, so it is more important to get it right now.

Appendix B. Windfall Sites.

The Government's approach towards windfalls in 5 year land supply statements is set out in paragraph 48 of the NPPF, indicating that '*LPA's may make an allowance for windfall sites in the 5 year supply if they have compelling evidence that such sites have become consistently available in the local area and will continue to provide a reliable source of supply*'.

We feel that in a city like Derby it is safe to assume that smaller windfall sites will continue to come forward despite the adoption of the Local Plan, but that they will occur at a much lower rate. We feel it is completely illogical to ignore losses, which are no longer available.

The figure now quoted for windfalls in the 5 year supply calculation is 300 (based on 75 dwellings per year over 4 years) down from 375 (over 5 years) in the Interim Housing Position Statement – presumably to avoid double counting with small sites in year 1.

The summary figures within paragraph 2.2.4 of the Council's statement suggest that the past delivery of windfalls between 2011 and 2016 has been considerably higher than 75 per year, ranging from 158 in 2015/6 to 472 in 2013/4. However, an inspection of the site information within the supplementary report shows that some of these have been large sites which may form part of current allocations (for example the former Mackworth College which is allocated as Site AC22 for 220 dwellings) or which one would expect to emerge as allocations (or Stage 2 sites) in the future. Those sites which significantly affect the totals are as follows:-

2011/2	D2360	Former Wilmorton College	30 (out of 609 in total)
2012/3	D2360	“ “	18 (“ “)
“	D2968	Former Arthur Neale Care HM	98
“	D2550	Merril College	32 (out of 88 in total)
2013/4	D2550	“	56 (“)
“	D2606	Durley Close	38
“	D2695	Former builders yard	90
“	D2810	Former Mackworth College	58 (out of 221 in total)
“	D2603	Arnhem Terrace	55
“	D2628	Goodsmoor Road	33
“	D2821	Reservoir Huntley Avenue	20
2014/5	D2821	“	20
“	D2628	Goodsmoor Road	19
“	D3020	Former School Blackmere Street	70

Altogether these sites amount to over 620 dwellings over a period of 5 years out of a total windfall delivery of 1269 – or roughly half of the windfall supply. Ultimately, a judgement needs to be made as to what allowance should be made. We feel that 75 dwellings per year as a windfall allowance is probably reasonable, although a gap of only one year between a site being revealed and a dwelling being completed is completely unrealistic.

In addition however, the Council has identified permissions for 473 dwellings which are identifiable (and therefore by definition not windfalls) and has applied a 20% lapse rate to these to produce a figure of 380 small site completions (or 340 within the table). Although a few consents date from 2010 and are therefore presumably expired, this figure seems reasonable provided that there is not an overlap with the figure for windfalls.

Appendix C. Council conclusions on delivery of individual sites.

The Council has produced a site schedule summary of specific sites which justifies the delivery rate on each one (or changes the assumptions where necessary – taking account of comments by both objectors and the promoters of those sites).

We have compared the conclusions in Appendix C (site appraisals) with the table within Appendix 3 of the Council's Interim Housing Position Statement and noted that there are minor differences in some cases, but none of them significant.

Whilst DPDS has reviewed most of the sites and offered comments where appropriate, we do not have the resources to undertake a forensic analysis of each allocation and consent. We must therefore accept the Council's figures at face value.

The list of Major sites with Planning Permission – which includes several of the Local Plan housing allocations – amounts to 3058 dwellings, (compared to 3018 in the Interim Housing Statement), the list of committed brownfield sites amounts to 561 dwellings (compared with 521 in the Interim Statement) and the greenfield site commitments add to 1010 dwellings (compared to 1720 in the Interim Housing Statement) through sites, such as Mansfield Road, moving to the 'full consent' category.

A different set of figures appear in Appendices F and G which fine tune the delivery compared to the DPDS comparison in Appendix A.

We are not in a position to challenge these and so again accept them at face value.

Appendix D. Estimate of Completions in year 2016/17.

The Council's analysis, although partly speculative, seems thorough and reasonable and in the absence of any counter-proposals, we would be content to accept these figures at face value. We assume there is no overlap here with any of the other categories.

Appendix E: The use of the 'Liverpool' Method.

The Council's statement (in paragraphs 2.1.8 and 2.1.9) and also under section 2.5 (Appendix E), refers to previous practice by Derby City Council in using the 'Liverpool' method of compensating for housing shortfalls over the plan period. However, prior to the Interim Housing Position Statement, the Council had not published a 5 year statement for some considerable time, simply accepting that the City had a 5 year supply deficiency. Consequently, previous HLS Statements probably pre-date the advice from Government (and the practice adopted by most Local Plan and S78 Inspectors), that the 'Sedgefield approach' is the appropriate model to follow.

The current guidance is clear. Paragraph: 035 Reference ID: 3-035-20140306 of the PPG states: *'Local planning authorities should aim to deal with any undersupply within the first 5 years of the plan period where possible.'*

Past shortfalls in delivery have been blamed on the 'recession', but in practice the housing market has been buoyant over the last 3-4 years and the housing target for Derby has actually been reduced compared with previous Structure Plan and RSS targets.

The content of section 5.2 shows that using the Liverpool method results in enhanced housing land supply figures. This is because it puts-off delivery until later in the plan period. The reason for the Government's departure from the 'Liverpool' method, is simply because the 'Liverpool' approach ignores the objective of boosting housing delivery and relies on the old 'Residual approach' whereby authorities aimed to achieve the exact housing target by the end of the plan period, but in practice, once they fell behind in delivery, found that they slipped further behind (and then ultimately failed to meet their target). Worse still many authorities have then used their poor performance to justify lower targets in the future. This is the exact antithesis of the Government's policy approach.

So the question is; Has the scale of the Council's previous shortfall made a Sedgfield methodology unrealistic in returning to target within a 5 year period? The answer is that without identifying further sites, the Council may struggle to achieve their current target and hence may find themselves slipping behind, lacking sufficient sites and then losing appeals through a lack of 5 year supply. The use of the 'Liverpool' method merely masks the problem and stores up housing shortfalls for a later phase of the Plan.

What are the alternatives? The Council has floated the idea of a phased delivery to effectively 'back-load' the housing target. This is a mechanism which we are aware has been used elsewhere in cases where it can be fully justified. However, in this case there is no logical or practical reasons why the delivery of houses should be lower during the early stages of the Plan, it would result in a greater overspill to neighbouring authorities during the early years of the Plan and it would run completely counter to the Government's objective of boosting housing supply.

Effectively, according to the table in paragraph 2.6.2, a phased approach would result in housing delivery being cut from 932 dwellings per annum to 350 dwellings per annum during the first five years of the Local Plan – down to around 35% of what is required. We share the Council's view in para 2.6.4 of their statement that this would be a last resort – indeed we feel it is simply not an option at all. The solution, to identify more sites close to the City, we feel, is a more logical and sustainable option, rather than pursuing policies which fall well short of housing needs and result in housing being deflected elsewhere.

Appendices F & G: Variations on 5 year supply and Site Summary.

The revised site summary (Appendix G) is very helpful. The separate calculations in Appendix F show the implications of different scenarios, including the impact of the 'Liverpool' method in deferring the delivery of the housing shortfall until later in the plan period.

The 2017 figures all include a 5 year (375 dwelling) figure for windfalls rather than a 4 year (300 dwelling) figure, despite the windfalls, by definition, now being possible to identify on Day 1 of the 5 year term. This can't be correct.

Both calculations include a new list of brownfield and greenfield sites which have emerged since the Interim Housing Policy Statement, as well as an optimistic output from the allocated greenfield sites such as Boulton Moor (100 per year), Hackwood Farm (100 per year) and Rykneld Road (120 per year) and hence show a more healthy outcome.

The outcome from these tables demonstrates that the 5 year supply position is, at best, marginal largely as a result of past shortfalls and that the 'soundness' of the Plan is reliant upon adjusting the figures to a more 'forgiving' 'Liverpool' method of assessment.

Conclusions.

The Council face a difficult problem. The Local Plan has taken a long time to produce (7+ years) and both the Government and the Council themselves are anxious to adopt the Local Plan as soon as possible to provide certainty and stability within the planning system and help deliver the allocated housing sites and implement the Plan.

The Plan relies on additional sites coming forward in Stage 2 which the Council has agreed should be supported by a review of the Green Wedge network. This may help to provide a more comprehensive approach and ensure that the release of sites is more logical, systematic and sustainable.

In view of the very short time horizon within the emerging plan (now down to 12 years) the Council has also conceded that there should be an early review of the Derby Local Plan. It is logical that this should be preceded by a full Green Belt review so that local planning authorities in the wider Derby Housing Market Area (including Erewash Borough) can bring their Local Plan Reviews forward in harmony.

Therefore, whilst there may be a case for arguing that the emerging Derby Local Plan is 'unsound' as it stands, since it is neither positively prepared nor consistent with Government policy, the most appropriate pragmatic approach might be to continue with the plan to adoption (including the allocation of more site within Stage 2) and then hastily move forward with an early review which can look at the role of Derby (and its surrounding Districts) more comprehensively.

This may provide the opportunity for the City Council to review some of those sites which make a limited or even a negative contribution to green wedges and instead take a more positive view about how new development might help shape the green wedges and provide more useable and attractive public open space, coupled with new housing which would contribute to the Council's housing shortfall.

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Acres Land & Planning Ltd.

8th June 2016.