

**DERBY CITY LOCAL PLAN PART 1: CORE STRATEGY EXAMINATION
MATTERS, ISSUES AND QUESTIONS**

Matter 2: Housing (Policies CP6, CP7, CP8)

Main issue 2(i) – Whether the housing strategy has been positively prepared and whether the overall level of housing provision and its distribution are justified and appropriate. (Policy CP6)

a) Has an appropriate approach been taken to defining the housing market area?

It has been determined that Derby city forms part of the Derby HMA together with South Derbyshire and Amber Valley District Councils. The Council's Duty to Co-operate Statement dated December 2015 also acknowledges the relationships between the Derby HMA and East Staffordshire District Council to the west of South Derbyshire and Erewash District Council part of the Nottingham HMA which is Derby city's neighbouring authority on its eastern boundary. This approach to defining the Derby HMA together with the Council's acknowledgement of inter-relationships and over-laps with other adjoining authorities and HMA is reasonable.

b) What are the full, objectively assessed needs for market and affordable housing in the housing market area and the City?

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 latest official population / household projections adjusted downwards for HFR and migration plus shortfall of housing from previous years ;
- The 2014 Sensitivity Testing Paper and 2014 SNPP (2012) Housing Requirement Update tested HFR, internal and international migration and UPC assumptions of the demographic projections and calculated a revised OAHN of 33,388 dwellings for the period 2011 – 2028 of which OAHN for Derby is 16,388 dwellings ;
- 10th December 2014 joint letter from Ms. Kingaby (Inspector examining South Derbyshire Local Plan) and Mr Foster (Inspector examining Amber Valley Local Plan) determined 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 up to 2028 based on

2012 SNHP is the OAHN but confirmed that the proposed housing requirement of 33,388 dwellings should not change.

Is the Council's methodology appropriate and justified?

The Council's methodological approach to demographic projections is reasonable but the assessment is incomplete with particular reference to economic growth, market signals and affordable housing needs. Throughout the Amber Valley and South Derbyshire Local Plan Examinations it was the HBF's opinion that a housing requirement of 33,388 dwellings was based on an under-estimation of OAHN. 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).

c) How does the objectively assessed need for affordable housing relate to the overall scale of housing provision?

The 2013 Derby SHMAA Final Report only provided an assessment of housing for the period 2011 – 2017. There is no identification on full OAHN for affordable housing in the HMA over the plan period. The Derby City Interim Housing Position Statement dated December 2015 refers to a need for 10,117 affordable housing dwellings between 2012 – 2028 which represents 62% of OAHN for the city.

Would an increase in the total housing figures in the housing market area help deliver the required number of affordable homes and, if so, has this consideration been given appropriate weight in determining the overall level of housing provision?

As envisaged in the NPPG an increase to the total housing included in a Local Plan may help to deliver the affordable homes needed (ID : 2a-029-20140306). However this possibility has not been considered for the Derby HMA.

d) Has appropriate account been taken of employment trends in the housing needs assessment?

No. 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 also assess employment trends (ID 2a-018-20140306).

e) Has appropriate account been taken of market signals in the housing needs assessment?

No. The NPPG 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 which is identified as increasing between the period 2001 – 2011 in Derby. It is concluded that an appropriate assessment of market signals has not occurred and therefore there are no uplifts applied to the OAHN.

f) Has the housing needs assessment appropriately addressed the needs for all types of housing and of different groups, including the private rented sector, self-build, family housing, housing for older people, households with specific needs and student accommodation?

The 2013 SHMAA looked at the tenure split of affordable housing, the size of dwellings in terms of number of bedrooms, the increasing number of elderly households, disabled person households, BME groups and students.

g) Is there reasonable certainty that the objectively assessed needs for the housing market area as a whole will be met?

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 Erewash District Council, the Nottingham HMA or East Staffordshire HMA. Likewise no unmet needs from elsewhere outside the Derby HMA will be met within the Derby HMA.

h) Does the withdrawal of the Amber Valley Local Plan Part 1 have any implications for meeting objectively assessed needs for the housing market area?

It is noted that the latest Statement of Common Ground contained in CD003 was signed by Amber Valley Borough Council on 4th December 2015 (one week prior to the withdrawal of the Amber Valley Local Plan from Examination) and by Derby City Council on 11th December 2015 (the same day as the withdrawal of the Amber Valley Local Plan). The Councils should provide an up dated Statement confirming that the withdrawal of the Amber Valley Local Plan on the grounds of no longer been able to demonstrate a 5 YHLS on adoption of the Plan has no implications for the meeting of OAHN in the HMA and therefore there is reasonable certainty that full OAHN will be met.

i) Has the limit of 11,000 additional dwellings in the City in the plan period, which is less than its own objectively assessed needs, been justified? In particular:

- **i. Does the evidence base support the retention of existing Green Belt boundaries?**
- **ii. Does the evidence base support the boundaries of the Green Wedges? Are they a justified constraint on development?**
- **iii. Has the potential for redevelopment of brownfield sites in the plan period been appropriately taken into account? Does the plan provide appropriate guidance for new housing development on previously developed land?**
- **iv. Does the evidence base demonstrate that there are no other developable sustainable sites within the plan area during the plan period?**

When carrying out the balancing exercise of para 47 of the NPPF it is insufficient for the Council to determine the maximum housing supply available and constrain housing provision targets to that figure. A distinct assessment of whether and if so to what extent other policies dictate or justify constraints on future development. This is particularly pertinent to the Council's approach to Green Wedges as a constraint to development which is not recognised as a specified policy for restricting development in the NPPF. Therefore it is incumbent on the Council to demonstrate the significant and demonstrable adverse impacts as assessed against the NPPF as a whole that outweigh the benefits of meeting OAHN. In this context it is noted that the evidence including the Technical Assessment of Derby Principal Urban Area Green Belt Review September 2012 and the Green Wedge Review October 2012 on which the Council relies are somewhat dated. Even so the Green Wedge assessment identified that in less sensitive areas there is development potential to make a contribution to housing needs without compromising the objectives of the Green Wedges. However despite this conclusion some sites which may have contributed to meeting housing needs were rejected. If there is any uncertainty about the meeting full OAHN in the HMA it may be necessary to re-consider alternative sites both within Derby itself and elsewhere as close as possible to the city boundaries.

j) Is the distribution of new housing within the plan area in accordance with the overall spatial strategy?

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. Within the plan area the spatial strategy is focused on urban regeneration and the distribution of housing within the plan area accords with this strategy.

k) Have reasonable alternatives to the distribution of housing development been considered?

As agreed by the Derby HMA authorities all reasonable alternatives should be considered to maximise housing within Derby itself and as close as possible to the edge of the city in order to meet full OAHN for the Derby HMA.

l) Is the housing strategy sufficiently flexible to adapt to rapid change or to respond to new circumstances?

No. The housing strategy proposed by the Council is too inflexible to adapt to rapid change or to respond to new circumstance because it is based on constraint. The Council's approach identifies and allocates housing sites within the city boundaries for 11,000 dwellings with no headroom. Moreover the Council's focus on urban regeneration and re-use of previously developed land together with proposed burdensome policy requirements for housing standards and affordable housing provision have rendered most sites unviable which further limits the flexibility of the strategy to deliver housing.

Main Issue 2(ii) - Whether the Local Plan would assist in boosting significantly the supply of housing in terms of both a 5-year housing land supply and sufficient sites to achieve the plan requirement (Policy CP6)

a) Does the Local Plan assist in providing a continuous supply of specific deliverable sites sufficient to provide 5 years worth of housing against the housing requirement with an appropriate buffer? Are the sites identified by the Council viable, are they available now, do they offer a suitable location for development now and are they achievable with a realistic prospect that housing will be delivered within 5 years?

No. The Local Plan will not provide a continuous supply of deliverable sites to provide a 5 YHLS against the proposed housing requirement of 11,000 dwellings. The Council's own latest evidence shows that *"In Derby City the viability results illustrate that in the low value zone no residential development is viable at any of the Affordable Housing targets tested based on the preferred tenure mix of the Council (small scale infill shows positive viability because no affordable housing is imposed). In the medium value zone greenfield development demonstrates viability up to 30% Affordable Housing delivery but brownfield development can only withstand about 15% Affordable Housing to maintain economic viability"* (Derby HMA CIL Viability Assessment July 2014 para 6.2).

The Council's land supply includes 521 dwellings on deliverable brownfield sites without planning permission and 1,720 dwellings on deliverable greenfield sites without planning permission. The Council should provide a breakdown of the location of these sites to demonstrate that these sites are not located in low / medium value areas where policy compliant development is unviable. For the Council to provide a continuous supply of deliverable sites brownfield regeneration schemes must be released from the financial burden of overly ambitious policy requirements and / or the Council must increase the supply of viable greenfield sites in the medium / high value areas.

b) Is there evidence of persistent under delivery of housing that would justify the buffer being 20% as proposed?

Yes. It is agreed that a 20% buffer should be applied to the 5 YHLS calculation as set out by the Council. However this buffer should be applied to both the annualised housing requirement and the shortfall. The Council's exclusion of the buffer from the shortfall is not accepted. The application of the buffer to the shortfall has been confirmed in the following recent Local Plan Examinations :-

- the Warwick Local Plan Examination Inspector's letter dated 1st June 2015 (paragraph 41) ;
- the letter dated 10th August from the Inspector examining the Amber Valley Local Plan "*the joint letter from Ms Kingaby (Inspector examining the South Derbyshire Local Plan) and myself dated 10 December referred to appeal ref 2199085 as the SoS's model for adding the buffer to the sum of the 5-yr target and the shortfall. Although the Council refers to the Cheshire East decision ref 2209335 (Gresty Lane) where the SoS took a different approach, PINS is not aware of any other SoS decision in which the calculation was made in that way. The Cheshire East method is outside the SoS's 'normal' approach. The model set out in 2199085 is therefore the one which should be followed*" ;
- the West Dorset Weymouth & Portland Joint Local Plan Inspector's Final Report dated 14th August 2015 (paragraphs 85 & 86) ;
- Herefordshire Local Plan Inspector's Final Report (para 48).

c) Should any past shortfall in new housing in the early part of the plan period be addressed in the 5-year housing land supply or be spread over the plan period as a whole?

It is agreed that any past shortfalls should be recouped within the first five years as set out in the NPPG (ID 3-035-20140306) and the Council's 5 YHLS calculation.

d) Have appropriate assumptions been made about the contribution of windfall sites to the 5-year housing land supply?

No. Whilst it is agreed that windfalls may be included in the 5 YHLS. The figure of 375 dwellings (75 dwellings per annum x 5 years) used by the Council is not appropriate. This allowance risks double counting in the early years therefore the windfall allowance should only be applied to the later years of the 5 YHLS.

e) Has appropriate allowance been made for some current planning permissions to lapse when calculating the 5-year housing land supply?

The allowance for lapse rates for the small sites of 1 – 9 units is reasonable but the allowance used for sites of 10 or more units is not obvious from the evidence. Although the HBF would not wish to comment on the merits or otherwise of individual sites contained within the Council's overall land supply

and 5 YHLS it is critical that the Council's assumptions about lapse rate allowances but also lead in times and delivery rates contained within its calculations are correct and realistic to provide sufficient flexibility in its land supply.

f) Is the Local Plan likely to result in an appropriate supply of specific deliverable sites or broad locations for growth in the plan period beyond 5 years? Are the sites in a suitable location with a reasonable prospect that they are available and could be viably developed at the point envisaged?

No. The housing land supply is fixed at 11,000 dwellings equal to the proposed housing requirement. There is no headroom available in the supply to provide flexibility and responsiveness to changing circumstances.

1,294 dwellings are yet to be allocated in the Local Plan Part 2 which will not be adopted at the end of 2016 as originally envisaged and set out in the latest LDF causing uncertainty over the land supply beyond 5 years. The unviability of all sites in low value area and brownfield sites in medium value area is also problematic for long term land supply in the city.

Does the housing trajectory provide an appropriate illustration of the expected rate of housing delivery for the plan period?

No. The trajectory does not provide an appropriate illustration of the expected rate of housing delivery over the plan period because the non-strategic sites to be allocated in the Local Plan Part 2 are excluded. As the delivery of circa 12% of the housing requirement is excluded the trajectory does not illustrate the delivery of 11,000 dwellings.

h) Is there a clear housing implementation strategy for the full range of housing, describing how the Council will maintain delivery of a 5-year supply of housing land to meet the housing target?

There is no implementation strategy demonstrating that the Council will be able to maintain 5 YHLS throughout the plan period to meet housing requirement of 11,000 dwellings.

i) Is the intention for non-strategic housing allocations to be a matter for the Part 2 Local Plan justified? Is the allowance for this of 1,294 dwellings justified? How does it relate to the separate assumption about windfall sites? Is there reasonable certainty that the Part 2 Local Plan will be able to deliver the sites required?

No. The NPPF envisages that a single Local Plan is prepared (para 153). If additional development plan documents are proposed there should be a justification for doing so. The Council's proposals for Local Plans Part 1 and Part 2 are not justified. The NPPF requires that key sites critical to the delivery of the housing strategy over the plan period are identified (para 47). Already the Council is behind its schedule for the preparation of the Local Plan Part 2 as set out in the latest LDF which identifies a preferred options consultation in

February 2016 and adoption of the Local Plan Part 2 by the end of 2016. This programme slippage impacts on the certainty of the Council's land supply. Currently there is no reasonable certainty that the Local Plan Part 2 will deliver the sites required. At the time of the pre submission consultation only 400 dwellings had been identified as developable in the SHLAA so there is a deficit of circa 900 dwellings yet to be identified and allocated in the Local Plan Part 2.

Moreover neither the Local Plan Part 1 nor Part 2 will run for the 15 year time horizon proposed in the NPPF. If the Council is to plan for the long term development needs of the city it is suggested that the Local Plan is subject to an early review as soon as possible together with a requirement to amalgamate the Local Plan Parts 1 and 2 into one document.

Main Issue 2(iv) - Whether the Local Plan makes appropriate provision for a range of housing in terms of affordability, mix and type (Policies CP7, CP8)

a) Does the Local Plan provide sufficient guidance on the mix, size, type, tenure and range of housing that is required?

Yes. Policy CP7 makes appropriate provision for housing of all types.

b) Have the requirements in terms of the threshold and percentage for affordable housing in Policy CP7 been justified by the evidence base?

No. Policy CP7 proposes 30% affordable housing provision on sites of 15 or more dwellings. These thresholds and percentages have not been justified by the evidence. On the contrary the latest viability evidence shows that *"in the low value zone no residential development is viable at any of the Affordable Housing targets tested based on the preferred tenure mix of the Council ... in the medium value zone greenfield development demonstrates viability up to 30% Affordable Housing delivery but brownfield development can only withstand about 15% Affordable Housing to maintain economic viability"* (Derby HMA CIL Viability Assessment July 2014 para 6.20). This is re-affirmed by Figure 9 of Derby City Interim Housing Position Statement dated December 2015 which illustrates that affordable housing secured between 2012 – 2014 on 11 sites only averaged 11.7%.

c) Are the indicative targets for the size split and the approach to affordable housing tenure justified and appropriate?

No. The Council's preferred tenure split of 80% social rent and 20% intermediate is unviable.

d) Has the effect of affordable housing provision on the overall viability of development been appropriately considered?

No. The viability of development has not been appropriately considered because the Council has not undertaken a whole plan viability assessment as necessitated by para 174 of the NPPF. The Strategic Viability Assessment

Report dated March 2013 is somewhat old. Moreover paras 2.67 and 4.6 of this evidence confirm that *“our viability assessment has not factored in any policy requirements ... The cumulative impact of the whole policy ask will need to be taken into account in the viability assessment and it is likely that some prioritisation and flexibility will need to be included in the emerging CS policies”*.

The latest viability evidence shows that *“In Derby City the viability results illustrate that in the low value zone no residential development is viable at any of the Affordable Housing targets tested based on the preferred tenure mix of the Council (small scale infill shows positive viability because no affordable housing is imposed). In the medium value zone greenfield development demonstrates viability up to 30% Affordable Housing delivery but brownfield development can only withstand about 15% Affordable Housing to maintain economic viability”* (Derby HMA CIL Viability Assessment July 2014 para 6.20).

Whilst it is accepted that developers may negotiate affordable housing provision on unviable schemes the 30% target is not an appropriate starting point for such negotiations in the low value area or for brownfield sites in the medium value area. The Council’s policy aspirations should not be set so high that the majority of sites rather than the exception have to be negotiated on a one by one basis at the time of planning application submission which delays housing delivery.

e) Do changes in the level of social rent announced in the Summer Budget of 2015 have any implications for the viability of development?

Yes. The changes in the level of social rent announced in the Summer Budget 2015 have serious implications for the viability of development. These implications involve lower transfer values offered by RSL to developers for social rent affordable housing identified as the Council’s preferred tenure. There is also a greater perceived risk associated with developing social rent affordable housing meaning lower profit margins can no longer be justified in viability assessments. Therefore the 6% margin on affordable housing reflecting only a contractor’s profit will be unacceptable to developers.

f) Do the other requirements of Policy CP7 accord with national policy? In particular, is the provision for Lifetime Homes and wheelchair adaptable dwellings appropriate in the light of national policy following the Housing Standards Review and the Written Ministerial Statement of March 2015?

Policy CP7 proposes 20% of dwellings are M4(2) adaptable / accessible homes (as amended in document CD002) on sites of 15 or more dwellings. The proposed minor modifications removing out of date references to lifetime homes are welcomed. The Written Ministerial Statement (WMS) dated 25th March 2015 confirmed that *“the optional new national technical standards should only be required through any new Local Plan policies if they address a clearly evidenced need, and where their impact on viability has been considered, in accordance with the NPPG”*. The NPPG (ID 56-007 and ID 56-

003) confirms that a policy requirement for the higher optional standard of M4(2) adaptable / accessible homes of the Building Regulations should be justified based on need and viability tested. The Council has not provided this evidence.

g) Does the Local Plan appropriately address the need for starter homes?

It is acknowledged that before the adoption of the Derby Local Plan starter homes will have been introduced as a mandatory requirement. However currently many of the details about starter homes are not yet finalised (see latest Consultation document published on 23rd March 2016) therefore it is not considered possible to appropriately address the need for starter homes in the Local Plan at this time.

h) Does the Local Plan give sufficient encouragement to people who want to build their own homes?

Yes. Policy CP7 provides sufficient encouragement for self-build.

i) Does the Local Plan appropriately address the need for student accommodation?

No comment.

j) Has the Local Plan adequately addressed the accommodation needs of gypsies and travellers? Is it appropriate for the amount of any provision required to be considered in the Part 2 Local Plan?

No comment.

k) Are the criteria in Policy CP8 appropriate and consistent with national policy?

No comment.

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