

1. These comments are made on behalf of Bernard Swain, owner of land at Nether Farm, Somercotes. Mr Swain's land is assessed as site PHS011 in the Sustainability Appraisal Appendix 6 Site Appraisals (CD02a). This Position Statement follows on from representations made to the Regulation 18 Draft Local Plan (reference DLP0582) and the Regulation 19 Publication stage of the Local Plan (reference PSLP005). Responses to the Inspector's Matters for Discussion will be set out under headings of the issues below.

#### **MATTER 4c**

**i. The Local Plan says that the provision of 9,770 homes is the minimum that should be provided in the Plan period. The Plan allocates Housing Growth Sites for a total of 3,536 homes. Have sufficient sites been allocated to meet the housing requirement?**

2. It is noted that paragraphs 6.2.19 and 6.2.20 refer to a target of 9,700 dwellings to 2028, whereas Policy SS2 refers to 9,770 dwellings over this period. It is assumed that the reference to 9,700 dwellings is a typographical error.

**ii. Has a buffer been included? If not, why not? Should a buffer be applied? If so, what level should it be? Specifically, have sufficient sites been allocated to meet the housing target and should more housing be allocated?**

3. At the heart of the National Planning Policy Framework the presumption in favour of sustainable development states that local planning authorities should meet objectively assessed needs for housing, with sufficient flexibility to adapt to rapid change, [my emphasis] unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, or specific policies in the Framework indicate development should be restricted. The Local Plans Expert Group report to the Communities Secretary and the Minister of Housing and Planning (March 2016) recommended at paragraph 11.4 that the Framework is amended to make clear that Local Plans should ensure 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 Framework, to provide land that can be brought forward to respond to changes in circumstances.
4. The draft Local Plan (March 2017) made provision for housing 20% above the requirement, therefore providing a sufficient buffer to the overall supply. However, in the changes from the draft Local Plan to the submitted Local Plan (as proposed to be modified) the total housing provision has reduced from 11,704 to 11,038. This is due to a number of factors, including planning permission being quashed (Kedleston Road, Quarndon), site allocations being deleted and reduced in scale (e.g. Bullsmoor, Amber Valley Rugby Club and Belper Lane) and some sites being removed from the trajectory where it was highlighted that planning permission had expired. The buffer has now been reduced to only 13%. In the context of proposed site allocations with significant constraints to delivery in this area (e.g. Land North of Denby (HGS15), Butterley Hill (HGS11) and Asher Lane Business Park (HGS9 & HGS10)) it is particularly important in Amber Valley to include sufficient flexibility in the housing provision to adapt to rapid change. It is therefore considered that sufficient sites should be allocated to provide a 20% buffer over the housing requirement.

**x. If sites are deleted from the Plan it seems likely that others will have to be found? If so, is the Council putting forward any additional sites?**

5. In view of the deletion of sites highlighted above, it is considered that replacement sites should be allocated. The site deleted at Amber Valley Rugby Club results in a loss of 200 dwellings to the housing trajectory. Our site at Nether Farm, Somercotes (site PHS011 in the Sustainability Appraisal Appendix 6 Site Appraisals (CD02a)) would provide a suitable replacement. Whilst it is subject of a resolution to grant planning permission (December 2017, application ref AVA/2017/0645) and is therefore part of the housing trajectory, a site allocation would nonetheless help to secure the development of this site. On 26<sup>th</sup> April 2018 it became apparent that the application will need to be reconsidered by the Planning Board due to a complaint from a member of the public regarding the conduct of the Chair of the Planning Board at the December 2017 Planning Board meeting where the resolution to grant planning permission was passed. The application is scheduled for Planning Board on 18<sup>th</sup> June 2018. This complaint has yet to be fully investigated, but nonetheless the application is being returned to Planning Board so as to avoid the impact of this complaint upon the resolution. This presents some uncertainty regarding the planning permission, but this does not undermine the suitability of this site for allocation. Allocation of site PHS011 would help to secure delivery in accordance with the housing trajectory.

**xviii. Would there be any conflict between Policy H5 and Policies H1 and H2 which would also allow the development of market housing on land adjacent to the 'built framework'? Would allowing market housing development on land adjacent to the undefined 'built framework' reduce the likelihood of rural exceptions sites coming forward?**

6. Policy H1 states that housing development in the form of new dwellings, where the land is not specifically identified for any other purposes in the Local Plan, will be permitted on land adjacent to the built framework of Urban Areas and Key Villages, where it can be demonstrated that its scale and nature would constitute sustainable development. Such proposals will also need to satisfy the relevant criteria in policy EN17. This is considered a sound policy, reflecting the approach in the National Planning Policy Framework in terms of avoiding isolated new homes in the countryside and recognising the intrinsic character and beauty of the countryside whilst supporting thriving rural communities within it. Policy H5 offers a wider potential for rural exception sites to come forward where they adjoin any villages or settlements. They are not restricted to Urban Areas and Key Villages. Therefore Policy H5 offers the potential to address the need for rural affordable housing over a wider area.
7. In relation to Matter 4c, the Council's proposed modifications do not resolve the concerns and make the Plan sound. In fact the modifications further erode the buffer to the overall housing supply. It is considered that, in order to make the plan sound, a buffer of 20% should be provided to the overall housing supply.

## MATTER 4d

### **ii. Is sufficient land allocated to demonstrate and maintain a 5 year housing land supply throughout the Plan period?**

8. The Council's calculations in AV/05 (using the Sedgfield Method) set out a 5.13 year supply. This is very marginal and if more than 134 dwellings slip out of the 5 year supply in the housing trajectory then the Local Plan will not deliver a 5 year housing supply upon adoption. When the AV/06 large site trajectory is interrogated, it is evident that there are many sites where anticipated delivery is highly doubtful. These sites are discussed below in response to issue vi. It is therefore considered that further land should be allocated to demonstrate and maintain a 5 year housing land supply.

### **iv. Appendix 1 to the Local Plan sets out an Updated Summary of Housing Land Requirement and Supply using both the Sedgfield and Liverpool methods to calculate housing land supply. Which method should be preferred and why?**

9. It is considered that the Sedgfield method should be used. The National Planning Practice Guidance (NPPG) (Paragraph: 035 Reference ID: 3-035-20140306) says that local planning authorities should aim to deal with any undersupply within the first 5 years of the plan period where possible (i.e. the Sedgfield Method). Where this cannot be met in the first 5 years, local planning authorities will need to work with neighbouring authorities under the duty to cooperate. In Amber Valley it is quite possible to deal with undersupply in the first 5 years by allocating additional, deliverable sites. The NPPG guides that, where it is not possible to deal with undersupply in the first five years, the undersupply should be dealt with by other authorities under the Duty to Cooperate. It does not say that in those circumstances local authorities should revert to the Liverpool Method of calculation and spread the undersupply over the remaining plan period. In any case, the other authorities in the Housing Market Area have recently adopted Local Plans and there is no prospect of the undersupply being dealt with elsewhere in the first 5 years of the plan period. It is therefore considered that the Sedgfield Method must be used to calculate the 5 year supply.

### **vi. What evidence is there to support build out rates for each site, in particular larger sites?**

10. In response to this question we will interrogate a number of sites below in terms of the likely build-out rate given their particular circumstances.

#### Adopted Local Plan/previous Core Strategy sites with Planning Permission

- **Land at Coppice Farm, off Peasehill Road, Ripley** – this site is indicated to commence delivery during the 2019-20 monitoring year. Reserved matters consent was granted on the site in February 2017 and the site is still in the hands of Hallam Land Management, who have applied in March 2018 (ref AVA/2018/0338) for outline planning permission for a larger scheme in this location. Hallam Land Management does not build housing and they will need to dispose of the site to a housebuilder; a process which normally takes at least 6 months. There will need to be a new application for reserved matters consent and the housebuilder will need to discharge planning conditions (which are extensive and include site investigations for contamination and archaeology), agree a scheme of highway improvements to the junction of Steam Mill Lane and the A610 and fully implement the new site access before commencing development. It is therefore considered highly unlikely that any dwellings will be delivered on

the site during 2019-20 and it is suggested that the delivery of housing on this site is pushed back by one year. **This results in 40 dwellings lost to the 5 year supply.**

#### Large brownfield sites with planning permission

- **American Adventure Theme Park** - this site is indicated to commence delivery during the 2019-20 monitoring year. Outline planning permission was granted in January 2016 and there has not yet been an application for approval of reserved matters. The site is in the hands of Waystone Developments, a company that specialises in preparing and servicing previously developed land for development. However they will not themselves build the housing and the land will need to be disposed of to a housing developer. Waystone Developments' website for the development – [www.shipleylakeside.co.uk](http://www.shipleylakeside.co.uk) – indicates that the company is still accepting Expressions of interest for the site from housebuilders (website accessed 15/05/2018). There is a need for a significant scheme of remediation to the contamination of the land. The housebuilder will then need to discharge planning conditions (which are extensive and include off-site highway works and habitat translocation) before commencing development. It is therefore considered highly unlikely that any dwellings will be delivered on the site during 2018-19 and it is suggested that the delivery of housing on this site is pushed back by one year. **This results in 127 dwellings lost to the 5 year supply.**

#### Proposed Housing Growth Sites in the Draft Local Plan

- **Newlands/Taylor Lane, Heanor** – this site is subject of an outline planning application, outstanding since November 2014, which still has issues to resolve in terms of impact of noise from surrounding uses. The Environmental Health Officer raised concerns in relation to the submitted Noise Assessment in April 2017. The Infrastructure Delivery Plan (CD03) also identifies a requirement for the widening of the A608 High Street approach to a roundabout in relation to this site, with the timetable stated as 'up to 2028'. It is therefore unclear whether this essential infrastructure improvement will allow the site to deliver housing from 2019-20, as per the Council's trajectory. The landowner, Strawson Property, is not a housebuilder and is likely to dispose of residential parcels to housebuilders. In view of this, the outstanding issues on the longstanding outline planning application and the infrastructure requirement on this site, it is likely to be 2 years before development commences on this site, which pushes delivery of housing into 2020-21 onwards, assuming that the infrastructure phasing allows for this. **This results in at least 60 dwellings lost to the 5 year supply.**
- **Land north of Denby** – there are a number of factors affecting the delivery of this major allocation. The Amber Valley Core Strategy Inspector highlighted that it is necessary to obtain outline planning permission (based on a comprehensive masterplan) complete appropriate agreements/undertakings, approve the necessary remediation programme for derelict and contaminated land, resolve land ownership issues (noting that the proposals related to land with 17 different ownerships and that a compulsory purchase order might be required) and dispose land to housebuilders, who would then need to obtain reserved matters approvals and deliver the necessary early stages of infrastructure. The Infrastructure Delivery Plan (CD03) identifies a requirement for provision of a new junction to the A38 in relation to these scheme, at a cost of £22.3m, with a timescale of 'up to 2022'. It is not clear whether any housing can be delivered in advance of this major piece of infrastructure. Based on the information available it would appear highly unlikely that this site can make any contribution to the 5 year housing land supply. **This results in 300 dwellings lost to the 5 year supply.**

11. Applying the amendments to the trajectory as discussed above and highlighted in bold, there is a total of 527 dwellings where delivery should be moved beyond the initial 5 years. This brings the 5 year supply (using the Sedgefield method) down to around 4.6 years. The plan therefore does not deliver a 5 year supply of housing upon adoption, it does not boost significantly the supply of housing and its housing policies are at risk of becoming out of date shortly after adoption. To remedy this, more site allocations need to be made on sites that can deliver housing within the initial 5 years.
  
12. In relation to Matter 4d, the Council's proposed modifications do not resolve the concerns and make the Plan sound. It is considered that, in order to make the plan sound, the plan should allocate sufficient sites to maintain a 5 year supply of housing.



Enterprise Centre, Bridge Street, Derby, DE1 3LD  
[www.chaveplanning.com](http://www.chaveplanning.com)