



Amber Valley Borough Council
Local Plan Examination

Statement on behalf of Peveril Homes and Catesby Estates plc
on Matter 13s and 14e: Land North of Denby

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1. Whilst these representations primarily relate to Matter 13s and 14e the Inspector will be aware from our client's Appendix 2 (December 2017 representations) that we do have concerns with regard to deliverability and the trajectories from a number of the allocations namely:
 - a. Matter 13a, b and c – are located in close proximity to each other in a weak sub housing market area. Matter 13c was the subject of a recent dismissed appeal
 - b. Matter 13d – this site is the subject of a planning appeal
 - c. Matter 13h – this is an amalgam of a number of small sites in an environmentally sensitive location. The site are fragmented.
 - d. Matter 13j – this site has remained undeveloped for a number of years. There are a number of heritage constraints that need to be addressed. We question if this site is deliverable
 - e. Matter 13m - this site has had planning consent for some while with no delivery
2. In order to answer the Inspector's questions on these matters both 13s and 14e a brief resume of the history of the Denby site is necessary in addition to previous representations already made.
3. Land North of Denby – also called Cinderhill was an allocation for employment purposes in the 1994 Amber Valley Local Plan. The site was never taken up for employment because of lack of viability relating to both the on site de-contamination exercise (of tar pits) and promotion of a new access onto the A38. In the 2006 Local Plan it was put forward in an enlarged form as a mixed use site with the introduction of housing being required to cross-subsidise the overall viability. At that time the site was being considered by a combination of a north-east based developer specialising in the redevelopment of mineral sites and Peveril Securities. Peveril subsequently dropped out on the basis of the lack of viability of the scheme in their view.
4. The site was the subject of comment by the 2006 Local Plan Inspector when at para 3.2.9 he recognised that delivery carried a degree of risk in that *"If the Employment part of the mixed-use concept was not forthcoming at the right time, the proposal would result in an unsustainable development with a high degree of commuting to Derby for work"*. That was 12 years ago. The site has not advance significantly, yet the Council seek to increase the allocation with further risk

5. In 1993, 80 hectares of the now proposed site was the subject of a bid for Enterprise Zone status. That was not successful. At that time there were 11 individual landowners; now there are 17.
6. The estimated cost of a new link to the A38 was then estimated at £3.5m with a further £1m spend envisaged on other infrastructure.
7. The Infrastructure Delivery Plan 2017 (Doc CD03) states that this junction cost is now £22.3m; however, it is silent on funding sources. A date of 2022 is provided but no account appears to be taken of any other funding required for mitigation against other highway requirements such as the Derby Expressway works (see below).
8. A new primary school and funding for secondary expansion would be required.
9. The tar pits forecast to be remediated by 2020 at a cost of £8.2- 12.5 m; the funding gap is “unknown”. The cost estimate for this has not been the subject of any independent testing nor evidence to justify the figures given.
10. In addition, 30% affordable housing would appear to be required to be policy compliant.
11. None of the key questions about the delivery on a viable basis of this scheme have been answered by the Local Plan and its evidence base.
12. In his letter to the Council of 12th May 2014 (attached) Inspector Foster, who considered the aborted Local Plan, whilst supporting an allocation, did set out his concerns about delivery. His concerns have proved well-founded 4 years on with little progress apparently being made.
13. The published 5-year delivery trajectory shows the following:

Year	18/19	19/20	20/21	21/22	22/23	TOTAL
Proposed Housing Delivery	0	25	75	100	100	300
Cumulative	0	25	100	200	300	

14. This is hugely optimistic for a number of reasons:
 1. There is no Collaboration Agreement between landowners indicating delivery is possible.
 2. No outline planning application has been made, which from the date of submission would take at least 12 months to determine.

3. A further 18 months at least would be required for a Phase 1 Reserved Matters submission and discharge of pre-commencement conditions.
 4. At least 12 months would be required for other consents from statutory undertakers.
 5. There is an objection from Highways England (Doc 1 - Letter dated 8th December 2017 to AVBC re Consultation on the Pre-submission version of the Local Plan) to further development that would increase flows onto the A38 around the north side of Derby ahead of the completion of the A38 Derby Expressway works. These works will not be completed until September 2024. (Doc 2 - A38 – Derby Junctions Jan 2018 - Highways England) Thus the earliest any development could be occupied would be early 2025.
 6. It may not be possible to construct the new A38 junction until such time as the Derby Expressway works are completed.
 7. There is currently no house builder involved and no developer has indicated that they back the scheme. Whilst, Harworth Estates are known to be involved they would not develop the site themselves
 8. Delivery is highly dependent on the provision of Infrastructure. The Sustainability Appraisal at Table 8.6 indicates that the impacts of infrastructure provision are “uncertain”. Much more certainty is required to support such a large allocation which is dependent on major and expensive highway works, the clean-up of the tar pits and other policy compliant community contributions.
15. There are 17 landowners with an interest in the proposed allocation. Whilst multi ownership is not unusual in itself the Inspector needs to be aware that several developers have sought to promote this site in the past without success. Securing agreement between Landowners has not been possible; is there evidence to suggest that delivery will occur now?
16. In view of the complexity of the allocation - 1,100 dwellings and 12 ha of employment land - although in effect the first phase of a much larger new settlement of 3,000 houses and employment we would expect the Plan, or the evidence base to include:
1. A Statement of Common Ground between the landowners, promoters, statutory undertakers, service providers and the Council.
 2. A Collaboration Agreement between all landowners committing to delivery.
 3. A Development Brief that sets out the main development parameters

4. A Master Plan that adopts the principles set out in the Development Brief and the Policy criteria.
 5. A Phasing Plan that take full account of remediation of the tar pits, the proposed works to the A38 Derby Expressway and the delivery of community infrastructure including affordable housing.
 6. A Viability Assessment that details the costs of remediation, the A38 junction and other infrastructure provision and sources of government grant, including timescales. Without this it is impossible for the Council to assess whether this site will deliver other public benefits. The most at risk is delivery of a policy compliant 30% affordable housing. With an identified need of over 2,200 affordable homes over the Plan period, failure to deliver on this site would have serious repercussions for affordable housing delivery across the Borough. This is a high-risk strategy.
 7. Details of how CPO powers will be utilised if required.
17. These matters cannot be dealt with by way of a set of criteria within Policy HGS15. There needs to be a much higher degree of confidence ahead of allocation. We reserve the right to comment on any information the Council may belatedly submit covering these issues.
18. On other non-viability aspects, the Council commissioned Wardell Armstrong to undertake a Landscape Sensitivity Study (Doc ED30) of key areas in the Borough to inform the Local Plan. Despite the fact that this is the Major Allocation in the Plan the Study does not cover the vast majority of the site whilst other sites both inside and outside the green belt have been discounted partly on the basis of the degree of landscape sensitivity. Criteria k) of policy HGS15 refers to having taken account of the Study yet it did not cover the majority of the site. There is no justification for the conclusion of the landscape sensitivity study.
19. Similarly, see representations on Matter 3 - there is no comparable analysis of other potential sites, for development or release from the green belt.
20. Furthermore, there has been no justification given for the proposed green belt boundaries established should the North of Denby site be allocated – no consideration has been given to the requirements of NPPF paragraphs 84 and 85. It would appear that the redefinition of Green Belt boundaries has followed land ownership boundaries rather than using physical features that are readily recognisable and likely to be permanent.
21. The Inspector has rightly raised the issue of allocating that part of the proposed allocation for development outside the Plan Period as 'Safeguarded Land'. We hold the view that there are

other far more sustainable and deliverable sites on the edge of the 4 main towns or edge of Derby that should be considered ahead or at least alongside the allocation at Land North of Denby in terms of Green Belt release and the allocation of "Safeguarded Land". Such sites are sustainable, deliverable and not affected by viability concerns that could delay the funding of schools, medical facilities, open space and sports provision, affordable housing, libraries etc at the public purse.

22. Land north of Denby is a new settlement, it is significantly larger than many of the existing settlements in the Borough. At a scale of 3,000 houses it would be larger than:

- a. Swanwick – 2,233 households
- b. Crich – 1062 households
- c. Ironville and Riddings - 2596 households

(Source Area Profiles (Doc ED36))

23. Yet it would have very limited facilities and very limited information to justify it being the cornerstone of this Local Plan.

24. Therefore, in relation to the Inspector's eleven questions, our in brief answers based on the above and our previous representations are:

- i. The proposed allocation is not deliverable and no evidence has been presented to confirm landowner co-operation (amongst the 17 landowners); provision of appropriate and safe access; its viability and general provision of infrastructure and services etc.
- ii. Whilst there may have been a survey done of land stability and contamination, no justification has been given to the costings provided for overcoming the contamination issues nor the high level environmental impact on the matters raised in this question.
- iii. No exceptional circumstances have been put forward that justifies the allocation as no comprehensive review has been done of the Green Belt nor the ability of non-Green Belt sites nor more sustainable Green Belt sites to deliver the development required within the Plan period and beyond.
- iv. The Local Plan allocation should not proceed in its current form as it cannot deliver either 1,100 dwellings nor 12 hectares of land for employment purposes within the Plan period.

- v. The area should not be removed from the Green Belt until a comprehensive Green Belt review has been carried out including the possibility of the site (and others) being allocated as safeguarded land.
 - vi. Reasonable alternatives outside the Green Belt and others in more sustainable locations in the Green Belt have not been properly considered.
 - vii. The scale of development proposed has not been justified in this location in terms of deliverability, viability, environmental impact and transportation in particular.
 - viii. On the evidence available (or lack of it) it cannot be concluded the site is viable.
 - ix. No information is provided on external funding. It is highly likely from Peveril's previous involvement that external funding will be required – however it would appear none has been secured.
 - x. It would appear CPO would be necessary as no evidence is put forward that all 17 landowners are co-operating. This would add a minimum two years to the process.
 - xi. The site – even if supported in policy terms – is not deliverable in accordance with the trajectory set out in the Local Plan in the light of inter alia the representations of HE relating to the restriction on additional development affecting the A38.
25. The proposed allocation fails all four of the tests for soundness in paragraph 182 of the NPPF as:
- i. It is not positively prepared – it does not meet objectively assessed needs and infrastructure requirements viably that are deliverable within the Plan period to 2028.
 - ii. It is not justified – the allocation of land north of Denby is not “the most appropriate strategy” as the reasonable alternatives have not been properly and objectively considered.
 - iii. There is no evidence to justify the allocation and it is not deliverable over the Plan period. So it is not an effective policy and therefore given its importance, neither is the Local Plan.
 - iv. The allocation is not consistent with national policy relating to sustainable development; housing or the exceptional circumstances required to be demonstrated for Green Belt release – particularly on such a large scale.