

# **EXAMINATION OF THE AMBER VALLEY BOROUGH LOCAL PLAN**

## **HEARING STATEMENT**

### **MATTER 4 – HOUSING**

#### **SUBMISSIONS ON BEHALF OF COACH ROAD DEVELOPMENTS LIMITED**

**REPRESENTOR REFERENCE NUMBER: 178**

**21 MAY 2018**

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## **1. INTRODUCTION**

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- 1.1 This Hearing Statement is submitted on behalf of Coach Road Developments Ltd and responds to questions raised by the Inspector in relation to Matter 4 . Housing.
- 1.2 This document supplements our previous submission to the Pre-Submission Local Plan consultation in December 2017. Reference will be made in this Hearing Statement to the contents of our previous submissions and updated in response to the updated documents contained in the Examination Library as published by the Council.

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## 2. MATTER 4 B. HOUSING DISTRIBUTION

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### I. DOES THE PROVISION AND DISTRIBUTION OF HOUSING DEVELOPMENT IN THE LOCAL PLAN ACCORD WITH ITS PRINCIPAL FOCUS OF URBAN CONCENTRATION AND ITS SPATIAL STRATEGY WHICH PROMOTES GROWTH IN AND SURROUNDING THE FOUR URBAN AREAS OF ALFRETON, BELPER, HEANOR AND RIPLEY AND AS PART OF A COMPREHENSIVE MIXED-USE DEVELOPMENT ON LAND NORTH OF DENBY BOTTLES?

#### RESPONSE

- 2.1 Chapters 4 and 5 of our Response to the Pre-Submission Policies outlined our position at the end of last year, and nothing published by AVBC since then suggests that we should depart from that view. We continue to support the assertion that the development will be focused in the urban areas of Alfreton, Belper, Heanor and Ripley. Focusing growth in areas where there are existing services and facilities is a sustainable approach and will enable existing settlements to thrive in accordance with the presumption in favour of sustainable development which is evident throughout the Framework.
- 2.2 However, we continue to have concerns with AVBC allocating a significant proportion of development within Key Villages and Other Villages. Concerns are raised regarding the mixed-use development on land north of Denby, specifically in relation to the site's sustainability and the ability to provide a viable housing development. The Council's over-reliance on the delivery of this site could result in the Council failing to deliver and maintain a five-year supply of housing.
- 2.3 Furthermore, the proposed delivery of circa 1,100 homes on the edge of a Key Village<sup>1</sup> will irrefutably alter the character of the existing settlement not least due to the size of the proposed expansion of built development. The Plan remains unsound because AVBC's strategy as currently proposed does not distribute housing evenly across the Key Villages tier. This un-even distribution could impact on the sustainability across this tier by straining existing services those villages and in contrast those settlements which have no housing allocations could be subjected to economic decline and vital services could become unviable.
- 2.4 As set out in our previous submissions, a more sustainable approach would be to deliver a larger proportion of the Plan's housing requirement on the edge of the Urban Area at Ripley, at the strategic site being promoted by Coach Road Developments Ltd.

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<sup>1</sup> Policy SS3 confirms that Denby Village and Denby Bottles/Rawson Green are proposed to be categorised as Key Villages in the Settlement Hierarchy

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### 3. MATTER 4 C. HOUSING SUPPLY DURING THE PLAN PERIOD

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**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?**

- 3.1 The Local Plans Expert Group (LPEG) Report to the Communities Secretary and Minister of Housing and Planning of March 2016 is relevant to this matter. Their recommendations in relation to boosting housing supply were as follows (Page 53):

*“Local Plans should identify a housing requirement with sufficient deliverable or developable sites or broad locations to meet full objectively assessed housing need (FOAHN) over the full plan period for their local area, including any unmet need from within or beyond the Housing Market Area, plus an additional allowance for flexibility appropriate to local circumstances, as far as is consistent with the policies set out in this Framework.*

*Local Plans should make a further allowance; equivalent to 20% of their housing requirement, in developable reserve sites as far as is consistent with the policies set out in this Framework, for a minimum fifteen-year period from the date of plan adoption, including the first five years (this recommendation does not apply where it has been demonstrated that a local authority does not have sufficient environmental capacity to exceed its local plan requirement). The purpose of reserve sites is to provide extra flexibility to respond to change (for example, to address unmet needs) and/or to help address any actions required as a result of the Government’s proposed housing delivery test.*

- 3.2 Adopting the LPEG recommendation would mean that the Council would need to identify land for 11,724 dwellings in total (9,770 x 120%) over the Plan period. The Council has identified land for 11,038 dwellings over the Plan period 2011 . 2028 some 686 dwellings short of the LPEG recommendation. Whilst the 11,724 figure is disputed as is the length of the Plan period on the Council’s approach there is a need to identify land to accommodate a further 686 dwellings. In summary terms more land needs to be allocated for housing.

**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?**

3.3 See answer to Matter 4C i on overall Plan requirement and LPEG recommendations.

**III. IS IT ANTICIPATED THAT ALL THE DWELLINGS WITH EXISTING PLANNING PERMISSIONS OR RESOLUTIONS TO GRANT PLANNING PERMISSION FOR HOUSING DEVELOPMENT WILL BE BUILT? IF SO, WHAT EVIDENCE IS THERE TO SUPPORT THIS?**

3.4 The Council failed to provide any evidence to underpin the assumptions that have been made in relation to projected completions on sites with planning permissions until 15 May 2018, 6 days before the closing date for Hearing Statements. In any event, this evidence (AV/04) comprises only a summary of the discussions held with developers and has only been provided at the request of the Inspector.

3.5 In our experience these assumptions are usually based on survey responses, emails and records of telephone conversations with developers etc. However, the Council have only provided a summary which provides limited information on how the Council have arrived at their conclusions

3.6 This information principally covers sites which the Council includes within the five-year supply, with very limited commentary on overall likelihood of deliverability.

3.7 At this late stage, it has not been possible to undertake a full assessment of the information provided by the Council. However, our client is of the view that further information is required before a full assessment is possible. In short, there is no firm evidence to support the Council's position that all existing planning permissions will be built.

3.8 Further land for allocations will need to be identified if evidence of delivery of existing permissions cannot be provided.

**IV. SHOULD A LAPSE RATE BE INCLUDED IN THE COUNCIL'S CALCULATIONS? IF SO, WHAT WOULD BE AN APPROPRIATE PERCENTAGE?**

3.9 See above.

**VI. WHAT EVIDENCE IS THERE TO SUPPORT THE PROJECTED RATE OF DELIVERY ON THE HOUSING GROWTH SITES?**

3.10 Our Matter 13 Statement addresses the deliverability and developability of allocated Housing Growth Sites and questions whether it has been demonstrated that they are suitable locations for development and whether they are viable in accordance with Footnote 11 and Footnote 12 of the Framework.

- 3.11 As noted above the Council failed to provide any evidence to underpin the assumptions that have been made in relation to projected completions on allocated sites until 15 May 2018, 6 days before the closing date for Hearing Statements. This evidence (AV/04) comprises only a summary of the discussions held with developers and has only been provided at the request of the Inspector.
- 3.12 Further information is required to justify the Housing Growth Sites before they can be included in the supply for the plan period.

**VII. ARE ALL OF THE ALLOCATED SITES LIKELY TO BE DEVELOPED IN THE PLAN PERIOD?**

- 3.13 See above and Matter 13 Statement.

**VIII. ARE THE ALLOCATIONS BASED ON A ROBUST ASSESSMENT OF INFRASTRUCTURE REQUIREMENTS AND THEIR DELIVERABILITY, INCLUDING EXPECTED SOURCES OF FUNDING?**

- 3.14 The NPPF requires local planning authorities to identify deliverable sites for years 1-5 and developable sites or broad locations for growth, for years 6-10 and, where possible, for years 11-15. They are also required to illustrate the expected rate of housing delivery through a housing trajectory for the plan period.
- 3.15 Definitions of ~~deliverable~~ and ~~developable~~ focus on the land being in a suitable location that is available and that the land can be developed viably.
- 3.16 Whilst we acknowledge that the Council have undertaken a Viability Assessment, completed by Peter Brett Associates (PBA) in October 2017, this does not include any specific technical evidence in relation to the assessment of individual sites. PBA appear to have based all assumptions on standardised rates of abnormal costs and S106 costs. We do not assert this approach. The sites proposed as allocations within the Pre-Submission Local Plan are exceptionally constrained by technical issues including the presence of heritage assets, significant contamination, weighty Planning Obligation requirements, significant ecological mitigation or land stability issues. The resolution of these issues requires detailed assessment and site-specific solutions which will be extremely costly; an assumptions-based assessment is adequate. As explained in our Matter 13 Statement the complex technical issues facing many of these sites will have a significant impact on the viability of the development and need to be considered fully to determine whether a site comprises a suitable allocation.
- 3.17 The PBA Assessment has subjected each site to an appraisal based on its ability to comply with the emerging Local Plan policies, and this is considered by applying policy ~~layers~~ Policy Layer 3c includes an allowance for Section 106 Agreement costs (£3,500 per dwelling) and meeting the policy requirement of 30% affordable housing, which should be the minimum bench mark at which all allocations are considered.

3.18 The report concludes that at Policy Layer 3c, all Greenfield and Brownfield sites in Alfreton, Heanor and Ripley, comprising 3 to 1000 units would not be viable. It is also evident from the report that even with a 10% affordable housing contribution (policy layer 3a), only Greenfield sites of 25 to 100 units in Alfreton, Heanor and Ripley are viable. Despite this evidence AVBC have continued to allocate large brownfield sites within these locations.

3.19 AVBC's failure to consider the impact of abnormal costs on the viability of allocated sites may lead to a lack of delivery across the Borough, which would subsequently mean that the Council is failing to deliver the identified housing needs of their residents.

**IX. DOES THE LOCAL PLAN INCLUDE A HOUSING TRAJECTORY, WHICH CLEARLY SHOWS THE NUMBER OF MARKET AND AFFORDABLE DWELLINGS TO BE COMPLETED EACH YEAR THROUGHOUT THE PLAN PERIOD? IS THE HOUSING TRAJECTORY REALISTIC? WILL THE ALLOCATED HOUSING SITES COME FORWARD FOR DEVELOPMENT AS SET OUT ON THE TRAJECTORY? WHAT EVIDENCE IS THERE TO SUPPORT THIS?**

3.20 The latest housing land supply update (AV/06a) provides a Projected Build Rates Table for the next 6 years of the plan period (starting with 2018/2019), and then groups years 7-10 together. The table therefore fails to provide a housing trajectory for each year of the plan period.

3.21 The Table in AV/06a also fails to separate the forecasted delivery of market from affordable housing, only providing an overall figure.

**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?**

3.22 Yes. If it is deemed necessary to delete sites from the Local Plan then additional allocations will need to be found to ensure that the Plan can be found sound and will deliver a five-year supply of housing land across the Plan period.

**XXII. OVERALL, DOES THE PLAN DEAL ADEQUATELY WITH UNCERTAINTY? IS SUFFICIENT CONSIDERATION GIVEN TO MONITORING AND TRIGGERS FOR REVIEW?**

3.23 Appendix 4 of the [CD\_01] contains an Implementation and Monitoring Table and whilst targets and contingencies are set out in this table, there is no indication from AVBC what triggers will be in place to initiate the contingencies. For example, Appendix 4 does not make it clear at what point the contingency for delivering Policy SS2<sup>2</sup> will be triggered, the total delivery target is used

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<sup>2</sup> Housing need & Housing Land Provision & Distribution

as the indicator but it is concerning that AVBC has not identified a specific trigger for commencing the early review of the Local Plan. This should be rectified.

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## 4. MATTER 4 D. 5 YEAR HOUSING LAND SUPPLY

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### I. WHAT IS THE CURRENT POSITION WITH REGARD TO HOUSING SUPPLY? IS THERE A 5 YEAR SUPPLY? HOW HAS THIS BEEN CALCULATED?

4.1 See Question v. below.

### II. IS SUFFICIENT LAND ALLOCATED TO DEMONSTRATE AND MAINTAIN A 5 YEAR HOUSING LAND SUPPLY THROUGHOUT THE PLAN PERIOD?

4.2 See Question v. below.

### III. IS THE USE OF A 20% BUFFER APPROPRIATE WHEN CALCULATING THE COUNCIL'S 5 YEAR SUPPLY OF DELIVERABLE HOUSING?

4.3 In the 7 monitoring years between 2011 and 2018 the accumulated backlog was 1,423 dwellings, equivalent to 2.47 years of the annual requirement, and the Council has failed to meet the 575dpa requirement in any year. Such persistent under performance justifies the use of a 20% buffer in accordance with Bullet Point 2 of Paragraph 47 of the Framework. This approach has also been endorsed in a number of cases<sup>3</sup>.

### IV. APPENDIX 1 TO THE LOCAL PLAN SETS OUT AN UPDATED SUMMARY OF HOUSING LAND REQUIREMENT AND SUPPLY USING BOTH THE SEDGEFIELD AND LIVERPOOL METHODS TO CALCULATE HOUSING LAND SUPPLY. WHICH METHOD SHOULD BE PREFERRED AND WHY?

4.4 The Planning Practice Guidance (Paragraph: 035 Reference ID: 3-035-20140306) addresses the issue of how Local Planning Authorities should deal with past under-supply, and states:

*“Local planning authorities should aim to deal with any undersupply within the first 5 years of the plan period where possible. Where this cannot be met in*

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<sup>3</sup> See:

PINS Ref: APP/H1840/A/13/2199085 (Appeal A) & APP/H1840/A/13/2199426 (Appeal B) Land at Pulley Lane, Droitwich, Wychavon . 2 July 2014 (Paragraph 8.46 of the Inspector's Report and Paragraph 14 of the Secretary of State's Decision Letter).

PINS Ref: APP/P0240/A/14/2228154 - Land to the East of Station Road, Langford, Bedfordshire . 29 June 2015 (Paragraph 16).

PINS Ref: APP/W1715/W/15/3063753 - Land off Bubb Lane, Hedge End, Eastleigh, Hampshire, SO30 2UN - 24 May 2016 (Paragraph 43).

PINS Ref: APP/W1715/W/15/ 3139371 - Land off Botley Road, West End, Eastleigh, Hampshire . 7 October 2016 (Paragraph 9).

PINS Ref: APP/W1715/W/15/ 3130073 - Land To The North West Of Boorley Green, Winchester Road, Boorley Green, Eastleigh . 30 November 2016 (Paragraph 12.14 of the Inspector's Report and Paragraph 17 of the Secretary of State's Decision Letter).

*the first 5 years, local planning authorities will need to work with neighbouring authorities under the duty to cooperate.”*

- 4.5 The PPG is clear that local planning authorities should aim to deal with any undersupply within the first five years of the Plan period where possible (known as the Sedgefield approach). The PPG explicitly states that where this cannot be met in the first five years, local planning authorities will need to work with neighbouring authorities under the *Duty to Cooperate* it makes no reference to the shortfall being addressed over the remainder of the Plan period. A literal reading of the PPG would appear to exclude the Liverpool method in its entirety; either the shortfall is met in the first five years or it is met in another authority under the duty to co-operate.
- 4.6 On either method the Council claims that it can demonstrate a 5 year supply of deliverable dwellings which begs the question why it is not prepared to adopt the Sedgefield approach which is clearly reflective of the Government's aim to boost significantly the supply of houses. Even if the amount of housing to be delivered in the 5 year period will not materialise the solution is not to change the method of calculating the requirement. The remedy is to allocate more land for housing that will deliver new homes.

**V. WHAT EVIDENCE IS THERE TO SUPPORT THE PROJECTED COMPLETIONS ON THE SITES EXPECTED TO DELIVER HOMES WITHIN THE 5 YEAR PERIOD 1 APRIL 2018 – 31 MARCH 2023, IN PARTICULAR ON ALLOCATED SITES WHICH DO NOT CURRENTLY HAVE PLANNING PERMISSION?**

- 4.7 Our Matter 13 Statement addresses the deliverability and developability of allocated Housing Growth Sites and questions whether it has been demonstrated that they are suitable locations for development and whether they are viable in accordance with Footnote 11 and Footnote 12 of the Framework. Until this has been evidenced these sites should not be included within the five year supply.
- 4.8 The Council failed to provide any evidence which underpins the assumptions that have been made in relation to projected completions on allocated sites until 15 May 2018, 6 days before the closing date for Hearing Statements. This evidence (AV/04) comprises only a summary of the discussions held with developers and has only been provided at the request of the Inspector.
- 4.9 The Council's latest housing land supply calculation (AV/05) shows that the predicted completions exceed the supply by only 132 dwellings. Given the current situation whereby the Council have failed to demonstrate the suitability or the viability of certain allocated sites (highlighted in our Matter 13 Statement), further is required before they can be included in the supply. Until this is provided they should be removed from the supply. Even a small reduction in the density of the allocated sites, or the removal of one or several due to valid viability concerns, would demonstrate that the Council do not have a five year supply.

- 4.10 This is without undertaking a thorough assessment of the five year supply and the deliverability of all sites, which has not been possible due to the lack of evidence provided by the Council.

**VI. WHAT EVIDENCE IS THERE TO SUPPORT BUILD OUT RATES FOR EACH SITE, IN PARTICULAR LARGER SITES?**

- 4.11 As noted above, the Council failed to provide any evidence which underpins the assumptions that have been made in relation to projected completions on all sites until very late in the process and only at the request of the Inspector. In our experience these assumptions are usually based on survey responses, emails and records of telephone conversations with developers etc. However, the Council have only provided a summary which provides limited information on how the Council have arrived at their conclusions.