

LOCAL PLAN ADVISORY COMMITTEE
8TH JULY 2015

Report of the Corporate Director

DERBYSHIRE DALES LOCAL PLAN PROGRESS REPORT

SUMMARY

This report sets out for Members the background to the withdrawal of the Derbyshire Dales Local Plan in October 2014 and the extent of work that has been undertaken to support the preparation of a revised Derbyshire Dales Local Plan. The report also outlines the extent of work still required to be undertaken and a proposed timetable for the progression of the Local Plan towards adoption.

RECOMMENDATION

1. That the extent of work undertaken in respect of the refresh of the evidence base as set out in Section 2 be noted
2. That reports be presented to future meetings of this Committee in respect of the evidence base, Local Development Scheme, and Statement of Community Involvement
3. That authority be delegated to the Corporate Director to commence discussions with relevant neighbouring local authorities and other public bodies in respect of the Duty to Cooperate.
4. That progress reports on the Duty to Cooperate be presented to future meetings of this Committee.
5. That the timetable for the preparation of the Derbyshire Dales Local Plan as set out in Section 3 be approved.

WARDS AFFECTED

All Wards outside the Peak District National Park

STRATEGIC LINK

The Derbyshire Dales District Council Local Plan will be a pivotal tool in the delivery of the Council's Corporate Plan and the Peak District Partnership Statement of Priorities.

1 BACKGROUND

- 1.1 On 13th May 2014, the District Council submitted the Derbyshire Dales Local Plan Pre Submission Draft to the Secretary of State for Independent Examination. The Secretary of State, in accordance with Section 20 of the Planning and Compulsory Purchase Act 2004 (as amended), appointed Inspector Keith Holland BA(HONS) DIPTP MRTPI ARICS to conduct the examination to determine whether the Local Plan was sound.

- 1.2 The Examination in Public (EIP) of the Derbyshire Dales Local Plan opened on 22nd July 2014 for a period of two days. During the two days of the EIP, the Inspector considered the District Council's position in respect of the Duty to Co-operate and the Objectively Assessed Need for housing.
- 1.3 The EIP was adjourned at the close of business on 23rd July 2014 pending the preparation of a report by the Inspector in which he would set out his initial findings on the matters discussed. The Inspectors report was received on 29th July 2014.
- 1.4 A Special Council meeting was held on 2nd October 2014 to consider the Inspectors Report together with a series of options available to the District Council in light of his recommendations. A copy of the report to Council is attached at Appendix 1.
- 1.5 Following consideration of the advantages and disadvantages of each option Council resolved to withdraw the Derbyshire Dales Local Plan from the Examination in Public with immediate effect.

2 EVIDENCE BAASE

- 2.1 Although the Derbyshire Dales Local Plan was withdrawn in October 2014, this was on the basis that work would continue on the preparation of a revised Local Plan. Since the withdrawal of the Local Plan, work has been on-going to refresh the evidence base in order to ensure that the policies and proposals that are brought forward are up to date and that the Local Plan will be found sound at a future Examination in Public.
- 2.2 The refresh of the evidence base has involved the following work:
 - Strategic Housing Land Availability Assessment Update
 - Assessment of Housing and Economic Development Needs
 - Strategic Landscape Sensitivity Assessment
 - Review of Infrastructure Needs and Plan Viability (including Community Infrastructure Levy)
 - Gypsy and Traveller Accommodation Assessment
 - Sustainability and Habitat Regulations Assessment
- 2.3 Details of each of these work streams is set out below:

Strategic Housing Land Availability Assessment (SHLAA)

- 2.4 The National Planning Policy Framework (NPPF) indicates that the purpose of the planning system is to contribute to the achievement of sustainable development, including the delivery of a wide choice of high quality homes and to significantly boost the supply of housing. It advises that local planning authorities should have a clear understanding of the supply of land in their area. Paragraph 159 of the NPPF requires local planning authorities to prepare a Strategic Housing Land Availability Assessment (SHLAA) to establish realistic assumptions about the availability, suitability and the likely economic viability of land to meet the identified need for housing over the plan period.

- 2.5** The SHLAA should seek to identify a five years supply of deliverable sites against the housing requirement and also identify a supply of specific deliverable sites or broad locations for growth, for years 6-10 and, where possible for years 11-15 of the Local Plan. The assessment of land availability is an important step in the preparation of Local Plans, the NPPF identifies the advantages of carrying out land assessments for housing and economic development as part of the same exercise, in order that sites may be allocated for the use which is most appropriate.
- 2.6** The National Planning Practice Guidance (NPPG), which seeks to provide complementary guidance to the NPPF sets out that Housing and Economic Land Availability Assessments should:
- Identify sites and broad locations with potential for development
 - Assess their development potential
 - Assess their suitability for development and the likelihood of development coming forward
- 2.7** The District Councils current SHLAA was published in November 2013 and provided evidence to support the now withdrawn Derbyshire Dales Local Plan. Given the significant weight attached to the quantum of potential housing sites identified in the SHLAA by the Inspector in his report, it was considered that this evidence should be subject to a comprehensive review to determine more accurately the quantum of land for residential development available, and deliverable to meet the District Councils future housing needs.
- 2.8** The first stage in reviewing the SHLAA entailed issuing a 'Call for Sites' between 23rd October and 4th December 2014. The 'Call for Sites' provided an opportunity for local communities, Town and Parish Councils, landowners, residents and organisations to suggest land in Derbyshire Dales for future development. The 'Call for Sites' invited new sites to be submitted to the District Council for consideration for a range of land uses, including housing, Gypsy and Traveller accommodation, employment land, retail and leisure uses.
- 2.9** In order to ensure that the 'Call for Sites' consultation was inclusive, it was widely publicised, with advertisements placed in the Matlock Mercury, Ashbourne News Telegraph, Uttoxeter and Peak Advertiser, press releases issued and information made available on the District Councils website. Relevant contacts from the Local Plan database were also notified by either letter or email. Those landowners, agents and developers who have previously promoted sites were asked to confirm whether their sites were still available.
- 2.10** Those nominating sites were required to complete a detailed site suggestion form which was made available on the District Councils website for completion either online or for submission by post or email.
- 2.11** A total of 206 sites were nominated to the District Council as a result of the 'Call for Sites' covering a wide range of land uses not just housing.
- 2.12** A methodology for assessing the sites has been prepared to reflect guidance contained within the NPPF and NPPG and to ensure the SHLAA represents a robust assessment of land availability. The appraisal of sites considers a number of factors, including flood risk, environmental constraints, landscape sensitivity, impact on the historic environment, topography, highways infrastructure and capacity, sustainability

in terms of accessibility to services and facilities, infrastructure requirements and site viability, contamination issues and the character of the surrounding area.

- 2.13** The District Councils Landscape, Design and Conservation and Environmental Health Officers have been utilised to ensure that sites are being comprehensively assessed. Furthermore consultation with relevant bodies such as the Environment Agency, Highways Authority, Derbyshire Wildlife Trust and Derbyshire County Council's Archaeology team is to be undertaken to obtain technical input on the suitability of sites.
- 2.14** The assessment of the nominated sites is still ongoing. At this time it is anticipated that the draft final version of the SHLAA will be capable of being reported to the next meeting of this Committee.

Assessment of Housing and Economic Development Needs

- 2.15** The NPPF indicates that robust evidence is required to support Local Plans and the policies within them. It sets out that Local Authorities should:

Prepare a Strategic Housing Market Assessment (SHMA) to assess their full housing needs, working with neighbouring authorities where housing market areas cross administrative boundaries. The Strategic Housing Market Assessment should identify the scale and mix of housing and the range of tenures that the local population is likely to need over the plan period which:

- *meets household and population projections, taking account of migration and demographic change;*
- *addresses the need for all types of housing, including affordable housing and the needs of different groups in the community (such as, but not limited to, families with children, older people, people with disabilities, service families and people wishing to build their own homes); and*
- *caters for housing demand and the scale of housing supply necessary to meet this demand;*

- 2.16** The National Planning Practice Guidance advocates a wider approach to objectively assessed needs. It sets out that the assessment of housing and economic development needs includes the Strategic Housing Market Assessment requirement as set out in the National Planning Policy Framework. It also advises that the primary objective of identifying need is to:

- identify the future quantity of housing needed, including a breakdown by type, tenure and size;
- identify the future quantity of land or floorspace required for economic development uses including both the quantitative and qualitative needs for new development; and
- provide a breakdown of that analysis in terms of quality and location, and to provide an indication of gaps in current land supply

- 2.17** As Members will be aware, the Inspector in his report concluded that the approach taken by the District Council to setting its Objectively Assessed Need for Housing did not adequately take account of providing for affordable housing needs, and the

economic aspirations for growth set out within the Derbyshire Dales Local Plan. Given the significant emphasis within the plan to adequately addressing the housing and economic needs of the area, it was considered appropriate to undertake a further review of the Housing and Economic Development Needs.

2.18 Following a comprehensive tendering process consultants were appointed to provide advice on the following specific issues:

- a) The extent and nature of the housing market area within which Derbyshire Dales sits, and the extent to which the housing market extends into neighbouring local planning authority areas. In considering this requirement account must be taken of the advice in the NPPG about self-containment and the work undertaken by CURDS¹ and should take account of the 2011 Census Data on Travel-to-work.
- b) The extent to which the functional economic area in relation to economic uses for Derbyshire Dales covers the District Council area or otherwise.
- c) In accordance with the Advice in the NPPG the overall (objectively assessed) housing requirement for the housing market area and the District Council area for the period 2012-2031 and 2012-2033. In undertaking this element of the commission the appointed consultants are required to liaise with the consultants appointed by Sheffield City Region (David Simmonds and AECOM) to undertake an assessment of the potential spatial distribution the SEP ambition for 70,000 new jobs over the period 2015-2025, to ensure that the impact of these ambitions is taken into account appropriately. Similarly the appointed consultants should engage with D2N2 to seek views on the extent to which their SEP ambitions will influence the housing requirements for Derbyshire Dales.
- d) A breakdown of the overall housing figure by tenure, household type and household size for the period 2012- 2031 and 2012-2033
- e) An estimate of the future requirements for affordable housing for the period 2012- 2031 and 2012-2033
- f) Taking account of the Oxford Economics employment forecasts for Derbyshire, Experian retail expenditure data, the EKOSGEN report, the ambitions set out in the D2N2 SEP, Sheffield City Region SEP, the District Council's Economic Plan and future population forecasts, an assessment of the overall amount of land and floorspace required for economic development uses (including town centre uses) for the whole of the economic functional area, and the District Council area. The amount of land and floorspace required should be identified for the National Park area of Derbyshire Dales and the area for which the District Council is the local planning authority for the period 2012 - 2031 and 2012-2033.²
- g) A breakdown of the overall figure for land and floorspace required for economic development uses (including town centre uses) by quality, type, size and location, based on a detailed assessment of current supply, vacancy rates,

¹ <http://www.ncl.ac.uk/curds/research/defining/NHPAU.htm>

² Any assessment of requirement for the National Park area must be assessed in the light of the statutory purposes of national parks, the adopted development plan for the National Park and the specific policy references to National Park contained within the NPPF, as well as the anticipated different population change trajectories for Derbyshire Dales inside and outside the National Park.

need and demand, making clear the amount of employment land required for new development, for the period 2012- 2031 and 2012-2033

2.19 The appointed consultants were also asked to ensure that the advice took account of evidence from the 2012-based population and household projections and the economic ambitions set out in the D2N2 Strategic Economic Plan, the Sheffield City Region Strategic Economic Plan, and the District Council's Economic Plan.

2.20 The consultants appointed to undertake this work stream are continuing to work on providing advice to the District Council. It is anticipated that work on this study will be finalised in time to be presented to the next meeting of this Committee.

Strategic Landscape Sensitivity Assessment

2.21 As Members will be aware, the strategy adopted in the withdrawn Derbyshire Dales Local Plan sought to continue previous strategies for the area of balancing the housing and economic needs of the area with the need to safeguard the areas high environmental quality. However, the Inspector in his report concluded that on the basis of the evidence presented, he was not satisfied that the District Council had effectively demonstrated that the level of development proposed secured an appropriate balance between meeting development needs and safeguarding environmental quality.

2.22 Given the view taken by the Inspector it was considered appropriate to undertake a strategic landscape sensitivity analysis to assess the extent to which the landscape of the plan area is capable of accommodating new development.

2.23 In order to take this forward, landscape consultants were commissioned to undertake the following:

- A strategic landscape sensitivity³ analysis of areas in and around selected settlements across the local planning area.
- Landscape and visual impact assessments (LVIA)⁴ of sites that have been identified as being available for development.

2.24 The aims of the study are that the landscape sensitivity assessment should be capable of:

- Forming part of the evidence base which will underpin the Local Plan
- Providing a context for the allocation of sites for housing development
- Providing a sound basis on which decision making can be informed with regard to ongoing and future site assessment and the determination of potential planning applications, and;
- the LVIA should assist in determining the capacity of sites nominated through the Call for Sites to accommodate new development

³ Landscape sensitivity relates to the value attached to the landscape in terms of a wide range of factors including: its character; whether or not it is designated (as National Park or a Site of Special Scientific Interest or Local Wildlife Site for instance); whether it contains important features such as protected trees; its visual prominence; the nature of the local settlement pattern etc and its susceptibility to change brought about by development. In these terms landscape sensitivity can be assessed as being high, medium or low

⁴ LVIA is used to assess the impact that development is likely to have on a site in respect of the character and sensitivity of the landscape and the key features of it contained within the site and its surroundings and the impact on the visual amenity of those who live or work near the site or who travel through or past it. In these respects it can be used to assess the capacity of the site to successfully accommodate development.

2.25 The scope of the commission for the landscape sensitivity assessment was to identify different levels of sensitivity of the landscape to new development within and surrounding the following settlements:

- Matlock; Ashbourne; and Wirksworth;
- Darley Dale; Tansley; Hlland Ward; Brailsford; Doveridge Cromford; Matlock Bath; Middleton-by-Wirksworth;
- Northwood; Bonsall; Brassington; Clifton; Darley Bridge; Hognaston; Kirk Ireton; Kniveton; Marston Montgomery; Rowsley; Sudbury and
- Other locations at Two Dales; Upper Hackney; Bolehill; Carsington; Hopton; Bradbourne; Atlow; Mappleton; Hlland; Bradley; Yeldersley; Osmaston; Snelston; Wyaston; Norbury; Shirley; Ednaston; Rodsley; Yeaveley; Roston; Hollington; Alkmonton; Cubley; Longford; Boylestone; Somersal Herbert; Longcliffe

2.26 The scope of the commission for the LVIA was to assess the capacity of sites nominated through the 'Call for Sites' process taking account of the potential impact on landscape and visual amenity as well identifying, where appropriate, the type of mitigation measures which may be required in order that development can be successfully accommodated in and around the following settlements:

- Bonsall; Brassington; Clifton; Darley Bridge; Hognaston; Kirk Ireton; Kniveton; Marston Montgomery; Sudbury
- Yeldersley; Osmaston; Snelston; Wyaston; Shirley; Ednaston; Rodsley; Yeaveley; Roston; Alkmonton; Boylestone

2.27 These are settlements where the District Council's Landscape Design Officer had not previously undertaken site assessments but which may be subject to future development pressure.

2.28 A draft final report of the landscape sensitivity assessment and draft LVIA for all nominated sites has now been received, and its contents are currently being assessed. At this time it is anticipated that the final report will be complete by the end of July, and therefore capable of being reported to the next meeting of this Committee.

Infrastructure Needs and Plan Viability (including Community Infrastructure Levy)

2.29 Advice set out in the NPPF and the Planning Practice Guidance make it clear that the provision of infrastructure through the planning system is one of the key economic drivers required for delivering sustainable development. Local Plans should plan positively for the development and infrastructure required in the area to meet the objectives, principles and policies of NPPF.

2.30 Local planning authorities are advised that they should work with other authorities and providers to: assess the quality and capacity of infrastructure for transport, water supply, wastewater and its treatment, energy (including heat), telecommunications, utilities, waste, health, social care, education, flood risk and coastal change management, and its ability to meet forecast demands; and take account of the need for strategic infrastructure including nationally significant infrastructure within their areas.

2.31 In order to take forward the preparation of the Derbyshire Dales Local Plan it was consider necessary to undertake an assessment to identify gaps in the existing

infrastructure provision across the plan area, and to identify the infrastructure requirements necessary to support the sustainable growth of the plan area.

- 2.32** The NPPF advises that in pursuing sustainable development careful attention needs to be given to viability and costs in plan-making and decision-taking. Plans should be deliverable. Therefore, the sites and the scale of development identified in the plan should not be subject to such a scale of obligations and policy burdens that their ability to be developed viably is threatened. To ensure viability, the costs of any requirements likely to be applied to development, such as requirements for affordable housing, standards, infrastructure contributions or other requirements should, when taking account of the normal cost of development and mitigation, provide competitive returns to a willing land owner and willing developer to enable the development to be deliverable.
- 2.33** As such, it is incumbent upon the District Council to demonstrate deliverability of all aspects of the Derbyshire Dales Local Plan. Given this advice, sites brought forward through the Local Plan should be capable of being deliverable and developable. As such it was considered appropriate that some viability testing of sites coming forward through the SHLAA process should be undertaken. It was also considered appropriate to test the potential impact that emerging policies in the Local Plan may have on the deliverability of the plan as a whole.
- 2.34** The Community Infrastructure Levy is a planning charge, introduced by the Planning Act 2008 as a tool for local authorities in England and Wales to help deliver infrastructure to support the development of their area. It came into force on 6 April 2010 through the Community Infrastructure Levy Regulations 2010. Development may be liable for a charge under the Community Infrastructure Levy (CIL), if the local planning authority has chosen to set a charge in its area.
- 2.35** The District Council is a charging authority within the legislation and as such, should set a rate which does not threaten the ability to develop viably the sites and scale of development identified in the Local Plan. The NPPG sets out that local authorities will need to draw on the infrastructure planning evidence that underpins the development strategy for their area. Charging authorities should use that evidence to strike an appropriate balance between the desirability of funding infrastructure from the levy and the potential impact upon the economic viability of development across their area.
- 2.36** The NPPF sets out that where practical, Community Infrastructure Levy charges should be worked up and tested alongside the Local Plan. The Community Infrastructure Levy should support and incentivise new development, particularly by placing control over a meaningful proportion of the funds raised with the neighbourhoods where development takes place.
- 2.37** Although some initial unpublished research has previously been undertaken on the potential for the introduction of CIL across the Peak Sub Region, this is now out of date and it was considered appropriate to reconsider this in light of the current work on the review of the Local Plan.
- 2.38** Consultants have now been appointed to undertake the following;
- an assessment of the current situation with regards to infrastructure provision across the plan area
 - the potential need for new infrastructure provision to meet growth scenarios across the plan area

- to provide advice on the viability of sites suggested for inclusion within the latest version of the Strategic Housing Land Availability Assessment.
- to undertake an assessment on the potential feasibility of introducing the Community Infrastructure Levy on new development across the local plan area
- to act as retained consultants to undertake a whole plan viability assessment and provide advice on deliverable levels of affordable housing, and other development needs

Gypsy and Traveller Accommodation Assessment

2.39 The National Planning Policy Framework (NPPF) and Planning Policy for Traveller Sites (PPTS) require local planning authorities (LPAs) to carry out assessments of the future accommodation needs of Gypsies and Travellers. These are called Gypsy and Traveller Accommodation Assessments (GTAA), which can be used to inform the preparation of policy and site allocations for Gypsies and Travellers at Housing Market Area (HMA) or Local Plan level, as appropriate.

2.40 In accordance with the NPPF and the Duty to Cooperate set out in the Localism Act 2011, a GTAA covering Derbyshire and East Staffordshire was jointly commissioned in August 2013 by the following partners to update the previous ones published in 2008 for Derbyshire and 2013 for East Staffordshire:

- D10, including the County, City and eight District and Borough Councils in Derbyshire;
- The Peak District National Park Authority;
- East Staffordshire Borough Council; and
- The Derbyshire Gypsy Liaison Group.

2.41 A final version of the GTAA 2014 has now been received and is to be published shortly by Derbyshire County Council. This represents a piece of evidence which provides a starting point for considering pitch and plot requirements for Gypsies and Travellers and Travelling Showpeople in the study area for the period 2014/15 to 2033/34. A verbal update on this report will be provided to the meeting.

Sustainability Appraisal and Habitat Regulations Assessment

2.42 The NPPF requires that the preparation of the Derbyshire Dales Local Plan is accompanied by a Sustainability Appraisal (SA) which meets the requirements of the European Directive on Strategic Environmental Assessment.

2.43 The guidance indicates that the preparation of an SA should be an integral part of the plan preparation process that assesses all the likely significant effects of all reasonable alternatives considered as part of the preparation of the emerging plan against a range of environmental, economic and social factors.

2.44 A preparation of a Habitats Regulations Assessment (HRA) as required by the EU Habitats Directive is necessary to demonstrate the extent to which the development proposals within the Derbyshire Dales Local Plan are likely to have any significant impacts upon any designated European Sites, Special Areas of Conservation (SACs) and Special Protection Areas (SAC's). The HRA must demonstrate that based on the best available scientific information and in light of any suitable mitigation measures,

the Local Plan would not adversely affect the integrity of sites alone or in combination with other plans or projects.

- 2.45** Consultants have recently been appointed to undertake the SA and HRA of the emerging Derbyshire Dales Local Plan, taking account of the extent of the outputs from the refreshed evidence base, and the potential direction of travel for the plan.
- 2.46** At this time it is anticipated that the draft outcomes of this work will be available for consideration at the next meeting of this Committee.

Other Matters

- 2.47** Para 153 in the NPPF sets out that each local planning authority should ensure that the Local Plan is based on adequate, up-to-date and relevant evidence about the economic, social and environmental characteristics and prospects of the area. Local planning authorities should ensure that their assessment of and strategies for housing, employment and other uses are integrated, and that they take full account of relevant market and economic signals.
- 2.48** There are some other areas of work in relation to the evidence base that will need to be addressed in taking forward the Derbyshire Dales Local Plan. These include Settlement Hierarchy, and Open Space Requirements.
- 2.49** As one of the tests of “soundness” of a plan relates to compliance with national policy it is incumbent upon the District Council to ensure that it has a robust evidence base upon which the Local Plan policies and proposals are founded. Whilst the refresh of the evidence base set out above indicates that work is on-going to ensure that the requirements of the NPPF are met, there are other legal requirements that need to be addressed as part of the preparation of the Derbyshire Dales Local Plan.
- 2.50** Statement of Community Involvement (SCI). This is a statutory document explaining to the local community how the Council will involve them in the preparation of planning policy documents and major planning applications. The current SCI was adopted in 2006 and needs to be updated. A new SCI is therefore required to set out how the District Council will undertake its duties to engage with the local community during the preparation of the Derbyshire Dales Local Plan. Ensuring that the Derbyshire Dales Local Plan is prepared in accordance with the SCI is one of the tests of soundness when the plan reaches the examination stage.
- 2.51** Local Development Scheme. The Planning and Compulsory Purchase Act 2004 introduced the requirement for local planning authorities to prepare and maintain a Local Development Scheme (LDS). This is essentially a timetable for the production of new or revised Development Plan Documents (such as the Derbyshire Dales Local Plan). The current LDS was approved in April 2014 and needs to be updated in the context of the current on-going work on the Derbyshire Dales Local Plan. A revised LDS will therefore have to be prepared in order to reflect the current position on the preparation of the Derbyshire Dales Local Plan.
- 2.52** Duty to Co-operate (DtC). The DtC places a legal duty on local planning authorities, County Councils in England and public bodies to engage constructively, actively and on an ongoing basis to maximise the effectiveness of Local and Marine Plan preparation in the context of strategic cross boundary matters.

- 2.53** Although the duty to cooperate is not a duty to agree, local planning authorities should make every effort to secure the necessary cooperation on strategic cross boundary matters before they submit their Local Plans for examination.
- 2.54** Local planning authorities must demonstrate how they have complied with the duty at the independent examination of their Local Plans. If a local planning authority cannot demonstrate that it has complied with the duty then the Local Plan will not be able to proceed further in examination.
- 2.55** Local planning authorities will need to satisfy themselves about whether they have complied with the duty. As part of their consideration, local planning authorities will need to bear in mind that the cooperation should produce effective and deliverable policies on strategic cross boundary matters.
- 2.56** At this time, it is considered that ensuring that the District Council is able to meet the DtC will be a critical consideration in taking the Derbyshire Dales Local Plan forward. As such it is recommended that Officers be authorised to actively engage with all relevant bodies including neighbouring local planning authorities necessary to address the requirements of the DtC, and report back to future meetings of this Committee. Members will also have a role to play in the DtC discussions.

3. TIMETABLE

- 3.1** A review of the timetable for the preparation of the Derbyshire Dales Local Plan has been undertaken having regard to the objective of securing adoption without undue delay. In taking forward the preparation of the Derbyshire Dales Local Plan account has been taken of the timescales for the finalisation of the evidence base as set out above in Section 2. Account has also been taken of the advice in Paragraph 155 of the NPPF that sets out:

“Early and meaningful engagement and collaboration with neighbourhoods, local organisations and businesses is essential. A wide section of the community should be proactively engaged, so that Local Plans, as far as possible, reflect a collective vision and a set of agreed priorities for the sustainable development of the area, including those contained in any neighbourhood plans that have been made.”

- 3.2** As such it is recommended that the key milestones for the preparation of the Derbyshire Dales Local Plan are as follows:

Milestone	Month
Initial Strategy Consultation	October 2015
Draft Derbyshire Dales Local Plan Consultation	February 2016
Submission Plan Consultation	June/July 2016
Derbyshire Dales Local Plan Submitted	September 2016
Examination in Public	November/December 2016

- 3.3** At this stage it is envisaged that the Initial Strategy identified for consultation in October 2015 would set out the strategic direction for development across the plan area, taking account of the refreshed evidence base. It is anticipated that it would identify the objectively assessed need for housing, the extent of the capacity for additional housing, the employment and retail needs of the area, as well as the general distribution of development across the plan area.

4 RISK ASSESSMENT

4.1 Legal

Section 38(6) of the Planning and Compulsory Purchase Act 2004 and section 70(2) of the Town and Country Planning Act 1990 requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. Not having an up to date Local Plan in place which provides adequate land for housing places the District Council at risk to residential development being brought forward on appeal rather than on a plan-led basis. The legal risk is therefore high.

4.2 Financial

The cost of preparing the Derbyshire Dales Local Plan is contained within the District Council's budget. The financial risk is, therefore, assessed as low.

4.3 Corporate Risk

The Regeneration and Policy Risk Register identifies that preparation of the Local Plan carries a high risk rating score of 20 – this being the highest risk in the Regeneration & Policy Risk Register, and one of the highest corporately.

This indicates that lack of progress on the preparation of the Local Plan could have a significant impact on a number of areas. The timetable set out in Section 3 is considered to be realistic however any significant delay in the preparation of the Local Plan is likely to result in some of the consequential effects continuing to occur e.g. reputation and political.

5 OTHER CONSIDERATIONS

In preparing this report, the relevance of the following factors has also been considered: prevention of crime and disorder, equalities, environmental, climate change, health, human rights, personnel and property.

6 CONTACT INFORMATION

Mike Hase, Planning Policy Manager
Tel: 01629 761251 E-mail: mike.hase@derbyshiredales.gov.uk

7 BACKGROUND PAPERS

Description	Date	File
Report to Council	2 nd October 2014	

BACK TO AGENDA

NOT CONFIDENTIAL – For public release**Item No. 4**

COUNCIL
2ND OCTOBER 2014

Report of the Corporate Director

DERBYSHIRE DALES LOCAL PLAN – EXAMINATION IN PUBLIC

SUMMARY

The report informs Members of the outcome of the Derbyshire Dales Local Plan Examination in Public and outlines the options available to progress the Local Plan with appropriate recommendations.

RECOMMENDATION

1. That Council note the findings of the Local Plan Inspector.
2. That the Derbyshire Dales Local Plan is withdrawn from the current Examination in Public with immediate effect and that the Planning Inspectorate is advised accordingly.
3. That preparation of the Derbyshire Dales Local Plan is progressed by the Local Plan Advisory Committee, and that future reports are presented to Council as and when it is necessary to do so.

WARDS AFFECTED

All Wards outside the Peak District National Park

STRATEGIC LINK

The Council strives to lead the communities of the Derbyshire Dales and provide excellent services. The proposed action reflects the Council's corporate aims as stated in the 2014/2015 Corporate Plan.

1 BACKGROUND

- 1.1 On 13th May 2014, the District Council submitted the Derbyshire Dales Local Plan Pre Submission Draft to the Secretary of State for Independent Examination. The Secretary of State, in accordance with Section 20 of the Planning and Compulsory Purchase Act 2004 (as amended), appointed Inspector Keith Holland BA(HONS) DIPTP MRTPI ARICS to conduct the examination to determine whether the Local Plan was sound.
- 1.2 The Examination in Public (EIP) of the Derbyshire Dales Local Plan opened on 22nd July 2014 for a period of two days. During the two days of the EIP, the Inspector considered the District Council's position in respect of the Duty to Co-operate and the Objectively Assessed Need for housing.

- 1.3 The EIP was adjourned at the close of business on 23rd July 2014 pending the preparation of a report by the Inspector in which he would set out his initial findings on the matters discussed.
- 1.4 The Inspector's Initial Report was presented to the District Council on 29th July 2014, and is attached at Appendix 1.

2. NATIONAL PLANNING POLICY CONTEXT

2.1 The National Planning Policy Framework (NPPF) outlines the policy position of Central Government which is to '*...boost significantly the supply of housing*'. The Chief Secretary to the Treasury has recently reaffirmed this position⁵ stating that a '*radical building policy was necessary over the longer term*' and that as a nation we need to be providing 250,000 to 300,000 homes per annum. Last year only 123,000 homes were constructed in England. There is, therefore, a very clear expectation that there will be a significant increase in house building activity and that the NPPF is increasingly being seen as the policy mechanism to achieve this.

2.2 In order to achieve this objective, Paragraph 47 of the NPPF states that:-

- a) Local Planning Authorities should meet the full objectively assessed needs (OAN) for market and affordable housing; and
- b) Provide 5 years supply of housing against their housing requirements with an additional buffer of 5% (or 20% where there has been a record of persistent under delivery).

2.3 Since the publication of the NPPF in March 2012, there has been a plethora of appeal cases on the interpretation of key provisions within the NPPF, most notably what is actually meant by Paragraph 47. In December 2013, the Court of Appeal⁶ provided a substantive judgement on this issue and gave a "definitive answer to the proper interpretation of paragraph 47". The effect of this is that paragraph 47 requires that:-

- a) a Local Planning Authority must ensure that it meets the full objectively assessed needs for market and affordable housing, and that;
- b) where there is no Local Plan, then the housing requirement for a Local Authority for the purposes of paragraph 47 is the full, objectively assessed need.

3. THE INSPECTORS REPORT

3.1 The Pre-Submission Draft Derbyshire Dales Local Plan proposed that 4400 dwellings (200 per annum) should be provided for in the period 2006-2028. However, the full Objectively Assessed Need for the Derbyshire Dales is actually in the order of 6006 dwellings (273 per annum) for the period 2006-2028. In preparing the Local Plan, the Local Plan Advisory Committee and the Council, took a conscious decision to intentionally pursue a planning strategy for the area which was based upon not meeting full OAN due to concerns about environmental capacity and widespread public opposition to greenfield site development.

⁵ Daily Telegraph 30th July 2014

⁶ EWCA Civ 1610 ("Hunston")

- 3.2 At the EIP, Officers sought to demonstrate to the Inspector that the proposed level of housing (4400), whilst not meeting full OAN, was nonetheless an appropriate balance between meeting the housing needs of the area whilst also safeguarding environmental quality. However, Inspector Holland considered that neither the evidence nor the sustainability work undertaken clearly points to 4400 as being an appropriate balance.
- 3.3 Inspector Holland considered that the full OAN for housing in the Derbyshire Dales in the period 2006-2028 should be at least 6500. This was due to the current backlog of housing needs (currently over 500 households), the identified need for affordable housing (180 dwellings per annum), the impact of the downturn in the economy on the rate at which households are formed and the Council's corporate objective of supporting economic growth and enhancing prosperity - none of which can be achieved by constraining housing supply to 200 dwellings per annum as is currently proposed in the Draft Derbyshire Dales Local Plan.
- 3.4 At this point, it is important to note that OAN is not the same as housing provision or housing target. OAN is defined as the amount of housing that would need to be provided if land was not constrained by planning and is often termed as a 'policy-off' estimate. It is influenced by a wide range of factors such as demographic need, migration, backlog housing need, etc. Two factors come between the OAN and the target. The first is an area's deliverable and sustainable supply capacity, defined with reference to constraints recognised in the NPPF. The second factor is cross-boundary unmet need which the Authority should accept if that is possible, sustainable and reasonable.
- 3.5 At this stage, the revised 'housing target' for the Derbyshire Dales in light of the Inspector's comments, has yet to be fixed and will require further work and assessment during the coming months. However, Inspector Holland considered that, on the basis of the evidence in the Strategic Housing Land Availability Assessment (SHLAA), it should be possible to get closer to meeting the OAN for housing without having a serious adverse impact on the high quality of the Derbyshire Dales landscape.
- 3.6 In terms of the plan making process, the Inspector considered that the Local Plan had not been specific enough in its approach to not meet the full OAN for housing, and that no consultation had taken place on the evidence completed after the publication of the Derbyshire Dales Local Plan Pre Submission Draft in June 2013. As such, the Inspector concluded that the Council had failed to meet one of the important objectives of the Statement of Community Involvement.
- 3.7 The final area that the Inspector considered in his report was the Duty to Co-operate. The Inspector concluded that the District Council had clearly sought co-operation with a large number of stakeholders over several years during the preparation of the plan and, even though it was late in the day, had sought to address the unmet need for housing before submitting the Plan to the Secretary of State. Taking all things into consideration, he concluded that the District Council had not failed the legal test relating to the Duty to Co-operate but that it had failed to achieve effective cooperation.
- 3.8 In light of the above, Inspector Holland has temporarily suspended the EIP whilst the District Council considers its position further. However, in its current form, the Inspector has advised that the Local Plan will not be found sound.

3.9 There are three choices available to the Council:-

Option 1 - Continue with the EIP, but risk the Derbyshire Dales Local Plan being found unsound

Option 2 - Suspension of the EIP for a period of about 6-9 months to allow the Council to undertake further work and consultation

Option 3 - Withdraw the Plan and re-submit once the issues identified by the Inspector have been addressed

4. ISSUES AND OPTIONS FOR THE FUTURE

4.1 In outlining his conclusions, the Inspector has had regard to the latest guidance set out in the National Planning Practice Guidance, an evolving understanding on the interpretation of the NPPF, and recent Case Law precedents from the High Court and Court of Appeal.

4.2 In recent months, all of these have provided a much clearer interpretation for Local Planning Authorities taking Local Plans forward about how the OAN for housing should be set, the relationship between the OAN figure and the target which is set within a Local Plan, as well as the Duty to Cooperate with Neighbouring Authorities.

4.3 In terms of the issues identified by the Inspector, the following comments are made:-

- **OAN** – The District Council has no option other than to accept that the OAN for the Derbyshire Dales in the period up to 2028 is in the order of 6500 dwellings. Any attempt to continue to argue a lower figure which is not supported by demographic forecasts and is contrary to the Council's economic growth objectives, will only delay the eventual adoption of the Local Plan. In order to establish whether it is feasible to accommodate a level of housing which would enable the full OAN to be met, it is necessary to comprehensively review the potential for sites identified within the SHLAA and to initiate a further 'call for sites' from landowners. Some initial work has been undertaken on this since the receipt of the Inspector's Report. The preliminary findings of this work suggest that, whilst there may be some additional capacity within the identified SHLAA, there is an insufficient degree of choice and flexibility both for the local community to consider and for the development industry to implement.
- **Plan Making Process** – It is clear that in order to ensure that the opportunity exists for the community to fully understand the District Council's proposals as set out in the emerging Derbyshire Dales Local Plan, further clarity needs to be provided in respect of the overall plan strategy. As a minimum, the modifications submitted with the Derbyshire Dales Local Plan Pre Submission Draft to the Secretary of State would need to be subject to a period of public consultation and, where appropriate, further changes made prior to any reconvening of the Examination in Public.
- **Duty to Cooperate** – This is a statutory test and the first test that an Inspector has to consider as part of any EIP into a Local Plan. It is usually most relevant in respect of the identification of land for housing. Where an area is not able to accommodate its OAN, there is a requirement to engage with neighbouring Authorities in order to establish whether they have the capacity and willingness to accommodate any shortfall between the OAN figure and the established

capacity identified in the SHLAA. Whilst the Inspector concluded that the plan had met the legal requirements of the Duty to Co-operate, the Council had failed to achieve effective co-operation due to the fact that we were not able to identify how the unmet housing needs of the area would be addressed.

4.4 Each of the three options outlined by the Inspector are considered in detail below.

Option 1 - Continue with the Examination in Public

4.5 There are considered to be no advantages to pursuing this option. The EIP would continue in full knowledge that the plan would not be found 'sound' and, therefore, could not be adopted. There is also the prospect that the plan could be further undermined by the conclusions already drawn by the Inspector. Given that the plan would be found unsound in any event, the Council will lose 3-4 months pursuing an EIP which would not result in a positive outcome thus representing a considerable waste of time, effort and money.

Option 2 - Suspend the Examination in Public

4.6 This option would require the Council to undertake the following within a period of 6-9 months:-

1. Review all potential housing sites and re-appraise their suitability for allocation in the plan. Identify a further suite of sites to be proposed for allocation which are capable of meeting the current shortfall of circa 2000 dwellings or as close thereto. However, as outlined above, some initial work on this has been undertaken and it is doubtful that there are sufficient sites currently identified and available which are capable of meeting the additional level of provision without a further 'call for sites'.
2. Undertake further discussions with neighbouring authorities under the Duty to Co-operate at both Officer and Member level if there are insufficient sites available to meet full OAN within the district.
3. Consider responses to public consultation and approve a new plan for consideration at EIP (January 2015).
4. Re-open EIP February 2015.

4.7 The advantages of Option 2 are that the Council would secure adoption of a Local Plan at the earliest possible opportunity. However, there is a significant amount of work to be undertaken in a very short period of time and there are likely to be some very difficult issues to consider - the nature of which should be subject to a comprehensive programme of community engagement. The timescale to complete the amount of work required is therefore, extremely challenging and would require additional resources if it is to be achieved.

Option 3 - Withdrawal of the Derbyshire Dales Local Plan

4.8 This option would involve the Council withdrawing the plan now, however, it would still be required to undertake the tasks outlined in Option 2 above, albeit in accordance with a more realistic timescale. The implications of pursuing Option 3 are that:-

- The Council will be unable to resist applications for housing development in the interim unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits of providing land for housing.
- The longer the delay in the submission of the Local Plan, the evidence base used to support the plan becomes increasingly out of date, thus necessitating further updates to be undertaken. This is already a risk we are facing due to the age of some of the studies which go back to 2008 and, as a result, the District Council may have to incur costs associated with commissioning updated evidence. However, where feasible opportunities for joint working would be explored to minimise costs.
- The District Council will need to review all potential housing sites (including sites previously excluded) and re-appraise their suitability for allocation in the plan.
- The District Council will need to consider the identification and allocation of new housing sites and subject these to public consultation.
- The District Council will need to undertake further discussions with neighbouring authorities under the Duty to Co-operate at both Officer and Member level if there are insufficient sites available to meet full OAN within the district.
- The District Council will need to positively search for and potentially allocate a site for the Gypsy and Traveller community should the County-wide GTAA indicate a need to make site provision within the Derbyshire Dales.
- The additional work involved in the withdrawal of the Derbyshire Dales Local Plan is far more extensive than a suspension under Option 2. Adoption of the Local Plan would not therefore be achievable for a period of at least 18 months.

5 CONCLUSIONS

- 5.1 Option 1 is not considered to be a viable option for the reasons outlined above. However, it is acknowledged that there are advantages and disadvantages to both Option 2 and Option 3.
- 5.2 The advantage of Option 2 is that it would be possible to secure adoption of the Local Plan by Summer 2015, however as indicated above there are limitations on the availability and supply of land to meet the increased housing requirements with the likelihood that the duty to co-operate would be engaged. As such, there is limited opportunity to have a genuine public debate about the extent of OAN and the ability of the area to accommodate what will inevitably be a significant increase in housing development across the plan area. The inability of the general public to have an active influence in the identification and allocation of sites to meet OAN is a significant disadvantage of Option 2.
- 5.3 The advantage of Option 3 is that within a more realistic timescale, there is sufficient opportunity to identify a revised OAN and fully assess the constraints of the plan area in order to determine whether the OAN can be met fully or whether the duty to co-operate is engaged. It would also afford an opportunity for the Council to initiate a further 'call for sites' thereby enabling a degree of choice to be introduced into the site selection and allocation process. The disadvantage of Option 3 is that due to the procedural requirements involved in the withdrawal of a Local Plan, the Council takes a 'few steps back' in the process which ultimately extends the timescale to eventual adoption.

- 5.4 The District Council therefore has a stark choice to make. It can either take control of the initiative now and deal with these difficult issues as swiftly as possible, thereby minimising the risk of planning by appeal across the whole of the plan area and the associated costs that that would entail or it can take a longer period of time to consider the issues raised by the inspector through a process of positive engagement with the public, thereby affording an opportunity to fully explain the difficulty of the situation that the Council is confronted with and engaging the community in an attempt to seek a resolution.
- 5.5 Irrespective of whether Option 2 or Option 3 is selected, the inevitable outcome of this process is that there is a need to significantly increase the amount of housing development to be accommodated within the Derbyshire Dales up to 2028 and possibly beyond to 2031. Throughout the whole of the Local Plan preparation process, the Council has sought to fully engage with the communities of the Derbyshire Dales and we have sought to pursue a plan strategy which balances the need to provide additional land for housing whilst also safeguarding the environment quality of the area. Given the significant change in circumstances, it is considered that the public need to be fully engaged in formulating a plan strategy which is now fundamentally changed. On balance, it is considered that Option 3 is the most appropriate option to pursue despite the disadvantages that this presents.

6 RISK ASSESSMENT

Legal

- 6.1 The legislation allows the District Council to withdraw the Derbyshire Dales Local Plan and resubmit to the Secretary of State again at a future point in time.

6.2 Financial

The costs associated with the preparation of the Derbyshire Dales Local Plan for the remainder of 2014/15 can be accommodated from within existing budgets. Any additional costs that may arise beyond 2014/15 will be identified as part of a future report on the plan preparation process and will be reported separately to Council. The financial risk of the actions arising from this report is therefore assessed as low.

Corporate Risk

- 6.3 The Derbyshire Dales Local Plan will be a pivotal tool in the delivery of the Council's Corporate plan and the Derbyshire Dales and High Peak Sustainable Communities Strategy. In order to fulfil this role it is necessary to ensure that robust evidence-based and "sound" documents are prepared. Failure to do so will undermine the ability of the District Council to achieve its key aims and objectives. In light of the Inspectors Report the Corporate Risk associated with the preparation of the Local Plan has been reviewed and identified as Medium Risk.

7 OTHER CONSIDERATIONS

In preparing this report, the relevance of the following factors has also been considered: prevention of crime and disorder, equalities, environmental, climate change, health, human rights, personnel and property.

8 CONTACT INFORMATION

Paul Wilson, Corporate Director

Tel : 01629 761325 E-mail: paul.wilson@derbyshiredales.gov.uk

Mike Hase, Planning Policy Manager

Tel: 01629 761251 E-mail: mike.hase@derbyshiredales.gov.uk

9 BACKGROUND PAPERS

Description	Date
Examination of the Derbyshire Dales Local Plan – Inspectors Findings	29 th July 2014

10 ATTACHMENTS

Appendix 1 : Examination of the Derbyshire Dales Local Plan – Inspectors Findings

APPENDIX 1

EXAMINATION OF THE DERBYSHIRE DALES LOCAL PLAN – INSPECTORS FINDINGS

Examination of the Derbyshire Dales Local Plan.

- 1) I held two days of hearings on 22 and 23 July 2014. These days covered three topics – the Duty to Cooperate (the Duty), objectively assessed need for housing (OAN) and the plan making process. The purpose of the hearings on the two days was to examine these matters and to establish whether there are any reasons why the examination should not proceed, especially in the light of the Duty. The Council requested that in addition to reaching a view on the Duty I provide details of my findings in relation to the other main matters discussed.

OAN for Housing

- 2) In the light of the anticipated revocation of the regional strategies in late 2011, housing need work was done with High Peak Borough Council. At that stage the two councils were working on a joint core strategy. Nine different demographic and household projections were produced including one based on Sub- National Population Projections (SNPP) and three based on the East Midlands Regional Strategy (RS) - described as RSS Dwelling Led, RSS less 10% and RSS plus 10%. For Derbyshire Dales the recommendation to the Council at that time was to take the three RSS dwelling forecasts forward for consultation.
- 3) In the event by April 2012 joint working with High Peak Borough Council had ceased and Derbyshire Dales Council considered a Strategic Housing Options Paper. The Options Paper contained nine forecasts on the same basis as the earlier work but for Derbyshire Dales only for a plan period of 2006 – 2028. The highest forecast, based on economic growth, was for the provision of 7,920 dwellings over the plan period, the SNPP based forecast was for 6,380 dwellings and the maintain RSS Dwelling Led forecast was for 4,400 dwellings. The April 2012 report to the Council describes the three RS based forecasts as “feasible” and recommended setting the preferred strategic housing requirement for the Local Plan at 4,400 dwellings (an average of 200 per annum). The recommendation was agreed by the Council and following a consultation exercise 4,400 dwellings was adopted in November 2012 as the housing need figure for the District over the plan period 2006 - 2028.
- 4) At the hearing the Council explained that as the report to Members included the SNPP figure of 6,380 dwellings the Members were alerted

to the fact that the figure of 4,400 would not meet the OAN for the District. Further the Council contended that the 4,400, although identical to the RS figure, was chosen as a “benchmark to contextualise the consultation process”. The Council argues that this level of growth represents an appropriate balance between the housing needs of the area and environmental considerations.

- 5) The Council justifies the figure of 4,400 on the basis of what it calls available evidence and the sustainability work undertaken. In my view neither the evidence that I have seen nor the sustainability work clearly points to 4,400 as being the appropriate balance. The Council’s argument is a generic one and I am unable, on the basis of what I have read or been told, to make an informed judgement as to whether it represents an appropriate balance or not. However I note that the latest Strategic Housing Land Availability Assessment (SHLAA) work undertaken in November 2013 by the Council suggests that there is sufficient potential housing land, including sites with planning permission, for 6419 dwellings over the plan period. This SHLAA work takes account of environmental considerations which suggests that it may be possible to get closer to meeting the OAN for housing without having a serious adverse impact on the high quality Derbyshire Dales landscape. At the very least the Council should reconsider whether its assessment of the appropriate balance between meeting housing needs and the environment is supported by the available evidence.
- 6) In August 2013 the Council recognised that the work undertaken hitherto on identifying housing needs was not wholly in accordance with the National Planning Policy Framework (NPPF) published in March 2012. Accordingly in October 2013 the Council commissioned Atkins to undertake an objective assessment of housing and economic needs in the area. Atkins were also asked to establish what the Strategic Housing Market Area (SHMA) is for Derbyshire Dales.
- 7) Reporting in February 2014 Atkins defined the SHMA as extending across Derbyshire into East Staffordshire and the Sheffield area. The Atkins report notes that the Council will need to work closely with other authorities in the Housing Market Area (HMA) to consider how the needs of the HMA can best be met. At the hearing consultants for the Council introduced the idea of Derbyshire Dales being a self-contained market area based on 50 % self-containment – in effect a

smaller submarket within the wider SHMA. However the consultants accepted that within this submarket the consultants the strategy would not meet the OAN. Atkins concluded in February 2014 that while the OAN is for 273 dwellings per annum a target of 200 “remains appropriate”. Pressed at the hearing Atkins accepted that its conclusion about the 200 dwelling target does not flow from any of the material in their report – rather it is a reflection of the Council’s preferred approach. The OAN figure of 273 in the Atkins report is based on demographics and does not reflect any policy requirements in relation to, for example, boosting the local economy.

- 8) At the hearing the Council introduced new evidence regarding OAN. This evidence sought to bring the position up-to-date by applying headship rates to the 2012 based SNPP. This work is again purely demographically based and does not include policy considerations. The conclusion of the updated work is that the 2012 SNPP based OAN for Derbyshire Dales is 251 dwellings pa (2012 - 2028) if the 2011 headship rates are used, or 287 pa if the 2008 headship rates are used.
- 9) The Council prefers the use of the 2011 headship rates and for the calculation to be based on the plan period of 2006 – 2028, giving an OAN of 244 dwellings pa. However the Council did agree at the hearing that it would be logical to use 2012 as the base date given that the aim is to produce a plan to meet existing and future needs rather than looking back to 2006. The essential demographics of the revised figures are broadly accepted by others at the examination.
- 10) I agree that it is sensible to use the latest available SNPP data. The Council argues that there may have been long term structural changes in the mortgage market and in household formation patterns and hence it is unclear whether the higher 2008 based household formation rate will return. It seems clear that the lower household formation rate in recent years has been, at least in part, a consequence of the economic downturn. With the recovering economic situation it would be prudent to assume that the low 2011 headship rates are unlikely to remain in place over the whole plan period. It would be sensible to work on the basis that the household formation rate will gradually return to higher levels as the economy recovers. I therefore consider that a “blended” rate that assumes the 2011 rate until 2020 and the higher 2008 rate thereafter is

appropriate. Whilst this may be a relatively unsophisticated approach, it is a practical one in the light of the uncertainties about future household formation rates. In any event the situation should be monitored and the approach refined if and when necessary.

- 11) While the use of national population statistics is the starting point for assessing needs, policy considerations also need to be taken into account. Where a council is seeking to promote economic growth, as this Council is, it is logical to allow for an additional element of housing growth to support the creation of new jobs. One of the Council's Corporate priorities is to increase business growth and job creation. How much additional housing should be provided to support this priority is difficult to say because the relationship between homes and jobs is a complex one. It is affected by a series of factors including changing working patterns and practices, changing retirement arrangements and complicated commuting patterns. However the Council's Strategic Housing Options Paper concludes that the 200 dwelling per year approach (2006 – 2028) would lead to a fall in the labour force of 3,775 and that the maintain jobs and support economic growth approach would require some 360 additional dwellings per year. These figures suggest that the Council's Strategic Objectives SO6 and SO7 that are aimed at supporting the rural economy and enhancing prosperity and its Corporate business priority, cannot realistically be delivered if housing growth is limited to around 200 dwellings per year.
- 12) Another consideration is the current backlog of households in need. Based on the Council's Housing Register there are over 500 household whose housing need is not presently being met.
- 13) Finally the council recognises that the identified need for affordable housing at around 180 dwellings pa compared with the proposed total provision of 200 pa is a market signal that needs to be considered. Atkins notes that median house prices in Derbyshire Dales are consistently higher than for the East Midlands and that lower quartile prices increased by 193.6% between 2000 and 2012. The market signals evidence, which the NPPF says authorities should take into account, suggests that restricting the supply of housing to about 200 pa will make the situation regarding the provision of affordable housing worse than it currently is. Furthermore it should also be noted that the Council told the examination that the good record of

providing affordable housing in recent years has largely been through the use of sites owned by the Council but that this supply of land is now largely exhausted.

- 14) Taking all these considerations into account and the dwellings completed in the plan area between 2006 and 2013 the OAN for this area is likely to be at least 6500 for the plan period. This figure should not be taken as definitive as the chosen figure involves judgements about considerations such as market signals and policy aspirations which are difficult to quantify with any precision and which the Council needs to weight in accordance with its priorities

Plan Making Process

- 15) I note that the Council's Statement of Community Involvement dated February 2007 claims that the Council will provide the public with sufficient information to ensure that the community can understand the chosen strategy. I acknowledge that the Council produced an impressive number of documents during the plan making process and arranged a large number of community based consultation events.
- 16) Notwithstanding these efforts my primary concern relates to how the strategy is presented in the Pre Submission Draft Plan dated June 2013. This is a critical public consultation document. In numerous places that document makes reference to facilitating the required housing growth in the plan area. However other than one general sentence about the housing requirements being set below the household projections for the area, the document is not specific about what the OAN for housing is in the area. Nor does it make it clear that the strategy is to meet considerably less than the OAN – the strong impression is given that the plan allows for the housing needs of the area to be met while protecting the high quality Derbyshire Dales environment. The way the strategy is expressed gives the impression that the "policy on" figure of housing need (4,400) is the same as its OAN. There is no explicit reference to the quantum of unmet need that arises from the use of a "policy on" housing target, no discussion about the implications of setting a target well below OAN and no indication of what steps, if any, the Council has taken to address this unmet need.

- 17) I appreciate that Members of the Council and anybody taking a close professional interest might well be aware of the implications of the proposed strategy. Conversely it is probably not clear to many members of the public who may reasonably have relied on the Pre-Submission Draft for their information. The Council has recently suggested a series of post submission changes to the plan which go some way to address the problem but the public have not had the opportunity to comment on these changes.
- 18) My second concern is that the Council has produced relevant and significant evidence – for example the Atkins report – after the consultation pre submission consultation document was produced and long after the consultation period closed. No further consultation has been carried out and members of the public may not be aware of very significant material that has a direct bearing on the contents of the Plan
- 19) My conclusion is that the Council has failed to meet one of the important objectives of its Statement of Community Involvement.

Duty To Cooperate

- 20) Initially Derbyshire Dales and High Peak Borough Council worked together on a joint core strategy. Clearly this work involved cooperation between the two authorities and apparently the two authorities believed that they could meet their housing needs without assistance from other authorities. Consequently no steps were taken to use the Duty to Cooperate to achieve a wider than district strategic distribution of housing. Derbyshire Dales and presumably High Peak seem to have adopted that approach because they regarded their housing need as the “policy on” target - in other words a requirement that was less than the OAN. Such an approach became untenable once the RS was revoked.
- 21) Notwithstanding the introduction of the Duty in the Localism Act 2011 and the clear guidance in the NPPF (March 2012) the Council persisted with the view that it did not need help from other authorities apparently until October 2013. One justification provided by the Council at the hearing is that the application of the Duty was met by

the joint working with High Peak that had occurred. This is unconvincing as it is very unlikely that these two authorities would in combination be able to meet the OAN for the two areas given that both authorities are areas with sensitive landscapes. Another unconvincing argument advanced by the Council at the hearing is that until the Atkins work was done the Council could not quantify the extent of unmet need. This contradicts other evidence from the Council that in April 2012 it quantified the OAN on the basis of the SNPP.

22) In October 2013 a report to Local Plan Advisory Committee noted the Duty, reported that initial discussions had taken place with neighbouring local planning authorities and noted that further discussions would be required as a consequence of establishing the Council's OAN.

23) Unfortunately the documentary evidence before the examination contradicts the contention by the Council that it sought to use the Duty to help address its unmet need in 2013. For example email correspondence with East Staffordshire Borough Council in mid-2013 records that following a query from East Staffs the Council informed East Staffs that "we are not looking to have any of our housing requirement met outside of the plan area nor are we asking our neighbouring authorities to meet the shortfall between forecasts set out in DCLG Household Projections and our target of 200 dwelling per annum (4,400 of the plan period for the whole of the District Council area including that within the National Park) which is a continuation of the strategy of protecting the environmental quality of the Peak Sub Region, rather than delivering all the identified housing forecasts – and as set out in the former East Midlands Regional Plan". East Staffs say that the first indication that Derbyshire Dales may need to ask neighbouring authorities for help came in February 2014 followed by a formal request for help in March 2014.

24) In July 2013 in a report to the Derbyshire County Council the proposal to follow the target of 200 pa was described as "a continuation of the target between 2006 and 2026 previously set out in the recently revoked East Midlands Regional Plan". The report notes that this approach is a long-standing one of restraint and that the target would be below the population and household projections of the Office of National Statistics. Despite this there is nothing in the

report about any request from the Derbyshire Dales for help under the Duty.

- 25) In March 2014 the Council wrote to nine authorities asking if they could help take some of your unmet housing need under the Duty. On behalf of the Derby Housing Market Area partners Derby responded saying that none of the Partners could help. Derby expressed "their surprise to receive this request, especially as this does not reflect the nature of preceding discussions regarding key strategic issues which have comprised our dialogue up to this point. As you will be aware the Local Plans of all three HMA authorities are at an advanced stage. These strategies have been developed on a clear understanding that Derbyshire Dales had no need to decant any housing requirements into the HMA"
- 26) The Council has clearly sought cooperation with a large number of stakeholders over several years. It has been actively involved in discussions with other planning authorities, including initially working on a joint Core Strategy with High Peak Borough Council. Albeit very late in the day, the Council did seek help to address the anticipated unmet housing need before submitting the plan for examination. Hence I do not consider that the Council has failed the legal test relating to the Duty. However the Council has comprehensively failed to achieve effective cooperation.
- 27) This failure arises from the fact that the Council apparently did not recognise until shortly before submission that it needed to:
- 1) Identify its OAN
 - 2) Detail the constraints that apply in the area
 - 3) Assess the OAN against the constraints
 - 4) Take all reasonable steps, starting as soon as possible, to try to get help from other authorities if the constraints meant that the OAN would not be met.
- 28) This 4 step approach is an important element of positive planning outlined in the NPPF. I appreciate that the Council argues that it did identify its OAN on the basis of the SNPP and that it assessed the implications of meeting that need against the environmental constraints in the area. The conclusion reached by the Council was

that the RS restraint approach was appropriate and that the balance would best be struck by a housing target of 4,400 dwellings, coincidentally the same as the RS figure.

- 29) That being the case, why did the Council in April 2012 not initiate discussions with other authorities in the area to explore how its unmet need could be accommodated? The evidence points to the Council disregarding the unmet need until shortly before submitting the Plan for examination in 2014. Indeed the evidence is that until early 2014 at Duty meetings the Council was telling other authorities that it did not need help from them. This view appears to flow from the Council focussing on its "policy on" figure of 4,400 rather than the OAN.
- 30) With the abolition of regional planning authorities have the responsibility to undertake whatever strategic planning is necessary. In relation to housing this frequently requires cooperation between authorities about the quantum of development and its distribution within the SHMA. The NPPF states (paragraph 159) that authorities should prepare a SHMA to assess their full housing needs (working with neighbouring authorities where necessary) and address the need for all types of housing. Despite this clear guidance the Council has not, in cooperation with other authorities, identified the housing needs for the Strategic Housing Market Area that it is part of. Furthermore it took no steps until very late in the process to ask for assistance in meeting its full housing need.
- 31) It is fully appreciated that the Duty is not a duty to agree. However the expectation is that authorities should make every effort to secure the necessary cooperation on strategic cross-boundary matters throughout the preparation of the local plan.
- 32) The Council argue that there is little point in seeking to get cooperation from neighbouring authorities at this late stage, especially as most are at a more advanced stage and some even have adopted plans. It may well be that the Council is right about the difficulty of getting cooperation now. This rather reinforces the conclusion that the Council failed to seek to use the Duty early enough or effectively enough. It is acknowledged that seeking to use the Duty now will delay the plan making process but I cannot simply ignore the requirements of the Duty legislation and national planning policy. Furthermore promoting further discussions even at this late stage

may, if nothing else, serve to re-focus the minds of the authorities in the SMHA on the requirements of the Duty. It may also serve to remind authorities with a plan in place of the advice in the Planning Practice Guidance (reference 9-020-20140306) about cooperating with an authority that is bringing forward its plan.

Overall Conclusions.

- 33) The Derbyshire Dales Local Plan will not be found sound in its current form. Although the modifications suggested by the Council go some way to making the strategy clear, these modifications have not been subject to consultation and the requirements of the Council's SCI for clarity and transparency have not been complied with.
- 34) There is a need for the Council to review the relationship between its OAN and the environmental constraints that apply in the area. Depending on what judgements are made by the Council about the extent to which it can meet its OAN there may be a need to re-open discussions with adjoining authorities under the provisions of the Duty to Cooperate.
- 35) There are three choices available to the Council. The examination can continue but the dangers of doing so are clear and obvious. The examination can be suspended to allow the Council to undertake further work and consultation. This option is only realistic if the Council considers that this work can be done within a reasonable period – say 6 months - and is able to set out a realistic timetable for the work. Finally the Plan can be withdrawn and re-submitted once the issues identified have been addressed.

Keith Holland

Examining Inspector

29 July 2014

BACK TO AGENDA