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Dear Sir / Madam

NORTH EAST DERBYSHIRE PRE SUBMISSION LOCAL PLAN CONSULTATION

Introduction

Thank you for consulting with the Home Builders Federation (HBF) on the above mentioned consultation. The HBF is the principal representative body of the house-building industry in England and Wales. Our representations reflect the views of our membership, which includes multi-national PLC's, regional developers and small, local builders. In any one year, our members account for over 80% of all new "for sale" market housing built in England and Wales as well as a large proportion of newly built affordable housing. We would like to submit the following representations and in due course attend the Examination Hearing Sessions to debate these matters in greater detail.

Duty to Co-operate

Under S110 of the Localism Act 2011 which introduced S33A into the 2004 Act the Council must co-operate with other prescribed bodies to maximise the effectiveness of plan making. The Duty to Co-operate requires the Council to "*engage constructively, actively and on an on-going basis*". The high level principles associated with the Duty are set out in the National Planning Policy Framework (NPPF) (paras 156, 178 – 181). In addition there are twenty three paragraphs in the National Planning Practice Guidance (NPPG) concerning the Duty. In considering if the Duty has been satisfied it is important to consider the outcomes arising from the process and the influence of these outcomes on the Local Plan. One required outcome is the delivery of full objectively assessed housing needs (OAHN) for market and affordable housing in a housing market area (HMA) as set out in the NPPF (para 47) including the unmet needs of neighbouring authorities where it is reasonable to do so and consistent with sustainable development (NPPF para 182).

The NPPG defines a HMA as a geographical area reflecting the key functional linkages between places where people live and work. It has been determined that North East Derbyshire is part of the North Derbyshire / North Nottinghamshire HMA together with Bassetlaw, Bolsover and Chesterfield District Councils. As set out in the Draft Duty to Co-operate Statement of Compliance dated March 2018 from within this defined HMA North East Derbyshire have received no formal requests to accommodate any unmet housing needs and the other HMA authorities confirmed that no assistance was available in response to North East Derbyshire's own request concerning unmet housing needs. As a consequence each HMA authority will meet its own housing needs in full within its respective administrative boundary. It is also understood that a Statement of Common Ground (SoCG) will be prepared by the time the Local Plan is submitted for examination. It is noted that the proposed plan periods for the respective Local Plans of the Derbyshire / North Nottinghamshire HMA authorities are not aligned. Currently the proposed plan periods are North East Derbyshire 2014 – 2034, Chesterfield 2016 – 2033, Bassetlaw 2019 – 2034 and not explicitly stated for Bolsover. The NPPG advises that plan dates should be co-ordinated.

However the District also abuts Sheffield City Council. North East Derbyshire Council acknowledges that there are economic relationships and commuting patterns extending into Sheffield City Region. At this time it is not known if Sheffield will meet the city's OAHN in full within its own administrative boundaries or whether unmet needs will have to be accommodated elsewhere. It is understood that the City Council have approached neighbouring authorities about helping to meet the city's housing need. It is reasonable to expect that the Council will need to consider its relationship with the Sheffield City Region and any unmet needs therein. It is important that these wider inter relationships are taken into account in both defining the relevant HMA and the OAHN. This unresolved strategic matter should be jointly addressed sooner rather than later by the Councils. It is noted that references to responses from Sheffield City Council in Table 5 of the Draft Duty to Co-operate Statement of Compliance dated March 2018 are incorrect which should be corrected before submission of the North East Derbyshire Local Plan for examination.

In addition to the North Derbyshire / North Nottinghamshire HMA authorities and Sheffield City Council, North East Derbyshire has two other neighbouring authorities namely Derbyshire Dales (defined as its own HMA) and Amber Valley (part of the Derby HMA) District Councils. North East Derbyshire also extends up to the Peak District National Park. There are two Local Enterprise Partnerships (LEPs) for the Sheffield City Region and Derbyshire & Nottinghamshire D2N2. There are proposals by D2N2 LEP for a North Midlands Combined Authority which at some future date may prepare a strategic spatial plan.

In order to find the Local Plan sound before submission for examination the Council should prepare further evidence concerning compliance with the legal requirements of the Duty to Co-operate and the outcomes from this collaborative working. The complex relationships arising from over lapping HMAs and the impacts of future proposals for a Combined Authority with its

associated growth agenda should also be clearly explained. The NPPG states that a key element of examination is ensuring that there is sufficient certainty through formal agreements that an effective strategy will be in place to deal with strategic matters such as unmet housing needs when Local Plans are adopted (NPPG ID 9-017). If further evidence and / or SoCG are prepared the HBF may wish to submit further comments on the Council's legal compliance with the Duty and any implications for the soundness of the Local Plan in Written Hearing Statements and / or orally during Examination Hearing sessions.

OAHN and the Housing Requirement

Policy SS2 – Spatial Strategy & the Distribution of Development proposes a minimum housing requirement of 6,600 dwellings (330 dwellings per annum) over the plan period of 2014 – 2034.

Under the NPPF the Council should be proactively supporting sustainable development to deliver the homes needed by identifying and then meeting housing needs (para 17) in particular the Council should be significantly boosting the supply of housing (para 47). The Council should ensure that the assessment of and strategies for housing, employment and other uses are integrated taking full account of market and economic signals (para 158). The Council should use its evidence base to ensure that the Local Plan meets in full OAHN as far as consistent with the framework including identifying key sites critical to the delivery of the housing strategy over the plan period (para 47).

The NPPG advises that housing need should be assessed in relation to the relevant functional area known as the HMA (ID 2a-008). An OAHN should be unconstrained (ID 2a-004) and strongly recommends the use of its standard methodology (ID 2a-005). This methodology is a three stage process comprising :-

- Demographic (based on past population change and HFR) (ID 2a-015 – 017) ;
- Economic (to accommodate and not jeopardise future job growth) (ID 2a-018) ;
- Market signals (to consider undersupply relative to demand) (ID 2a-019 & 020) ;
- Affordable housing need is separately assessed (ID 2a-022 – 028). However delivering affordable housing can be a consideration for increasing planned housing provision (ID 2a-029).

In representations submitted to previous consultations on the Draft North East Derbyshire Local Plan ended on 25th March 2015 and 7th April 2017 respectively the HBF expressed the following concerns about the Council's OAHN which may have resulted in an under-estimation of housing needs :-

- an out of date OAHN not based on the latest official demographic projections and if any meaningful change from the publication of 2014 Sub National Household Projections (SNHP) had occurred (NPPG ID 2a-016) ;

- the limited assessment of employment trends which may have necessitated an upward adjustment above demographic projections (NPPG ID 2a-018) and if the LEPs economic growth aspirations are supported by the alignment of economic and housing strategies ;
- the limited assessment of worsening trends in any market signals which may have required an upward adjustment to planned housing numbers compared to ones based solely on household projections (NPPG ID 2a-020) ;
- an significant identified affordable housing need but no increase to the housing requirement to help deliver the number of affordable homes needed (NPPG ID 2a-029) ;
- the Government's expectation set out in the Housing White Paper (HWP) that the Council should prepare a sufficiently ambitious Plan recognising and planning for needed homes and any implications arising from the proposed standard methodology for the calculation of OAHN ;
- historically the adopted East Midland Regional Spatial Strategy set a housing target of 380 dwellings per annum for North East Derbyshire which is significantly higher than the proposed housing requirement and if such a low proposed housing requirement significantly boosts housing supply (NPPF para 47).
- no account taken of any unmet needs from elsewhere in particular Sheffield City.

For this pre submission consultation the Council's latest OAHN is set out in 3 documents namely :-

- North Derbyshire & Bassetlaw SHMA – OAN Update Report 2017 by G L Hearn ;
- Housing Topic Paper dated January 2018 ;
- Considering North East Derbyshire's OAN Final Report dated February 2018 by G L Hearn.

This latest OAHN is calculated as follows :-

Demographic :-

- 204 dwellings per annum from 2014 SNHP ;
- 248 dwellings per annum after adjustments for 10 year migration trend and Household Formation Rates (HFR) in 25 – 34 and 35 – 44 age groups ;

Economic :-

- Minimum of 283 dwellings per annum to support economic growth based on the Experian economic baseline scenario ;
- Or 332 dwellings per annum to support Regeneration / Growth scenario based on Economic Growth Analysis Report by Lichfields ;

Market Signals and Affordable Housing Need :-

- A separately calculated affordable housing need of 172 dwellings per annum. A 10% uplift above demographic need to support affordable

housing delivery (similar to the affordability adjustment in Government's standardised methodology) resulting in 273 dwellings per annum but no further adjustment is proposed as uplifts above demographic projections to support economic growth will also simultaneously help deliver affordable housing need.

For comparison purposes the Government's proposed standardised methodology comprises of :-

- Demographic baseline based on annual average household growth over a 10 year period ;
- Workplace-based median house price to median earnings ratio ;
- Adjustment factor = $\frac{\text{Local affordability ratio} - 4}{4} \times 0.25$;
- Local Housing Need = (1 + adjustment factor) x projected household growth.

Using this standard methodology the OAHN for North East Derbyshire is 276 dwellings per annum. It is noted that this figure excludes any uplift to support economic growth and achieve the aspirations of the two respective LEPs.

The Council concludes that a housing requirement of 330 dwellings per annum will meet demographic needs, support economic growth and help deliver affordable housing. Indeed the Sustainability Appraisal shows 332 dwellings per annum has significantly more positive impacts on the Council's economy and housing objectives than the lower demographic only based OAHN.

Whilst the Council's latest OAHN addresses many of the HBF's previous criticisms there is a remaining concern about any implications arising from proposed changes to the plan period from 2011 – 2033 in the Draft Local Plan to 2014 – 2034 in the pre submission Local Plan. As commented on in the Local Plans Expert Group (LPEG) Report subsequent reviews, updates or replacement Plans should set out their housing requirement with reference to an up to date OAHN plus any shortfall in housing delivery from the base date of the previously adopted Plan to ensure that any backlog is not cancelled out by the virtue of regular plan reviews. The Council should confirm that this proposed change to the plan period start date has not wiped out any unmet needs arising between 2011 – 2014.

Housing Land Supply (HLS)

As set out in the NPPF the Council should be proactively supporting sustainable development to deliver a significant boost to the supply of housing to meet identified housing needs (paras 17 & 47). The Council should use its evidence base to ensure that its Local Plan meets OAHN in full as far as is consistent with the NPPF including identifying key sites critical to the delivery of the housing strategy over the plan period (para 47). As set out in the HWP the Council should be planning for the right homes in the right places by making enough land available to meet assessed housing requirements.

Under Policy SS2 – Spatial Strategy & the Distribution of Development the Council proposes that housing growth is distributed according to a defined four tiered settlement hierarchy. This settlement hierarchy as set out in Table 4.2 comprises :-

- Level 1 : 4 Towns of Dronfield, Clay Cross, Eckington and Killamarsh ;
- Level 2 : 11 named Settlements with good level of sustainability ;
- Level 3 : 26 named Settlements with limited level of sustainability ;
- Level 4 : 9 named Very Small Villages & Hamlets with very limited sustainability ;
- The remainder of the District is defined as countryside.

The proposed minimum housing requirement of 6,600 dwellings is distributed as set out in Table 4.3 whereby :-

- 54% of growth is distributed to the 4 Towns (2,024 dwellings) and 1,541 dwellings on 2 Strategic Sites at The Avenue in Wingerworth for 1,100 dwellings of which 700 dwellings are delivered in the plan period (**Policy SS3**) and Former Biwaters Site in Clay Cross for 1,000 dwellings of which 825 dwellings are delivered in the plan period (**Policy SS4**) ;
- 2,517 dwellings (38%) in the Level 2 Settlements ;
- 539 dwellings (8%) across the remainder of the District.

Policy LC1 – Housing Allocations proposes 37 (excluding 2 Strategic Sites) residential development sites ranging in size from 10 dwellings to 400 dwellings. There are no housing site allocations for Level 3 and 4 Settlements. The Council's policy approach to development for these settlements is set out in **Policy SS7 – Development within defined settlement boundaries** and **Policy SS8 – Development in small villages & hamlets**.

It has not be possible to accommodate all future development needs without Green Belt release. The Council has undertaken a comprehensive Green Belt review and is proposing to adjust Green Belt boundaries to accommodate circa 1,275 dwellings on 6 sites (DR1, DR2, DR3, EC1, KL1 and KL2). The Council's evidence is set out in Green Belt Topic Paper dated January 2018, the HBF is supportive of the Council's approach as set out in the Topic Paper but make no comment on specific sites selected.

Policy SS6 – Coalite Priority Regeneration Areas includes development proposals for this regeneration site which is not part of the District's housing requirement.

As set out in Table 4.1 the Council has calculated its overall HLS as 6,621 dwellings comprising of 975 completions, existing permissions on sites of less than 10 dwellings and site allocations (with / without consent). The HLS of 6,621 dwellings against a proposed minimum housing requirement of 6,600 dwellings provides no contingency or flexibility to cope with unforeseen circumstances. A plan led system should be planned including contingencies therefore the HLS over the plan period should not be planned to a minimum with no flexibility to rapidly respond to changing circumstances.

It is noted that a 5% lapse rate has been applied to sites of less than 10 dwellings but this lapse rate has not been applied to sites larger than 10 dwellings. The Council has provided no explanation for this anomaly. If a 5% lapse rate is applied to larger sites there would be reduction to the Council's HLS below the minimum housing requirement.

The Council contends that a windfall allowance of 900 dwellings based on 76 dwellings per annum from 2022/23 onwards provides a flexibility contingency of circa 13% to its overall HLS. However such an approach is reliant upon an unplanned rather than planned HLS.

As large a contingency as possible is recommended given that the housing requirement is a minimum not a maximum figure therefore the HBF suggests a circa 20% contingency in order to respond rapidly to changing circumstances. Indeed the Department of Communities & Local Government (DCLG) presentation slide from the HBF Planning Conference in September 2015 illustrated a 10 – 20% non-implementation gap together with a 15 – 20% lapse rate. The slide emphasised *"the need to plan for permissions on more units than the housing start / completions ambition"* (see below). The Council should demonstrate that its proposed limited contingency from windfalls is adequate.



In recent years there has been a 30-40% gap between permissions and housing starts

• Gap of around 30-40% between the number of permissions given for housing and starts on site within a year. Estimate that for a year's permissions for housing around:

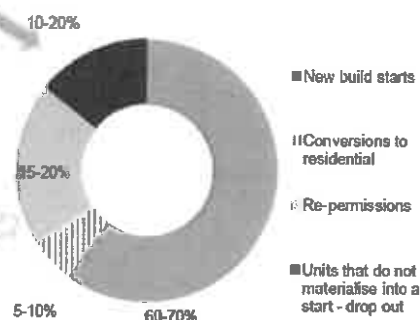
• 10-20% do not materialise into a start; the permission 'drops out': this could be because -

- the landowner cannot get the price for the site that they want
- a developer cannot secure finance or meet the terms of an option
- the development is later not considered to be financially worthwhile
- there are supply chain constraints hindering a start.

There may be scope to reduce this through policy.

• 15-20% are not abandoned but a re-permission is sought, for example to make a major change to plans or to extend the development period.

• Recent data and realities of private market suggests need to plan for permissions on more units than housing start/completion ambition.



Extract from slide presentation "DCLG Planning Update" by Ruth Stanier Director of Planning - HBF Planning Conference Sept 2015

The HBF suggests that the Council also considers providing greater flexibility by varying Policies SS7 and SS8 to include sustainable development which is adjacent to as well as within development boundaries. Furthermore the Council should re-consider whether or not the level of protection proposed in Policy SS11 – Local Settlement Gaps is justified.

It is noted that the Council is not proposing any reserve sites. The LPEG Report recommended that *"the NPPF makes clear that local plans should be required*

not only to demonstrate a five year land supply but also focus on ensuring a more effective supply of developable land for the medium to long term (over the whole plan period), plus make provision for, and provide a mechanism for the release of, developable Reserve Sites equivalent to 20% of their housing requirement, as far as is consistent with the policies set out in the NPPF” (para 11.4 of the LPEG Report). Under monitoring the Council proposes that if housing delivery is below projected targets for 3 consecutive years then the Local Plan will be reviewed however review is not the optimum mechanism by which to resolve unmet housing need because of the slow response time of such reviews. It is suggested that the Council re-considers the allocation of reserve sites to provide greater flexibility and a speedier response.

The HBF do not comment on the merits or otherwise of individual sites therefore our representation is submitted without prejudice to any comments made by other parties on the deliverability of specific sites included in the Council's overall HLS, 5 YHLS and housing trajectory. The Council's HLS assumes that all of the allocations will be found sound. However the soundness of individual allocations will be discussed throughout the course of the Local Plan Examination. If any are found to be unsound these will need to be deleted from the deliverable supply accordingly. Further alternative site allocations may be needed.

Likewise it is essential that the Council's assumptions on lead-in times, lapse rates and delivery rates for sites in the HLS as set out in Housing Trajectory in Appendix C are realistic in particular the assumptions associated with 2 Strategic Sites where multiple outlets are assumed. These assumptions should be supported by parties responsible for delivery of housing and sense checked by the Council using historical empirical data and local knowledge.

If it is determined that more site allocations are necessary then the Council's proposed approach of allocating a variety of housing site should be continued. The widest variety of sites by size, location and market type enables the house building industry to maximise housing delivery. This approach is also advocated in the HWP because a good mix of sites provides choice for consumers, allows places to grow in sustainable ways and creates opportunities to diversify the construction sector.

The 5 YHLS calculation is a snap shot in time which can change very quickly. Therefore the following comments address matters of principle rather than detailed site specific analysis. The HBF preferences for the calculation of 5 YHLS include 20% buffer applied to both annualised housing requirement and any shortfalls which should be recouped as quickly as possible using the Sedgefield approach (NPPG ID 3-035). If other parties are able to demonstrate that the Council's assumptions about its HLS are not robust the Council's 5 YHLS may reduce below 5 years on adoption. Without reasonable certainty that the Council has a 5 YHLS the Core Strategy Review cannot be sound as it would be neither effective nor consistent with national policy and on adoption its policies for the supply of housing would be instantly out of date on (NPPF para 49). The Council has provided a 5 YHLS calculation using 20% buffer and Sedgefield approach to a minimal shortfall of 15 dwellings. Currently the 5 YHLS is calculated as 5.55 years. It is understood that the Council may update

its 5 YHLS and housing trajectory in line with 2017/18 monitoring information. If so the HBF may wish to submit further comments in Written Hearing Statements or orally during Examination Hearing Sessions.

Other Housing Policies

If the Local Plan is to be compliant with national policy the Council must satisfy the requirements of the NPPF whereby development should not be subject to such a scale of obligations and policy burdens that viability is threatened (paras 173 & 174). **Policy LC2 – Affordable Housing** requires on sites of 10 or more dwellings at least 30% affordable housing provision in the West of the District and at least 20% affordable housing provision elsewhere. Any variation from these policy requirements will be subject to open book viability testing. The Council's up to date viability evidence is set out in Whole Plan Viability Assessment dated February 2018 by Bailey Venning Associates. The Council's viability evidence shows that policy compliant residential development is unviable across all parts of the District except in Value Area 4 (see Table 13.3 below).

	40% AH	30% AH	20% AH	10% AH
VA 1	×	×	×	×
VA 2	×	×	×	×
VA 3	×	×	=	✓
VA 4	×	✓	✓	✓

Table 13.3 Indicative Baseline of Results

Policy compliant residential development only becomes viable if BCIS build costs are reduced (see Table 13.5 below).

	40% AH	30% AH	20% AH	10% AH	0% AH
VA 1	×	×	×	×	×
VA 2	×	×	=	✓	✓
VA 3	×	✓	✓	✓	✓
VA 4	✓	✓	✓	✓	✓

Table 13.5 Results at lower quartile cost/long term trend

The residual land value model is highly sensitive to changes in its inputs whereby an adjustment or an error in any one assumption can have a significant impact on viability. Therefore it is important that the Council understands and tests the influence of all inputs on the residual land value as this determines whether or not land is released for development. This theoretical reduction in build costs is achieved by using the lower quartile rather than the median cost which is in addition to an applied discount for economies of scale and efficiency

on sites of more than 40 dwellings. At the same time there is no compensatory cost added back for the assumption that the higher build cost are replied upon to meet the policy requirements for design set out in Policy SDC12. The Council's viability evidence with or without the dubious proposal to nuance build costs does not support or justify the affordable housing provisions set out in Policy LC2 in particular the "at least" prefixes.

There is also a disconnect between the Value Area 4 where development is viable and the proposed Policy Boundary Map as large parts of the West of the District are outside of Value Area 4 (compare Figure 13.6 and Figure 1.5 below). It is understood that the vast majority of proposed housing in the District is outside the highest value areas. The Council should clarify the proportion of proposed residential development located in each value area of the District together with the proportion of sites with the benefit of planning permission and signed Section 106 Agreements in order to assess the extent to which delivery of the Local Plan is threatened by an unviable affordable housing policy.

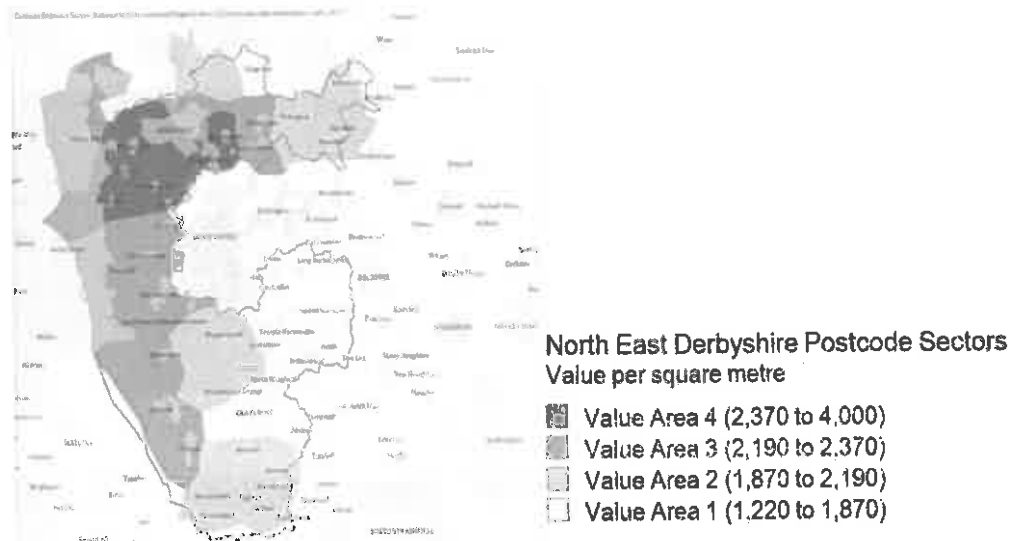


Fig 1.5: Map of North East Derbyshire District -- Including Value Areas



Figure 13.6 Policy Boundary map

The cumulative burden of policy requirements should not be set at a level which results in routine rather than occasional negotiations because development is unviable.

It is also suggested that the definition of affordable housing in the Glossary is updated to align with the Government's most recent proposals in the NPPF Draft Text and Draft Updates to NPPG consultations.

Policy LC4 – Type & Mix of Housing proposes that on sites of more than 10 dwellings 20% of all dwellings achieve the higher optional standard of M4(2) for accessible / adaptable homes. The Written Ministerial Statement dated 25th March 2015 stated that *“the optional new national technical standards should only be required through any new Local Plan policies if they address a clearly evidenced need, and where their impact on viability has been considered, in accordance with the NPPG”*. If the Council wishes to adopt the higher optional standards for accessible / adaptable homes the Council should only do so by applying the criteria set out in the NPPG. It is incumbent on the Council to provide a local assessment evidencing the specific case for North East Derbyshire which justifies the inclusion of optional higher standards for accessible / adaptable homes M4(2) in **Policy LC4**. The Council acknowledges that its ageing population is not unusual and is not a phenomenon specific to North East Derbyshire stating that *“in common with many other areas is experiencing an ageing population”* (para 2.13 of Local Plan). All new homes are built to Building Regulation Part M standards. If it had been the Government's intention that the generic statement provided by the Council justified adoption of M4(2) then the logical solution would have been to incorporate the standard as mandatory via the Building Regulations which the Government has not done. Therefore it is incumbent on the Council to provide a local assessment evidencing the specific case for North East Derbyshire to justify the inclusion of M4(2) optional higher standards for accessible / adaptable homes in its Policy and the quantum thereof. M4(2) should only be introduced on a “need to have” rather than “nice to have” basis. Furthermore an unintended consequence of such a policy requirement may be to exacerbate under-occupation and discourage older households from moving. This policy requirement should be deleted from the **Policy LC4**.

Policy SDC12 – High Quality Design & Place Making proposes development achieves the *“highest”* quality design which is subjective and provides no guidance to the developer or decision maker. It is suggested that *“highest”* is reworded to *“high”* as a minor modification to **Policy SDC12**.

Under **Policy SDC12 Bullet Point (j)** the Council's requirements are unclear. The HBF is not aware of the Council seeking to impose optional higher standards above the mandatory standards for energy and water efficiency as set out in the Building Regulations. Therefore the Bullet Point is superfluous, unnecessary and confusing which should be deleted.

Under **Policy SDC12 Bullet Point (3)** the Council is reminded that the NPPF is explicit that a Supplementary Planning Document (SPD) should not add to the financial burden of development (para 154). The Council should not be seeking to impose any higher standards in an SPD which have not been subject to

viability testing. The Regulations are equally explicit in limiting the remit of an SPD so that policies dealing with development management cannot be hidden in an SPD.

As currently worded **Policy ID1 Infrastructure Delivery & Developer Contributions** goes beyond the requirement for developer contributions where new development necessitates new or improved infrastructure or where mitigation is required to make a development acceptable in planning terms. It is suggested that **Bullet Points (1a & 1b)** are deleted from **Policy ID1**.

Conclusions

For the North East Derbyshire Local Plan to be found sound under the tests of soundness defined by the NPPF the Local Plan should be positively prepared, justified, effective and compliant with national policy (para 182). At present the pre submission Local Plan is unsound because of :-

- under the Duty to Co-operate to date no SoCG prepared and no resolution concerning unmet housing needs arising from Sheffield ;
- a potential under estimation of OAHN due to a proposed change in plan period start date ;
- the lack of flexibility in the HLS ;
- an unviable affordable housing policy ;
- no justification for adoption of the higher optional M4(2) housing standard ;
- lack of clarity impeding the effectiveness of Policies SDC12 and ID1.

It is hoped that these comments are helpful to the Council in informing the next stages of the North East Derbyshire Local Plan. In the meantime if any further assistance or information is required please contact the undersigned.

Yours faithfully
for and on behalf of HBF



Susan E Green MRTPI
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