

North East Derbyshire District Council: Local Plan Consultation Response
Lee Rowley MP
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North East Derbyshire District Council (NEDDC) has invited comments on the latest draft of their local plan. As the Member of Parliament covering the majority of the District, I have received hundreds of representations from local residents concerned about aspects of this plan and, over multiple meetings in both 2017 and 2018, have heard of their concerns, particularly with regards to the proposed house building. Having reviewed the document, I am unconvinced that it, or the underlying assumptions upon which it is constructed, are sound and justified.

I believe that the plan fails the following soundness tests:

- **Positively prepared:** this plan has neither demonstrated that it is meeting objectively assessed need nor is consistent with achieving sustainable development;
- **Justified:** the plan does not adopt the most appropriate strategy in regards to house building after consideration of the alternatives, nor is it;
- **Consistent with national policy:** the plan proposes release of greenbelt land despite there not being exceptional circumstances¹ proven in the District.

To illustrate the above soundness issues, the Planning Inspectorate may wish to review the following parts of the plan:

- The calculations used to determine house-building requirements which are both excessive in their starting point and arguably calculate their composition incorrectly;
- The evaluation of sustainability which appears to simply assume the largest settlements are the most sustainable without having properly evaluated the evidence;
- The justification for the removal of greenbelt land which appears unproven and certainly not exceptional;
- The duty to cooperate which appears to not have been comprehensively demonstrated, and;
- The process followed by the Council on this document which in my view, and the view of many residents, has been flawed and has failed to follow their own guidance.

¹ National Planning Policy Framework, para. 83

House building calculations

The calculations made to assess the requirement for house building, and the assessment about how that requirement will be met, appear incorrect, inconsistent and, in places, omit crucial information:

- **In terms of demand:**
 - The requirement to build 6,600 houses is excessive;
 - The assumptions which are used to justify that 6,600 number are flawed or unproven;
- **In terms of supply:**
 - The accommodation made for both completed dwellings and plots with existing planning permissions appear to omit information;
 - There is insufficient accommodation of windfall sites within the calculations, and;
 - Plots available on brownfield sites have been inappropriately disregarded.

Need to build 6,600 houses is excessive

Multiple different calculations of housing need have been made for North East Derbyshire in recent years:

- 199 houses per annum (ONS 2014 sub-national population projections)
- 200 houses per annum (ONS 2014 sub-national population projections including ONS 2015 Mid Year Population Estimates)
- 216 houses per annum (ONS 2014 sub-national population projections with additional adjustment for headship return to trend rates)
- 217 houses per annum (ONS 2014 sub-national population projections including ONS 2015 Mid Year Population Estimates with additional adjustment for headship return to trend rates)
- 225 houses per annum (ONS 2014 sub-national population projections with additional modelling around 10-year migration trends)
- 236 houses per annum (ONS 2014 sub-national population projections with additional modelling around 10-year migration trends and an adjustment for unattributable population change)
- 243 houses per annum (ONS 2014 sub-national population projections with additional modelling around 10-year migration trends and adjustment for headship return to trend rates)
- 254 houses per annum (ONS 2014 sub-national population projections with additional modelling around 10-year migration trends and adjustments for unattributable population change and headship return to trend rates)
- 276 houses per annum (Government's proposed standardised OAN methodology)²
- 332 houses per annum (Growth job-led scenario)³

Faced with these ten different models, North East Derbyshire District Council has chosen to base their objectively assessed housing needs on the highest number available (330 houses per annum – a rounding down of the 332 houses per annum proposed by the growth job-led scenario). This scenario is a full 20% higher than the next estimate and 66% higher than the smallest. Given that a scenario has been used which is so far out of the mainstream of estimates, it should be expected

³ North Derbyshire and Bassetlaw SHMA – OAN Update, G L Hearn, October 2017

that NEDDC has provided a full and comprehensive justification for doing so. That justification is insufficient. According to NEDDC, the use of this growth job-led scenario is based upon the need to “reflect a realistic and reasonable future economic growth”, “to provide support and not constraint for economic growth” and to support the “delivery of more affordable housing⁴”:

- **Economic Growth:** many of the above scenarios account for economic growth, including growth which would support net increases in employment of up to 1,900 jobs⁵. The growth job-led scenario adopted instead proposes not just growth but an extreme and excessive amount of growth that is unlikely to be realised – and which, by the SHMA’s own admission requires the construction of 33% more houses than would be required by demographic need⁶. More fundamentally, the SHMA itself confirms that “a level of policy intervention and support⁷” would be required to support growth rates of this magnitude; yet, there is little detail on these proposed policies interventions that NEDDC will undertake to ensure this kind of growth would be realistic.
- **Provide support:** Further, the growth job-led scenario proposes to “provide support and not constraint” for economic growth but, in doing so, significantly overshoots the number of properties that will be required. North East Derbyshire District Council has managed job growth of approximately 0.5% per year since 2004 without the level of house building now proposed. Similarly, the population growth in the local authority area does not correlate exactly to economic growth rates, with just a 2% hike between 2004-2014.⁹ NEDDC itself states that “due also to the existing significantly low job densities, an increased growth in jobs would not directly lead to the need to increase planned housing provision”.¹⁰ The SHMA also confirms that, despite recent higher economic growth in the District, long-term growth in house prices in North East Derbyshire (which is the best ultimate proxy for actual demand) have been “modest” and that there are “very limited comparative pressures from market signals” in the SHMA area¹¹.

In addition, North East Derbyshire has significantly higher proportion of over 65s compared to both the East Midlands as a whole and the United Kingdom in total (approximately 24% of the District’s population compared to 18% of the region and 19% of the country)¹². As a result, it is highly likely that as current populations leave the District and new households are formed over the coming twenty years, that there is significant potential to accommodate population and workforce growth without a large increase in dwelling numbers.

- **To support new social housing:** Finally, NEDDC have also justified the adoption of the growth job-led scenario to support the construction of new social housing. The assumptions behind this have not been released in sufficient detail to enable meaningful comment.

Based upon the above, NEDDC have not adequately explained or justified their choice of scenario to require the construction of 6,600 homes in the District by 2034. This is arguably similar to the

⁴ North East Derbyshire District Council, Draft Local Plan (2014 – 2034), February 2018, 34.

⁵ SHMA-OAN Update (2017), para. 9.8

⁶ SHMA-OAN Update (2017), para. 9.11

⁷ SHMA-OAN Update (2017), para. 3.33

⁹ ONS, Nomis, North East Derbyshire, Total Population Time Series

¹⁰ NEDDC Local Plan Publication Draft (2018), para. 4.23

¹¹ SHMA-OAN Update (2017), para. 1.96

¹² Office of National Statistics

attempt by Burnley Borough Council to utilise a figure at the top of the range projected for them and which was reduced by the Planning Inspectorate in November 2018¹³.

Given the failure to adequately justify, and given the failure to adopt one of the more mainstream figures offered in the OAN, NEDDC should be required to reduce the target figure for house building in the District. There is no necessity, nor clear requirement to adopt, a demand scenario which is of such a degree larger than many other assessments made by the Council's own consultants – particularly given that the Council are having to exceptionally release greenbelt as a consequence.

The assumptions which are used to justify that 6,600 number are flawed

Along with being at the top of the range of demand assessments for North East Derbyshire, the 6,600 number has a number of flaws in its calculation. These are:

- the economic projections used as a basis for calculating housing need were influenced by information not made public by NEDDC;
- the growth scenario is dependent on policy intervention that is not mapped out in the Plan or supporting documents;
- NEDDC ignores reputable economic projections whilst simultaneously warning against altering them;
- inconsistent and out-of-date information is used to calculate growth projections;
- there is a lack of evidence to suggest that the District can provide the necessary infrastructure to support projected economic growth;
- NEDDC admits that an increased growth in jobs would not necessarily lead to the need to increase housing, and;
- there is no evidence to suggest that market demand for housing in North East Derbyshire would justify the need to build as many as 6,600 houses up to 2034.

Firstly, the jobs growth projections were based on “*discussions with NEDDC officers*”, as per the *Considering North East's Derbyshire's OAN 2018* report,¹⁴ *Lichfields' Economic Growth Analysis 2018*,¹⁵ and the *Employment Land Review 2017*.¹⁶ No minutes or supplementary information about these meetings have been made public on the NEDDC website regarding these discussions. Without transparent information about the content of these discussions, it is impossible to assess how the growth projections were calculated. At least one interpretation of the 2017 SHMA-OAN Update is suggestive that the influence of officers' opinion, rather factual evidence, may have contributed to this growth assessment.¹⁷

Housing need must be objectively assessed. Projection-based estimates must be “*clearly explained and justified on the basis of established sources of robust evidence*”.¹⁸ Without public information regarding the discussions and further clarity on the methodology, it is impossible to judge whether the housing need has been objectively assessed and whether the Plan is positively prepared. Established sources of robust evidence have not been clearly explained or proven.

¹³ Burnley Local Plan Examination Matters and Issues identified by the Inspector, September 2017

¹⁴ *Considering North East's Derbyshire's OAN*, para. 2.4

¹⁵ *Economic Growth Analysis (2018)*, para. 1.8

¹⁶ *Employment Land Review (2017)*, para 2.14

¹⁷ *Considering North East's Derbyshire's OAN*, para. 2.5

¹⁸ *Planning Practice Guidance, Housing and economic development needs assessments*, para. 017

Secondly, and as outlined in the previous section, the growth scenario would be dependent upon policy interventions undertaken by NEDDC to have any chance to realise it. NEDDC have not published further details of what the policy intervention and support would be. The projections are reliant upon further conditions not explained within the Local Plan, and, therefore, can not be reasonably said to be achievable and, therefore, desirable.

Furthermore, GL Hearn's comments within the Economic Growth Analysis 2018 confirm that upon consideration of adopting a regeneration/growth scenario "*the Council test the potential to support the higher growth or regeneration scenario figure in bringing together the evidence through the plan-making process*".¹⁹ However, there does not appear to have been a test of the potential to support the regeneration scenario in North East Derbyshire within the plan-making process. If this is the case then this is a serious omission in the evidence base to support the adoption of this scenario.

Thirdly, NEDDC ignores other tested and reputable methods of calculating housing need in favour of their own regeneration scenario. By using the regeneration scenario to bolster their housing need numbers, NEDDC are actively contradicting the Government's objectively assessed housing need target of 276 dwellings per year – and doing so with a variance of nearly 20%.

NEDDC chooses to reject the jobs growth projections of Oxford Economics and Experian, and even an average of all forecasts in place of the regeneration/growth scenario. Yet, the local authority admit that Oxford Economics and Experian are highly reputable forecasting houses. Furthermore, they explicitly note that "*there are inherent dangers in manually amending these projections*".²⁰

Fourthly, the data used by GL Hearn and Lichfield with NEDDC to calculate the regeneration scenario's growth projections are often inconsistent and out of date.

- the commuting patterns data is from the 2011 census – almost eight years old;²¹
- the second job data for NED from 2004-2015 is missing patches of dates (2012-2014, 2014-2015) and is, therefore, unreliable;²²
- Unemployment data starts from 2004; something which is inconsistent with the employment data, which starts from 1993 (paragraph 3.14), and;²³
- The unemployment data doesn't differentiate between retired and other forms of unemployment.²⁴ This is significant in a District with a larger than average population of over 65s.²⁵

The dates of the evidence base aren't comparable, specific enough or consistent enough to provide robust evidence to suggest that the jobs growth projection and housing need is accurate.

Furthermore, the methods used by NEDDC to calculate affordable housing need also contain out-of-date data. For example, the current supply of affordable housing is based on data from 2013-16.²⁶ Local authorities, however, are required as part of the Localism Act 2011 to monitor housing supply

¹⁹ Economic Growth Analysis (2018), para. 2.61

²⁰ Economic Growth Analysis (2018), para. 3.33

²¹ Considering North East's Derbyshire's OAN, para. 2.4

²² SHMA-OAN Update (2017), para. 3.39

²³ SHMA-OAN Update (2017), paras. 3.41, 3.14

²⁴ SHMA-OAN Update (2017), para. 3.43

²⁵ Economic Growth Analysis (2018), para. 2.16

²⁶ SHMA-OAN Update (2017), Table 47

and create an annual report²⁷. NEDDC has published their 2017 authority monitoring report, so more up-to-date data was available.²⁸ Paragraph 158 of the NPPF places significance upon up-to-date evidence when preparing a Local Plan. NEDDC has arguably not demonstrated this requirement.

Fifth, NEDDC has not demonstrated that the district has the necessary infrastructure to support the further economic jobs growth they predict in their regeneration scenario. The regeneration scenario predicts around 3,000 jobs would be created in North East Derbyshire in the Plan period. However, in the Employment Land Review Update 2017, Lichfields' report shows limitations to further infrastructure that would be required for the creation of new jobs.²⁹

There are issues with some of the allocated protected employment sites within the Local Plan. For example, Callywhite Lane in Dronfield, which NEDDC admit that there are *"issues over access in particular need to be resolved"*, concerning the narrow roads and mini-roundabout leading to the lane.³⁰ The local authority progress on this site has been slow over recent years due to this and planning permission to expand the estate expired. Furthermore, according to the Infrastructure and Delivery Plan (2017), delivery of improvements to the existing Callywhite Lane junction (T10) and new link road (T11) are deemed essential for delivery of the Callywhite Lane allocation, but the delivery mechanism and costs are unknown and the timescale for delivery is long term (10-15 years).³¹ There is no guarantee, therefore, that key employment sites like Callywhite Lane will expand and create a significant jobs growth as set out in the regeneration scenario.

In general, there also appears to be little assessment of the infrastructure capacity that has informed the preparation of the Plan. In fact, the Infrastructure and Delivery Plan (December 2017) was published after the Settlement Hierarchy was established earlier in the preparation of the plan so does not inform it. Within the IDP, there is not enough consideration given to the current capacity of key areas in north of the District or the potential impact of growth in these areas. For example, no assessment of Dronfield rail station capacity or commuter projections have been conducted. Despite this, the Sustainability Appraisal lists the station as one of advantages of nearby development: *"Prospective residents are anticipated to be able to reach the station quite conveniently via bus."*³² No further consideration has been given to how the prospective residents would travel to the station (no plan is set out for increasing car parking capacity at the station or assessment of bus timetables).

Likewise, no assessment has been made of the road capacity in Killamarsh, which is suffering from growing congestion problems on Sheffield Road. There is no evidence of cooperation with Derbyshire County Council to address this issue, despite the proposed increase of 471 dwelling allocations in Killamarsh up to 2034.

Sixth, NEDDC themselves in the Local Plan state that *"due also to the existing significantly low job densities, an increased growth in jobs would not directly lead to the need to increase planned housing provision"*.³³ This admission adds further doubt to the methodology behind the regeneration scenario.

²⁷ Localism Act 2011, Section 113

²⁸ NEDDC, Authority Monitoring Report 2017

²⁹ Employment Land Review Update (2017), para. 4.7

³⁰ NEDDC Local Plan Publication Draft (2018), para. 6.28

³¹ Infrastructure and Delivery Plan (2017), Table 11

³² NEDDC Sustainability Appraisal (2018), para. 1.9.1

³³ NEDDC Local Plan Publication Draft (2018), para. 4.23

Finally, as outlined in the previous section, there is no evidence to suggest that demand for housing in North East Derbyshire would justify the need to build 6,600 houses. NEDDC demonstrate in the 2017 SHMA-OAN Update³⁴ that house price inflation in North East Derbyshire is below neighbouring authorities, such as Bassetlaw, Bolsover and Chesterfield, and far below regional and national figure. Furthermore, NEDDC show that house prices in the Houses Market Assessment areas are 36% below the national average and 16% below the East Midlands average.³⁵

Taken altogether, these apparent issues with the calculation of the 6,600 number cast significant doubt on its accuracy and, therefore, the ability to rely upon it as part of a local plan process. When coupled with the fact that North East Derbyshire District Council is seeking, through this plan, to justify exceptional circumstances to support the release of the greenbelt, it can be concluded that the evidence base is too flawed, or at least unexplained, to demonstrate soundness at this stage.

The accommodation made for both completed dwellings and plots with existing planning permissions appear incorrect

In calculating how the 6,600 number will be covered, North East Derbyshire appear to have failed to take into account a number of critical points:

- Their assessment of houses built since 2014 fails to take into account dwellings completed for 12 full months;
- The figures used regarding planning permissions appear to be missing a number of such permissions, and;
- The Council appears to have used a provision which appears excessive when calculating the number of planning permissions which will lapse and not eventually convert to actual builds.

Assessment of houses built since 2014

NEDDC has calculated that 975 properties have been constructed since 2014³⁶. This number, however, covers only properties constructed between 2014 and 31 March 2017 – meaning almost a full year has passed between the date of the calculation and the opening of the consultation on this plan. Given that NEDDC is attempting to justify exceptional circumstances to build on the greenbelt, it is inappropriate that the latest figures for housebuilding have not been included in this plan and could end in the construction of more houses than required and the loss of greenbelt unnecessarily.

Furthermore, it is worth noting that NEDDC contacted established whether a major site was deliverable by contacting all landowners and/or developers. Sites where contact could not be established were marked as undeliverable.³⁷ This is a further assumption.

Planning permissions appear to be missing

In the Housing Topic Paper (2018), NEDDC demonstrates that planning permission for dwellings on major sites in level 1 and 2 settlements are included as part of the housing supply up to 17 January 2018.³⁸ NEDDC is not consistent with the dates used to measure dwellings with planning permission in the housing supply, however. Dwellings with planning permission on minor sites and developable

³⁴ SHMA-OAN Update (2017), para. 4.7

³⁵ SHMA-OAN Update (2017), para. 9.15

³⁶ NEDDC Local Plan Publication Draft (2018), para. 4.12

³⁷ NEDDC Housing Topic Paper, January 2018, Appendix 7: Five Year Housing Land Supply Statement, after Local Plan, para. 7 Adoption

³⁸ NEDDC Housing Topic Paper, January 2018, para. 4.7

major sites in settlements 3 and 4 were included only up to 31/03/2017. Therefore, all dwellings on these sites that gained planning permission between 31 March 2017 and 17 January 2018 have been excluded from the housing supply.

To be consistent with their measurement periods, NEDDC should include all relevant sites up to 17 January 2018 in their housing supply (or ideally a date even closer to today). Not doing so would risk the soundness of the preparation of the Local Plan, as per para. 158 of the NPPF, which places significance upon up-to-date evidence when preparing a Plan.³⁹ NEDDC has only released a list of sites with planning permission between 31 March 2017 and 17 January 2018 upon request and within 48 hours of this consultation deadline. The list shows 113 new dwellings with planning permissions in Settlements 3 and 4, which aren't part of the housing land supply within the publication draft Local Plan.⁴⁰ These dwellings should be included within the Plan. Without, NEDDC cannot demonstrate a positively prepared plan and there is no evidence to suggest all alternatives to altering the greenbelt were exhausted.

Excessive provision apparently used to reduce the number of permission which are likely to convert to newbuilds

The windfall predictions included within the housing supply assume that a) no further sites will become available, b) gain planning permission and c) complete, before 2021/2022. This assumption with no factual evidence to support. The predictions of annual windfall dwellings up to 2021/2022 appear to rely only on sites with current planning permission that have not yet completed, spread over five years. As previously mentioned, the calculations also disregard any windfall sites that have gained planning permission since 31st March 2017.⁴¹ In reality, there are likely to be windfall applications approved and completed between March 2017 and March 2022 and, as a result, an assumption about this number should be included in the calculations prior to the release of greenbelt.

In addition, NEDDC wrongly disregard any potential windfall sites after 2021/22. Although windfall dwellings are not part of planned allocations, they do provide legitimate dwellings and should be considered as part of future housing projections in line with the rest of the Plan until 2034.

NEDDC has also selected an "average" 5% lapse rate "based on past trends" to apply to minor sites with planning permission.⁴² Paragraph 8 of the Five Year Housing Land Supply Statement (2017), however, demonstrates that "*The expiry rates on all permissions (major and minor) has been well below 5% since 2014.*" The Housing Topic Paper also reinforces this, showing a 2.13% average lapse rate since 2012/13. The lapse rate, therefore, is inflated by over half the actual average.⁴³

The lack of lapse information for year 2014/15 also brings the whole calculation into doubt. Quite conceivably, the lapse rate for 2014/15 may bring the average down even further. The Local Government Association guidance suggests that lapse rates should be "*based not on a standard approach but on historic data which sets out the number of permissions compared with completions on similar sized sites.*"⁴⁴

³⁹ National Planning Policy Framework (2012), para. 158

⁴⁰ NEDDC, JOINT – Residential Commitment by Settlements, 01/04/2017 – 17/01/2018

⁴¹ NEDDC Housing Topic Paper, January 2018, paras. 6.10, 6.11 and 6.12

⁴² NEDDC Housing Topic Paper, January 2018, para. 4.2

⁴³ NEDDC Housing Topic Paper, January 2018, para. 2.13

⁴⁴ Local Government Association, *Five Year Land Supply FAQ*, <https://www.local.gov.uk/pas/pas-topics/local-plans/five-year-land-supply-faq>

Given all of the above apparent issues, NEDDC do not appear able to demonstrate all alternatives for supply have been exhausted prior to proposing the release of the greenbelt. NEDDC should be required to re-assess all of these elements of their supply calculations.

Plots available on brownfield sites have been erroneously disregarded.

There are some strategic brownfield sites in the publication draft Local Plan with planning permission that have not been included in the housing supply by NEDDC:

- the Coalite strategic site has outline planning permission for 660 dwellings. However, because a small part of the site falls in the proposed safeguarded HS2 route, NEDDC has removed all 660 dwellings from the housing supply⁴⁵. This would seem excessive given that HS2 have only safeguarded a small element of the site and it would be reasonable to assume at least some housebuilding could be undertaken on this site
- Only 700 of the potential 1,100 plots on The Avenue strategic site are being brought forward before 2034, and;
- Only 825 of the potential 1,000 plots on the Biwater strategic site are being brought forward before 2034.

In particular, the strategies for bringing forward plots on The Avenue and Biwater appear confused. NEDDC appear to only be assuming around two-thirds of the plots at The Avenue can be utilised before 2034 whilst nearly 85% of those in Biwater may be possible – that is despite The Avenue being closer strategically to Chesterfield which suggests easier ability to market to potential purchasers.

County Durham's Local Plan was initially judged as unsound by the planning inspector in 2014. One of the reasons quoted was the proposal to build on the greenbelt was unnecessary and that supply was not being accounted for elsewhere. The Inspector's report states: *"given the plan is reliant on demonstrating exceptional circumstances for the release of Green Belt sites, in this particular situation I consider it is of paramount importance that sources of supply are fully accounted for."*⁴⁶

Taking NEDDC's strategy as a whole there is little evidence that there has been genuine thought given to how to maximise the use of brownfield land up to 2034, particularly with the ringfencing of more than 1,200 plots for beyond that period. Little explanation is given within the documents as to why these sites cannot be relied upon to deliver larger number of houses (supported by the appropriate infrastructure) and, without that justification, the plan does not appear to adhere to the core principles within the National Planning Policy Framework that the use of brownfield land is being truly encouraged. Without clearer justification, the exceptional requirement to release the greenbelt cannot be demonstrated.

Other considerations

Only 225 of the 550 dwellings that have planning permission on land west of the Chesterfield Road, Holmewood site are included in the housing supply. Despite this, no justification for excluding the other 325 dwellings has been shown. The Housing Topic Paper explains the reason for querying the site development but no explanation as to why only 225 dwellings were calculated as deliverable.⁴⁷

⁴⁵ NEDDC Housing Topic Paper, January 2018, para. 4.3

⁴⁶ Examination of the County Durham Plan (2014), para. 49

⁴⁷ NEDDC Housing Topic Paper, January 2018, para. 4.4

Sustainability

The primary towns and villages of Clay Cross, Dronfield, Eckington and Killamarsh contain 48% of the population of North East Derbyshire and 50% of the current housing supply. These settlements are also where the majority of the allocated housing sites are proposed. Within the publication draft Local Plan, NEDDC state: *“These towns are considered to be the most sustainable locations for new development in terms of the range of services and facilities they provide and support and because they generate the greatest needs for new housing, jobs, services and facilities.”*⁴⁸

The largest settlements in North East Derbyshire are assumed to be the most sustainable because of their size and the infrastructure that sustains current populations. However, there is no evidence to support the core assertion that settlement size must equate with settlement sustainability. In fact, the local authority has ignored key evidence that suggest the four keys settlement towns may not have the infrastructure in place to support sustainable growth: *“There is considered to be limited capacity at various waste water treatment works, including those which serve Grassmoor, Calow, Wingerworth, Clay Cross, Tupton, North Wingfield, Renishaw, Eckington and Killamarsh. There is no additional capacity at the waste water treatment works which serve Dronfield, Holmewood and Temple Normanton.”*⁴⁹

Bolsover’s 2014 draft Local Plan was heavily critiqued by the Planning Inspectorate for a similar issue, which did not outline reasons why other reasonable alternatives were not chosen. Noticeably, the Coalite site (which also features within NEDDC’s Local Plan) was specifically mentioned as an alternative site to be considered (and similarly to Bolsover, NEDDC has not included the full potential of the site within the publication draft Plan).⁵⁰

Moreover, it is a legal requirement to set out the reasons for not selecting alternative sites and has been stated in many court cases such as *Heard v Broadland District Council & Ors* [2012] EWHC 344 (Admin). The Sustainability Appraisal process has to provide *“an outline of the reasons for selecting the alternatives”*.⁵¹

It may indeed be that level 1 and 2 settlements are the most sustainable in the District. NEDDC has not, however, comprehensively proved sustainability in the proposals. Given the omission of this key justification, the plan cannot be considered sound at this juncture.

⁴⁸ NEDDC Local Plan Publication Draft (2018), para. 4.29

⁴⁹ Sustainability Appraisal of the North East Derbyshire Local Plan 2014 – 2034 (2018), para. 10.1.12

⁵⁰ Bolsover District Council Local Plan Strategy – Proposed Withdrawal (2014), para. 1.12

⁵¹ Environmental Assessment Regulations (2004), Regulation 12 and paragraph 8 of Schedule 2

Greenbelt

NEDDC's publication draft Local Plan proposes to remove land from the green belt in order to designate sites for 1,275 new dwellings. Despite this, NEDDC's own plan says that one of its objectives is "to protect the general area of the Green Belt and the purposes of including land within it taking account of the need to promote sustainable patterns of development across the District".⁵²

Paragraph 83 of the NPPF also makes it clear that "Green Belt boundaries should only be altered in exceptional circumstances". As demonstrated by *Gallagher v Solihull BC (2014)*, the preparation of a local plan is not, in itself, an exceptional circumstance for altering boundaries⁵³. Instead, exceptional circumstances include:

- Effective use of suitable brownfield and estate regeneration;
- The potential offered by under-used land;
- Optimising the density of development;
- Exploring whether other authorities can help meet some of the development required⁵⁴.

This current draft of the local plan is deficient in regards to justifying exceptional circumstances on the basis of the following:

- the evidence base for greenbelt alteration was absent for the majority of the consultation period when it should, in fact, inform the plan preparation process;
- NEDDC assess their exceptional circumstances using alternative tests, instead of Government policies and guidance such as ministerial statements, the NPPF and PPG, and;
- alternatives to altering the greenbelt have not been fully explored.

Firstly, justification for the removal of land from the green belt in NEDDC's Local Plan is located within the Green Belt Topic Paper (January 2018). This paper, however, was only released for the public almost five weeks after the Local Plan publication draft was released by NEDDC.

The Inspector's consideration of the County Durham Plan (2014), explains that it was unjustifiable for the planning authority to propose green belt development because the decision to do so was made before evidence of exceptional circumstances was produced.⁵⁵

The same judgment should be applied to NEDDC, who only released their justification for removing land from the green belt after the publication draft of the Local Plan was released. The evidence base should inform the preparation of the Local Plan, so the delayed release of the Green Belt Topic Paper demonstrates that the Plan has not been positively prepared and contravenes paragraph 182 of the NPPF. Furthermore, suggestions that the 2017 North Derbyshire Greenbelt Review provides the sole evidence to support exceptional circumstances to release green belt land appear questionable. The review is clear that proposals to amend the green belt would need further evidence in conjunction with the Green Belt Review.⁵⁶

⁵² NEDDC Local Plan Publication Draft (2018), pg. 23

⁵³ *Gallagher Homes Ltd v Solihull Borough Council* [2014] EWHC 1283 (Admin), Hickinbottom J

⁵⁴ <http://www.parliament.uk/written-questions-answers-statements/written-question/commons/2017-10-11/107174>

⁵⁵ Examination of the County Durham Plan (2014), para. 78

⁵⁶ North East Derbyshire Green Belt Review, Part 2, Para. 5.2

Secondly, even after its late publication, the contents of NEDDC's now-published Green Belt Topic Paper are also subject to query. In order to justify their proposals to remove land from the green belt, the local authority have decided to test their proposals against caselaw; *Calverton Parish Council v Greater Nottingham Councils* [2015] EWHC 10784.⁵⁷ This test, however, is not approved by Planning Practice Guidance or the NPPF, and therefore, NEDDC has decided to pick and choose their own examiner to justify proposals for green belt development.

Further, the Government's list of alternatives to green belt development before an exception can be made include suitable brownfield regeneration⁵⁸. As already demonstrated in a previous section of this objection, NEDDC has not fully explored the use of brownfield and strategic sites elsewhere in the District, which contravenes the 2017 statement from the then Department for Communities and Local Government. There is also little evidence the Council have considered under-used land, densification or estate regeneration.

Taken together, the local authority cannot demonstrate that exceptional circumstances are justified and the plan cannot be considered sound.

⁵⁷ NEDDC Green Belt Topic Paper (2018), para. 4.5

⁵⁸ <http://www.parliament.uk/written-questions-answers-statements/written-question/commons/2017-10-11/107174>

Duty to cooperate

The NPPF places great importance upon local planning authorities working with neighbouring authorities to identify developable sites across local boundaries.⁵⁹ However, NEDDC has not comprehensively demonstrated a duty to cooperate with necessary cross-boundary authorities:

- the evidence base for the Duty to Cooperate was absent for the majority of the consultation period when it should, in fact, inform the plan preparation process, and;
- the Duty to Cooperate Draft Statement of Compliance does not provide enough evidence to demonstrate evidence of cooperation with other local authorities and third parties.

NEDDC, as with the Green Belt Topic Paper, released their Duty to Cooperate Draft Statement of Compliance almost five weeks after the publication draft of the Local Plan was released. The Statement does not effectively demonstrate that the local authority had made enough effort to prepare their Local Plan with neighbouring authorities. The Planning Practice Guidance clarifies that a Duty to Cooperate should be demonstrated to provide evidence for various parts of the Plan, including (but not limited to) the assumptions of job migration.⁶⁰ Despite this, the Duty to Cooperate does not include any reference to migration figures at all.

Furthermore, no discussion with Bassetlaw has occurred regarding the availability of alternative land within their authority area, in order to minimise the need to develop on the green belt.⁶¹ NEDDC should have made greater efforts to cooperate with Bassetlaw. Therefore, proposals to remove land from the green belt is unjustifiable, contravening paragraph 182 of the NPPF. Runnymede's 2014 Local Plan was criticised by the Planning Inspectorate for not making earlier efforts to work with neighbouring authorities.⁶² NEDDC should work further with cross-boundary authorities before submitting their publication draft Local Plan

In addition, the Duty to Cooperate also highlights that Bolsover indicated it had some land "*outside of the Green Belt that could be available to help meet identified housing need*". This land has been dismissed in part, however, on the basis that "*it is not well related to North East Derbyshire*"⁶³. Given, however, that it is recognised that a large number of North East Derbyshire residents already commute outside of the District for employment purposes, there is no absolute need for the locations to be "*well-related*". If Bolsover is offering land that would reduce or eliminate the need for greenbelt to be used, then it is incumbent upon both Councils to take that option forward to prevent the release of greenbelt unnecessarily.

Further, limited information was given regarding the level of interaction between NEDDC and neighbouring authorities or external parties in the Duty to Cooperate. For example, details of cooperation with Yorkshire Water and Severn Trent Water are brief.⁶⁴ With recent capacity issues in the Wingerworth sewage system, it is important that NEDDC supply evidence that the sewage infrastructure plans for 6,600 dwellings are in place for the District.

⁵⁹ NPPF, paras. 156, 178-182

⁶⁰ Planning Practice Guidance, *Housing and economic development needs assessments*, para. 018

⁶¹ NEDDC Green Belt Topic Paper (2018), para. 4.55

⁶² <https://www.local.gov.uk/sites/default/files/documents/runnymede-planning-inspec-4e3.pdf>

⁶³ NEDDC, Duty to Cooperate Statement of Compliance, para 41

⁶⁴ NEDDC, Duty to Cooperate Statement of Compliance, para. 126

There are numerous case examples to demonstrate that local authorities must uphold their Duty to Cooperate or risk the Plan being judged as unsound. Bolsover's 2015 Local Plan (a neighbouring district to NEDDC) was rejected by the Planning Inspectorate for not providing enough evidence of cooperation with other authorities, and therefore, cannot be said to be effective, justified, positively prepared or sound.⁶⁵ Likewise, St Albans 2017 Local Plan⁶⁶, Mid Sussex's 2013 Local Plan⁶⁷ and Castle Point's 2016 Local Plan⁶⁸ were all critiqued and judged unsound by the Planning Inspectorate because of the lack of evidence to demonstrate a Duty to Cooperate in line with Planning Practice Guidance. Given the omissions in the NEDDC Duty to Cooperate, it would appear that the current plan is unsound on that basis.

⁶⁵ <http://web.bolsover.gov.uk/reportsagendas/Reports%5Creport15711.pdf>

⁶⁶ https://www.stalbans.gov.uk/Images/ID-7CONCLUSIONSlettertotheCouncil_tcm15-56449.pdf

⁶⁷ https://www.luton.gov.uk/Environment/Lists/LutonDocuments/PDF/Local%20Plan/Examination%20documents/Hearing_statements/Claydon_Developments/Claydon_Developments-497297-1_appendices_3-6.pdf

⁶⁸ <https://www.google.co.uk/url?sa=t&rct=j&q=&esrc=s&source=web&cd=7&ved=0ahUKewjXhsWjiPLZAhWDIIAKHXPEAOIQFghhMAY&url=https%3A%2F%2Fwww.castlepoint.gov.uk%2Fdownload.cfm%3Fdoc%3Ddocm93ijim4n2966.pdf%26ver%3D4711&usg=AOvVaw1nY91SgeVx5rjM-vm3VRvV>

Process

NEDDC's Local Plan proposals are undermined by the preparation process and how the public consultation has been conducted. To be consistent with the NPPF guidelines for preparing a sound Local Plan, NEDDC must demonstrate that their plan is positively prepared. NEDDC have not demonstrated this in the following ways:

- not following own Statement of Community Involvement;
- failing to provide information to demonstrate a comprehensive evidence base, and;
- providing some evidence to inform the Plan after the publication, rather than prior to it.

Not following own Statement of Community Involvement and running an unsound consultation

Section 19, Paragraph 3 of the Planning and Compulsory Purchase Act 2004 states that *"the authority must also comply with their statement of community involvement."* Within NEDDC's Statement of Community Involvement, the local authority states: *"All comments received by the Council will be recorded, read carefully and taken into account in relation to the preparation of planning policy documents"*⁶⁹ and, *"Public consultation on any major changes to the draft Plan or on the revised draft Plan if necessary"*.⁷⁰ Despite the Council's commitment to take into account the comments of the consultation, the comments on this current consultation of the publication draft plan will be sent directly to the Planning Inspectorate for consideration.⁷¹ NEDDC is ignoring their own public commitments in choosing to pass consultation responses over to the Planning Inspectorate without appropriate and due consideration of those responses.

As already mentioned, NEDDC released two key evidence documents five weeks after the Local Plan publication draft was made public. As a result of the delay, NEDDC has made the decision to extend the consultation period for these two documents until Thursday 3 May. In principle, this extension is welcomed to give residents the time to process the relevant evidence base and cross reference with the Plan. However, on the NEDDC website, it states: *"It is important to note that this extended consultation period applies ONLY to the two documents referred to above."*⁷² NEDDC has not explained how this can possibly work in practice. I have written to the local authority for clarity but received no response. The two documents are relevant to every part of the Local Plan and form a number of the underlying principles from which the plan is built. It is impossible, in my view, to separate consultations in this way and to allow residents the ability to adequately respond to the proposals as a whole when such key information was missing for a large proportion of the consultation period.

Missing information

As already mentioned, numerous reports state that discussions with NEDDC officers were a factor in calculating the jobs growth projection that resulted in the inflated 6,600 housing need calculation, and no minutes or supplementary information about these meetings have been made public on the NEDDC website regarding these discussions. Without transparent information about the content of these discussions, it is impossible to assess how the growth projections were calculated. The 2017 SHMA-OAN Update largely suggests the influence of the officers' opinion rather factual evidence.⁷³

⁶⁹ NEDDC, Duty to Cooperate Statement of Compliance, para. 212

⁷⁰ NEDDC, Duty to Cooperate Statement of Compliance, fig. 1

⁷¹ NEDDC, STATEMENT OF REPRESENTATION PROCEDURE AND AVAILABILITY OF DOCUMENTS

⁷² <http://www.ne-derbyshire.gov.uk/index.php/resident/local-plan>

⁷³ SHMA-OAN Update (2017), para. 2.5

Furthermore, the following evidence documents are not referenced in the Local Plan, despite being offered as parts of the key evidence base on the NEDDC website:

- 'Employment-Land-Review-Update---Economic-Growth-Analysis-2018.pdf'; dated 01/01/18
- 'Considering-NED-OAN-Final-Report-February-2018.pdf'; dated 20/02/18
- 'Housing topic paper Jan 2018 final'

Thus, the Planning Inspectorate and other assessors of the Local Plan cannot clearly identify which evidence basis inform which Plan proposals. Without this clear understanding, it is assess the Plan against the tests for soundness set out in the NPPF.

Evidence did not inform Plan preparation

The *Housing Topic Paper* is dated January 2018 but references *Considering NED OAN Final Report*, dated February 2018. Likewise, the *Green Belt Topic Paper* is dated January 2018 but was not published until March 2018. The Government PPG makes it clear that *"the evidence needs to inform what is in the plan and shape its development rather than being collected retrospectively."*⁷⁴

It appears that evidence documents dated 2018 have not all informed the Plan. Rather, they have been provided as an attempt to retrospectively justify the high dwelling target. As a result, the Government's Planning Practice Guidance may have been contravened and the plan should be considered unsound on that basis.

Taken altogether, NEDDC has not positively prepared the Local plan. They have contravened their own Statement of Community Involvement, ran a flawed consultation, submitted evidence after the publication of the Plan, and may not have provided sufficient information to make a sound judgement of the Plan.

⁷⁴ Planning Practice Guidance, Local Plan, Para. 014