

Representations to Darlington Borough Council's Strategic Housing Land Availability Assessment: Update 6 (August 2015)

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(Representatives of the HBF)

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Taylor
Wimpey

Introduction

As two of the major developers in the region, Persimmon Homes and Taylor Wimpey (hereafter referred to as 'the consortium') are committed to assisting the Council in the production of their emerging Making and Growing Places Development Plan DPD and in turn the plan's associated evidence base. Therefore in our role as the designated representatives of the Home Builders Federation (HBF) on the SHLAA Steering Group Panel, Persimmon Homes and Taylor Wimpey would like to make the following comments in respect of the Darlington Strategic Housing Land Availability Assessment Update 6 (August 2015) circulated by the Council for comments on the 12th August 2015.

As this document will set out, both Persimmon Homes & Taylor Wimpey have a number of fundamental concerns with the approach proposed by Darlington Borough Council with regards to the Draft SHLAA Update Report. Therefore, please note that whilst raising an objection, this representation seeks to maintain the positive working relationship between Darlington Borough Council and the respective companies. As a result, it sets out positive proposals for the way forward to ensure compliance with statutory guidance and the removal of the consortium's objections to the Draft SHLAA Update Report.

Objectively Assessed Housing Need

Paragraph 1.12 of the SHLAA Update states that *"whilst the PPG suggests that the ONS 2012 household projections should be used as the starting point benchmark for assessing whether there is a five year supply of housing land or not, the projection for Darlington is 192 dwellings per annum, well below the Core Strategy target of 350 dwellings per annum... As such, it was not considered appropriate and it was decided to benchmark against 350 dwellings per annum."*

The consortium accept this statement and acknowledge the council's decision to use the Core Strategy figure of 350 dwellings per annum in the interim period for the purposes of drafting this report until the up to date housing requirement established and published in the autumn of this year.

It should be noted however that in light of the recent appeal decision at Middleton-St-George which successfully evidenced a much higher need of circa 505 dwellings per annum, the Council should not use this 350 dwellings per annum figure to evidence a 5 year supply of deliverable sites as the most recent evidence would suggest that the objectively assessed housing need is significantly beyond this benchmark.

Past Delivery Rates

In terms of assessing whether there has been persistent under-delivery of new housing in the past, the Council has published an assessment of the historic delivery rates within Table 3.1 of the Draft SHLAA Update Report.

This table compares annual housing delivery against adopted requirements and suggests that DBC met its housing requirements for all the years dating from 1998/99 through to 2008/09 (with the exception of 2002/03) and that for the 6 out of the last 7 years that it has failed to meet its targets. This table is detailed below:

Table 3.1: Net additional dwellings completed compared to annual planned provision, 1998-2015.

Year	1998/99	1999/00	2000/01	2001/02	2002/03	2003/04	2004/05	2005/06	2006/07	2007/08	2008/09	2009/10	2010/11	2011/12	2012/13	2013/14	2014/15
Completions	471	474	490	350	229	465	372	516	520	581	256	232	205	230	170	232	557
Demolitions	0	176	174	12	41	56	3	7	0	0	1	1	18	27	5	42	78
Net additional dwellings completed	471	298	316	338	188	409	369	509	520	581	255	231	187	203	165	190	479
Target*	297	297	297	297	297	297	240	240	285	285	525	525	525	350	350	350	350

The consortium however wish to object to the contents of this table and would like to take this opportunity to highlight an issue with the 'adopted targets' used between 2004/05 and 2010/11 which could have a profound effect on the rest of the calculations contained within the report and ultimately the Council's annual requirements.

Prior to the adoption of the Core Strategy in 2011, Policy 28 of the Regional Spatial Strategy identified a requirement for the provision of 525 net dwellings per annum in the Darlington area between 2004 and 2011. This requirement has been acknowledged within Table 2.1 of the 'Darlington Updated Strategic Housing Land Availability Assessment Autumn 2012(Fourth Edition)', below:

Table 2.1: RSS Housing Requirement for Darlington Borough

2004-2011	2011-2016	2016-2021	2021-2026
525	340	285	395

The table, published by Darlington Borough Council, clearly states that the RSS target for the period 2004-2011 was 525 per annum. It is subsequently this target that the housing delivery should be assessed against and not 240 and 285 dwellings per annum figure suggested by Table 3.1. This RSS requirement of 525 dwellings per annum has been acknowledged by the Council previously as their 'adopted target' and used in the 2009 SHLAA, 2010 SHLAA, 2011 SHLAA & 2012 SHLAA along with the DBC Position Statement (December 2010) on housing numbers for the purposes of demonstrating their past performance. Table 6.1 below is taken from the 2012 SHLAA and clearly illustrates the Council's use of the 525 dwellings per annum target between 2004 and 2011.

Table 6.1 Net additional dwellings 2004-2012

	2004/05	2005/06	2006/07	2007/08	2008/09	2009/10	2010/11	2011/12	2004-2012
Completions	372	516	520	581	256	232	205	232	2914
Demolitions	3	7	0	0	1	1	18	27	57
Net additional dwellings completed	369	509	520	581	255	231	187	205	2857
Target	525	525	525	525	525	525	525	350	4025
Variance from target	-156	-16	-5	+56	-270	-294	-338	-145	-1168

It was not until the 2013 SHLAA that the Council began retrospectively suggesting that the previous year's housing requirements were taken from the Tees Valley Structure Plan which is significantly lower and reflects more favourably on the Council when assessed against the achieved delivery rates.

This approach is simply unacceptable. The adopted requirement at that time was the RSS and not the Tees Valley Structure Plan. This manipulation of the previous years adopted targets produces an inaccurate and misleading reflection on the Council's past delivery rates. It is therefore essential that the housing delivery rates in years 04/05 until 10/11 are considered against the adopted RSS requirement as set out by the Council in the 2009 SHLAA, 2010 SHLAA, 2011 SHLAA & 2012 SHLAA along with the DBC Position Statement (December 2010) on housing numbers presented at the Examination in Public. It is clear from all these documents that the Council accepted at the time that their housing requirement was that outlined in the RSS from 2004 until the adoption of the Core Strategy in 2011.

The table below sets out an assessment of the level of delivery in relation to the DBC Local Plan 2003-04, RSS targets 2004-2011 and the Core Strategy 2011-2012. In the absence of an Objective Assessment of Need since NPPF was adopted in 2012, the consortium have in this instance carried forward the interim position of 350 dwellings per annum taken from the Core Strategy from 12/13 onwards. As the table clearly illustrates, the past delivery rates vary considerably when assessed against the adopted RSS housing requirements.

Year	1998/99	1999/00	2000/01	2001/02	2002/03	2003/04	2004/05	2005/06	2006/07	2007/08	2008/09	2009/10	2010/11	2011/12	2012/13	2013/14	2014/15
Completions	471	474	490	350	229	465	372	516	520	581	256	232	205	230	170	232	557
Demolitions	0	176	174	12	41	56	3	7	0	0	1	1	18	27	5	42	78
Net additional dwellings completed	471	298	316	338	188	409	369	509	520	581	255	231	187	203	165	190	479
Target*	297	297	297	297	297	297	525	525	525	525	525	525	525	350	350	350	350

As the revised table above shows, net completions for the seven years between 2004-11 fell below the RSS target in six out of the seven years and the figures for the last four years since the adoption of the Core Strategy (2011), show that the now out of date Core Strategy requirements have only been met once resulting in a persistent under delivery in 10 of the last 13 years.

It is the consortium's opinion that the revised table above is a more accurate representation of the Council's performance against its adopted housing requirements and should replace Table 3.1 of the Draft SHLAA Update Report. As set out within the following section, this revised delivery rate assessment will have a significant effect on the buffer to be applied to the Housing Requirement as detailed by paragraph 47 of the National Planning Policy Framework.

5% or 20% Buffer

In light of the previous section, the consortium are of the opinion that a 20% buffer should apply to the 350 dwellings per annum target, plus any shortfall in delivery from 2011-2016.

This position is support by the appeal decision in Burbage, Leicestershire (December 2013, Ref: 2202261) which provides clarification on the application of the NPPF buffer. The Inspector stated:

"In my view therefore the Sedgefield approach is the most appropriate and if the figures show there has been persistent under-delivery, regardless of economic factors or the willingness of the Council to grant planning permissions for housing, then a 20% buffer should be applied.

The figures show that in the seven years since 2006/07, the 450 target has been met only once, and the annual average rate is 356 houses. The Council argue that one should look back over a full economic cycle. They say that over the last 12 years they have met the target 4 times out of 8. They exclude the 4 recession years. So even by the most favourable calculations possible the Council has failed to meet the target 50% of the time. This seems quite persistent to me".

The revised Table 3.1 above demonstrates that the council have failed to meet their housing requirements in six of the past seven years. This equates to the Council meeting their housing requirement only 14% of the time which in light of the inspector's comments should be considered persistent. Even when a longer term view is taken which Darlington Borough Council have used to justify the application of the 5% buffer, the revised table when assessed against the true adopted housing requirements between 2004 and 2011 demonstrates that there has been under-delivery for 10 of the last 13 years. Regardless of the economic factors this can **only** be considered persistent. The Council must accept that it has fallen short of delivering the required number of housing resulting in the persistent under-delivery as referred to in paragraph 47 of NPPF. The only reasonable conclusion, given the above, is that DBC should be adopting a 20% buffer for persistent under delivery to provide a realistic prospect of achieving the planned supply and to ensure choice and competition in the market for land, in accordance with the requirements of NPPF.

Addressing the Shortfall ('Sedgefield' Or 'Liverpool')

Despite the attempt to justify the Council's approach within paragraph 3.4 of the Draft SHLAA Update Report, the consortium still have significant concerns with the Council's 'Liverpool' approach and firmly believe that the 'Sedgefield' approach is the most appropriate method of dealing with the backlog of undelivered dwellings from the plan period.

The Council have historically sought to adopt the 'Liverpool approach' and spread dealing with any under delivery back over the plan period. As outlined below, this approach is inconsistent with National Planning Policy Guidance and a significant number of appeal decision endorsed by the Secretary of State.

To address the shortfall (estimated using figures in the Draft SHLAA Update Report to be circa 363 dwellings) these dwellings must be taken forward in the 5 year housing requirement. Such an approach, of adding the historic under delivery into the housing requirement has been clarified within the Planning Practice Guidance (PPG). The PPG states:

"Local planning authorities should aim to deal with any under-supply within the first five years of the plan period where possible. Where this cannot be met in the first five years, local planning authorities will need to work with neighbouring authorities under the duty to cooperate."

The guidance is clear that the under-supply must be met within the first five years rather than across the remaining plan period. This approach is known as the 'Sedgefield' approach and is supported by a wealth of appeal decisions. Notable appeal decisions are detailed below:

- The Inspector at an appeal (August 2012) in Honeybourne, Wychavon District Council (Ref: 2171339) stated:

"the council was unaware of any post NPPF decision which followed the residual approach. Recent pre-NPPF decisions by the Secretary of State expressly approved the Sedgefield approach at Andover and Moreton-in-Marsh. In my view it is inconsistent with Planning for Growth and the NPPF paragraph 47 to meet any housing shortfall by spreading it over the whole plan period. Clearly it is better to meet the shortfall sooner rather than later. Moreover, if buffers are brought forward into the first five years as in the NPPF, so should the shortfall. I cannot agree with the Council's use of the residual method. In my view the Sedgefield approach should be used for the reasons outlined." (Paragraph 36)

- The Inspector in the Galley Hill appeal (September 2013), Redcar & Cleveland (ref: 2190009) in respect of the same matters stated:

"although the approach to how historic undersupply should be treated has not been a matter for cross examination, from what has been read and heard, and having regard to the purposes of having a five year housing land supply that delivers homes, it seems that any existing undersupply should be dealt with promptly rather than put off. With this in mind the 'Sedgefield' approach appears to be the most appropriate way to deal with undersupply. This is because the immediate provision of housing land is the most likely way in which chronic shortfall in provision would be addressed; simply putting off provision of the undersupply element, as the Council now is seeking, would mean that a greater number of people are likely to go without the housing they need for longer".

- The appeal decision (December 2013) in Burbage, Leicestershire (Ref: 2202261) also provides further clarification on the Sedgefield approach:

"The same approach governs the adoption of the Sedgefield approach rather than Liverpool. After all, in the case of this authority, the backlog of houses includes those that should have been built up to seven years ago. To spread that backlog out over the next 13 years is to build in even more delays and to sanction consistent under-provision. That is why the Sedgefield approach has been generally considered by Inspectors to be the correct approach, as any accumulated backlog would be dealt with in the next 5 years".

In my view therefore the Sedgefield approach is the most appropriate and if the figures show there has been persistent under-delivery, regardless of economic factors or the willingness of the Council to grant planning permissions for housing, then a 20% buffer should be applied".

The Sedgefield approach is also supported in numerous other appeal including at Andover in June 2011 (APP/X3025/A/10/2140962), Moreton-In-Marsh (APP/F1610/A/10/2130320), Evesham (APP/H1840/A/13/2195014) in June 2013 & Dawlish (APP/P1133/A/12/2188938) in September 2013.

It is therefore clear that the full under delivery from the adoption of the Core Strategy must be addressed in the five year 'requirement' to ensure needs are met in a timely fashion and not continuously postponed. DBC cannot and should not keep putting off addressing the significant historic shortfall when the demand and need for new homes has not gone away. It is therefore essential that the 'Sedgefield' approach is applied by the Council to address the previous under delivery of the plan to date.

Revisions to Table 3.2

In view of the issues highlighted above by the consortium of Persimmon Homes and Taylor Wimpey, Table 3.2 of the SHLAA Update needs to be amended to address the outstanding matters. Please note, that whilst we accept that the OAN has yet to be established, we believe that the table should read as follows for the interim period to take account of the 20% buffer and the needs to address the backlog using the 'Sedgefield' approach

Year	16/17	17/18	18/19	19/20	20/21	21/22	22/23	23/24	24/25	25/26
Core Strategy	350	350	350	350	350	400	400	400	400	400
Shortfall 2011-2016 (Sedgefield)	73	73	73	73	73	0	0	0	0	0
Subtotal	423	423	423	423	423	400	400	400	400	400
+20% Buffer	85	85	85	85	85	80	80	80	80	80
5 Year Supply Target	508	508	508	508	508	480	480	480	480	480

This approach correctly addresses the existing shortfall using the Sedgefield approach whilst also accounting for a 20% buffer inline with paragraph 47 of the NPPF.

Assessment of Housing Sites

DSU297 - The Forge Tavern

The site is included within the SHLAA as a commitment. The consortium understands that the planning permission relating to the development of the site for 8 units lapsed in April 2015. The site is within a weak market area and, prior to lapsing, has had planning permission for over 6 years without development coming forward. The site should be removed from the Table 4.2 and not included within the Council's 5 Year Land Supply calculations.

DU329 – Neasham Road

The S106 agreement has not been signed despite the application being 'minded to approve' in 2009.

It is understood that there are technical constraints to the development of this site including potentially unstable gypsum deposits beneath Nesaham Road (as referenced by the Inspector). This site is therefore not deliverable and should therefore be removed from the Table 4.2 of the SHLAA Update Report and not included within the Council's 5 Year Land Supply calculations.

DU333 – Former Corus Works

Both Persimmon Homes and Taylor Wimpey have advised that the site is within a weak market area and would question its viability. Moreover, there are existing businesses on part of the site which would need to be relocated. The site has made planning approval for over 6 years and development has not come forward. The site is therefore not considered deliverable and should therefore be removed from the Table 4.2 of the SHLAA Update Report and not included within the Council's 5 Year Land Supply calculations.

Site 107 – Cattle Mart

Whilst the site itself may be suitable for residential development, any such development is dependent on the relocation of the existing Cattle Mart. The finance to fund such a move has not been guaranteed or safeguarded and therefore the consortium do not believe that such a site should be included within the Council's 5 Year Land Supply calculations until such fundamental matters have been resolved.

This issue was highlighted by the inspector at the Gladman Appeal in Middleton-St-George who raised concerns over the deliverability of the site referencing the "need to relocate existing occupiers from more than one site including a cattle market".

There is currently too much uncertainty around the relocation of the Cattle Mart at this moment in time for the consortium to be satisfied that the Council can demonstrate that the land is deliverable. We therefore strongly believe that the site should not be included within Table 5.1 of the SHLAA Update Report of sites which are considered suitable, available and achievable within the 2016-2021 timeframe.

Site 13 – Mowden Hall

Appendix 7 states that the HCA intend to dispose of the site for residential use within 5 years however the building is still in office use and has not yet been disposed of by the DfE. As such the consortium does not believe that the site is available now.

Therefore unless there has been clear correspondence and evidence from the HCA stating that they will dispose of the site within the next 3 years as the trajectory suggests then the consortium recommends that the site is moved to later in the plan period for example 21/22 to account for the necessary marketing, negotiations, planning applications and site lead-in to take place.

Site 94 – Rear of Cockerton Club

Appendix 7 of the Draft SHLAA Update Report states:

"Developer is Partner Construction for Thirteen. Currently appealing against planning app refusal on design/layout grounds. Possible viability issues if design/density not acceptable. Therefore revert to MGPP0 number and put outside 5 years."

The consortium would agree with this assessment but note that the site has been included within year 20/21 for delivery. This does not accord with the text above and should therefore be amended appropriately.

Site 154 – Former Jack Horner Pub, Whitby Way

With negotiations still ongoing for the surrender of the lease, the consortium does not consider this site to be available. We therefore object to the site being included within the trajectory within the first five years and do not believe it should be considered as deliverable until the issue has been resolved.

Site 49 – North of White Horse Pub

An application for 370 units on the site has now been submitted by the applicant and found to be valid by the Council. Whilst the site is outside of the development limits the Council are unable to demonstrate a 5 year supply of deliverable housing sites. The documentation supporting the application demonstrates that the site is sustainable and it should therefore benefit from the 'presumption in favour of sustainable development' in accordance with paragraph 14 of the NPPF. The consortium therefore do not believe that there is any distinction between Site 49 and other sites including within Appendix 7 which have applications currently pending such as Site 54/22, Site 55, Site 117 and Site 50. The consortium therefore strongly believes that the trajectory should be amended with site 49 delivering a total of 60 units per annum from 2018/19 until its completion in approximately 2024/25. The suite of documentation supporting the live planning application demonstrates that the site is suitable, available and achievable.

Conclusion

These representations have been produced jointly by Persimmon Homes and Taylor Wimpey in their role on the SHLAA Steering Group Panel as representatives of the HBF to assist in the creation of a robust and transparent evidence base to inform the Council's plan-making process. The consortium have highlighted the issues with the Draft Report to date including the past delivery rates, the buffer to be applied and how the backlog is to be addressed. There are also a number of specific concerns around the deliverability of sites included within the Council's assessment of 'Deliverable' and 'Developable' sites. Whilst this representation has touched upon a number of sites within this document, the list is not exhaustive and subject to further comments from other parties.

These matters, whilst simply to resolve, are fundamental to the SHLAA and it is essential that they are addressed prior to the publication of the SHLAA. The consortium would therefore like to place on record our willingness to discuss with the council any of the issues raised within the document further and our wish to be kept involved in all further consultations on the SHLAA and any other emerging documentation.