

Our Ref: JBB8007/C3442

11 March 2015

Programme Officer  
Herefordshire Core Strategy

**BY EMAIL AND POST**

Dear Rosalind

**HEREFORDSHIRE CORE STRATEGY EXAMINATION – FIVE YEAR HOUSING LAND SUPPLY CONSULTATION: RESPONSE ON BEHALF OF BOVIS HOMES**

I write on behalf of Bovis Homes in response to the above consultation. I have set out a comprehensive response below to the Council's most recent Five Year Housing Land Supply document concluding that the Council's approach is not consistent with national policy and unsound.

In addition and pertinent to the land interests of my client, it is clear that the housing land supply presented in the document in respect of Bromyard is unsound, particularly with regard to the Council's most recent decision to refuse the planning application at Pencombe Lane, Bromyard. The Council's officers have been relying on this site on making a contribution of 120 dwellings to Bromyard's allocation and five year housing land supply position. However, it is clear that the Council's Members do not consider that the location is a suitable site for development. This is consistent with the Council's recommendation to remove this location from the Hardwick Bank allocation between the Preferred Option draft and the Submission draft Plan.

The following sets out a response on behalf of Bovis Homes to each of the areas where the Five Year Housing Land Supply Document has been amended or reviewed.

**Housing Trajectory Justification**

The Council has not set out a full housing trajectory for the plan period within its revised Five Year Supply Document but seeks to justify an approach that provides fewer houses in the early period with the latter periods of the Plan providing higher rates of housing delivery. Unfortunately it is therefore not possible to provide a full response to the Council's justification without observing the manner in which it plans to address the housing delivery across the whole period, in particular years six to ten and years eleven to fifteen for the purposes of paragraph 47 of the NPPF.

Bovis Homes has therefore provided a response to the information contained within the most recent five year supply document and will respond on the wider trajectory on sight of this within the Modifications process.

*Justification for 'backloading' housing supply*

Bovis Homes considers that there is no justification for backloading housing supply in Herefordshire, which is consistent with the NPPF and therefore the Council's approach is unsound.

Paragraph 47 of the National Planning Policy Framework (NPPF) requires Local Planning Authorities (LPAs) to meet the **full** Objectively Assessed Need (OAN) for housing for their district. This is absolute, except insofar as there is any inconsistency with other policies contained within the NPPF. Therefore paragraph 47 of the NPPF does not provide justification for a level of housing provision that is lower than the OAN on grounds other than those contained within the NPPF. On this basis, and in absence of any inconsistency with any policy in the NPPF, the Council is required to plan to meet the full (unconstrained) objectively assessed need. Any deviation from this is inconsistent with the NPPF and thus unsound.

Where an LPA plans to provide a level of housing that is lower than the OAN, this must be justified on the basis of a constraint arising as a result of inconsistency with other policies in the NPPF, such as Green Belt policies. Unless it can demonstrate this, the Council is required to plan to meet the absolute full objectively assessed need.

The Council's approach to paragraph 47 of the NPPF is one that seeks to meet the full objectively assessed need over the Plan period rather than meet need on an annual basis. However, this is not justified against the tests of paragraph 47. Instead the Council refers to the previous Regional Spatial Strategy housing targets, the housing market conditions and infrastructure provision. None of these three sources of justification for providing for a level of housing lower than the OAN are found within the NPPF, or indeed specifically within the tests of paragraph 47. As such, the Council's starting position in justification cannot be sound.

The Council's own evidence illustrates that there is a requirement of 16,500 dwellings over the Plan period and that this need arises on an annual basis. There is nothing in the Council's evidence that indicates that the OAN has a profile where housing need is lower in the early period of the plan and that this rises towards the latter years. In fact the opposite is true in that housing need is generated within Herefordshire uniformly over the Plan period on an annual basis of 825 dwellings, and that as a result of this an acute shortfall of 1,602 dwellings<sup>1</sup> has arisen already against supply. Thus, the OAN for 1,602 additional dwellings exists now, which based upon an average household size figure of 2.30<sup>2</sup> would suggest that there is a latent OAN for homes for 3,690 people already at 2015. The Council has also acknowledged that a contributing factor to this level of housing need is a lack of supply of housing land (paragraph 5.5), thus the Council has already been applying a constraint that does not exist within the NPPF to delivering the OAN.

<sup>1</sup> Figure 10c Five Year Housing Land Supply Document (March 2015)

<sup>2</sup> 2012 Based Household Projections (February 2015)

The Council also refers further within paragraph 5.5 to a depressed housing market as a contributory factor to previous completions and that this should be considered in establishing the targets for housing delivery. However, there is no provision within the NPPF to constrain the housing need based upon the economic downturn, a factor which the Secretary of State was fully aware of when the NPPF was published in 2012.

#### *Housing Trajectory and paragraph 47 of the NPPF*

Paragraph 47 of the NPPF sets out that, where there has been a persistent under delivery of housing, the Council should apply a 20% buffer, moved forward from later in the Plan period. The purpose of which is to increase housing supply in the immediate period to aid the boost in housing supply and provide flexibility. Importantly though, the NPPF makes this clear that this is not additional housing need, it is in fact housing need move forward from later in the plan period.

The Council's housing trajectory approach, however, seeks to circumvent these provisions of paragraph 47 in its approach as set out below.

The Council has intentionally lowered its early Plan period requirements (2011/12 to 2014/15) from 825 dwellings to 600 dwellings per annum, which is a reduction of 675 units to date. It has then spread the residual across the remaining plan period, but most pertinently to the latter years of the Plan period.

However, in conceding that a 20% buffer applies and to meet the provisions of paragraph 47 of the NPPF, the Council must move 20% of housing need from the latter part of the Plan back to the front part of the plan period in its five year land supply calculation. The result of this is what it is actually doing is bringing back a portion of the units that it has already removed from this period, rather than including an additional buffer to account for shortfalls in past performance.

It is therefore not moving housing need forward from the later in the Plan period; it is in fact just bringing back (and only in part) the housing need it has already decided to move out of the early part of the plan period. It is simply a numerical manipulation of the evidence to circumvent the provisions and purpose of paragraph 47 of the NPPF. The Council's methodology is therefore inconsistent with paragraph 47 of the NPPF. The NPPF is clear that the 20% buffer should be in addition to the housing target and this is not accounted for in the Councils calculations.

#### *Housing Trajectory Conclusion*

It can be observed therefore that the Council's approach to its trajectory is not seeking to meet its OAN, but instead seeking to retrospectively manipulate its housing target to a lower level similar to previous Regional Spatial Strategy targets that have no basis for consideration within this Plan and circumvent the provisions of paragraph 47 of the NPPF. Thus, the rate of 600 dwellings per annum in the early part of the Plan period is unjustified and as such unsound.

The Council has set out Objective 1 in Figure 3.1 of the submission Plan that it seeks to provide new homes at the right place at the right time. The right time is consistent with 825 dwellings per annum and this should be used across the Plan period as an average, unless the Council can justify a constraint to meeting the objectively assessed need in this period consistent with the NPPF.

### **Accommodating the Housing Land Supply Shortfall**

The Council has set out in its revised Five Year Housing Land Supply Document at paragraph 9.2 that its preferred approach to addressing the existing shortfall is one that spreads it across the remaining years of the Plan period rather than address this within the next five years as advised by the Planning Practice Guidance (paragraph 36.6 refers) (PPG).

Bovis Homes considers this to be a substantive change of approach from that contained within the submission Plan. The Council's evidence sets out<sup>3</sup> that it is the Council's intention to meet the shortfall within the next five years of the Plan period consistent with Government guidance contained within the PPG. This is explicitly clear and given in evidence to the examination and the housing trajectories presented. A key component of this also is the Council's approach to ensuring that sufficient housing land comes forward to deliver its housing need against the decision to make good the shortfall in the first five years. This is the justification for decisions that it has made. To now move to a position where the shortfall is met across the Plan period is not consistent with the Plan as submitted or the intention of the strategy and in particular Objective 1 of the Plan.

### **Methodology and Sources of Supply**

Bovis Homes has considered the adjustments to the sources of supply within the five year period and has the following comments.

#### *Removal of the 10% discount for non-completion of planning permissions*

Objection is raised to this approach. The Council has referred to the NPPF setting out that planning permissions should be considered deliverable and therefore it has counted 100% of its planning consents as part of its five year supply. This is not consistent with the NPPF. The NPPF explicitly states at footnote 11 to paragraph 47 that:

*"To be considered deliverable, sites should be available now, offer a suitable location for development now, and be achievable with a realistic prospect that housing will be delivered on the site within five years and in particular that development of the site is viable. Sites with planning permission should be considered deliverable until permission expires, unless there is clear evidence that schemes will not be implemented [my emphasis] within five years, for example they will not be viable, there is no longer a demand for the type of units or sites have long term phasing plans".*

---

<sup>3</sup> Paragraph 5.21 of the September 2014 Five Year Housing Land Supply Document

The NPPF is therefore not applying a 100% approach that all planning consents are deliverable. Paragraph 47 still requires the Council to make a planning judgement that tests whether its planning consents are all deliverable against evidence that may suggest schemes will not be implemented within five years and provides examples of where they may not be. Against this, paragraph 5.10 of the Council's original Five Year Housing Land Supply Document evidence sets out that there is evidence that planning consents lapse and become superseded. On this basis therefore the Council has already set out its evidence and made a planning judgement that a 10% lapse rate "*is appropriate*". This is entirely consistent with the NPPF and paragraph 47(footnote 11). To not apply this judgement and test its supply against the full provisions of footnote 11 is inconsistent with it.

The 10% discount rate should remain.

#### *Sites with Planning Consent*

The Council has appropriately considered the contribution that sites with planning consent can make to the supply in the first five years; however, Bovis Homes notes that in Appendix 3 the Council appears to have applied the total number of houses in the permission to the first five years. There does not appear to be any consideration of lead in times for larger sites, delivery rates across the five year period or whether they will come forward as envisaged. Bovis Homes would have expected this to be provided on the basis of an annual trajectory so that consents could be recorded against their expected start year taking into account the specific lead in periods and their annual delivery rates. At present the evidence does not support that all of these large sites can deliver their full planning consent within the first five years.

The sites should be set out in a recognised annual trajectory to evaluate actual delivery within the first five years.

#### **Site Specific Supply Considerations**

The Council has set out within Section 7 a review of specific sites and allocations. Bovis Homes makes the following comments in respect of the content of Section 7.

#### *Bromyard, Hardwick Bank*

The document needs to be corrected as the allocation is within two main controlling interests, Bovis Homes and Mosaic Estates. The document fails to recognise the interests of my clients Bovis Homes which has jointly promoted the allocation to the Council and controls a significant component of the allocation to the north, as identified on the key diagram.

My clients have presented evidence to the examination that demonstrate that Hardwick Bank is entirely deliverable and can contribute to the five year land supply, and at rates higher than that set out in the document. Evidence was given at the examination to demonstrate that the site can contribute to a greater overall number than 250 dwellings and that 205 dwellings can be achieved in the first five years.

Policy BY1 for Bromyard proposes that the town accommodate 500 dwellings and that 250 dwellings be accommodated on the Hardwick Bank strategic allocation. The remaining 250 dwellings are proposed within the rest of the town but no further sites are actually identified in the Plan.

Evidence was given at the examination that there is sufficient capacity to provide 489 dwellings at Hardwick Bank strategic allocation and that this would then not require the additional capacity to be found within alternative locations around the periphery of the Town. In support of this, Policy BY2 makes it clear that the location can accommodate more than 250 dwellings within the environmental constraints of the site as it sets out it has an opportunity to provide additional dwellings beyond the Plan period.

In respect of the remaining housing supply (250 dwellings) to be provided in Bromyard, outside the strategic allocation at Hardwick Bank, the Council in its evidence relied on a number of sites, most notably an existing consent for 76 dwellings, a number of UDP allocations and a pending decision at Pencombe Lane for 120 dwellings. Bovis Homes would like to make the Inspector aware that the Pencombe Lane planning application was refused at the Council's planning committee on 4 March 2015 on numerous grounds, one of which was Landscape impact. The site therefore cannot be counted in supply as part of the wider non-strategic housing land supply. There are also concerns over the deliverability of the other non-strategic sites in Bromyard, and as such the housing supply set out in Figure 1 of the most recent Five Year Housing Land Supply document is undeliverable without additional development coming forward on the strategic allocation BY1.

The conclusion is therefore that the housing land supply position contained within the Core Strategy for Bromyard, and the contribution that it will make as a location to the five year supply position, is unsound. Therefore to make the Plan sound the strategic allocation should be increased to 489 dwellings, of which 205 dwellings can come forward in the first five years.

**The authority should therefore modify the existing strategic allocation BY1 so that it can accommodate 489 dwellings to make the Plan sound. The site is not dependent upon any strategic infrastructure and there are no constraints to bringing this site forward early.**

#### *Ledbury, Viaduct Site*

Bovis Homes objects to the increase in supply from this site given the discussion that occurred at the examination session on deliverability. Bovis Homes does not repeat the evidence already given to the examination both in written form and orally; however, no additional evidence has been presented to justify an increase in the delivery rates from this site, particularly in light of the lack of agreed access arrangements.

It is noted that within paragraph 7.39 that the Council now maintains that there is no viability or transport assessment that demonstrates that this site is deliverable with regard to an access through the viaduct, yet is maintaining that this is the primary access. Without this primary access evidence, the Council cannot justify this site against paragraph 47 (footnote 11) and therefore is unsound to rely on supply from this in the five year land supply document.

The Site will not contribute 330 dwellings in the five year period, nor will it achieve 60 dwellings in its first year in 2016/17. To achieve such rates in its first year of delivery would require at least two developer outlets on the site and no developer partners are on board yet.

The information supporting supply from this site as set out in Figure 4 is not supported by evidence and is unsound.

### **Conclusion**

Bovis Homes has set out above a number of considerable methodological objections to the most recent Five Year Housing Land Supply Document as well as contributions in respect of the housing land supply position at Bromyard specifically.

It is considered that the Council's five year housing land supply position is not robust. Bovis Homes has not seen any evidence justifying the retention of a phased approach to the housing trajectory and considers that the Council can only use the average figure of 825 dwellings per annum in order to be consistent with the NPPF.

Furthermore, the Council has already provided evidence on why it considers that it should meet the shortfall in housing over the next five years rather than the remaining plan period and as such should maintain this stance. To take a different approach is not consistent with its own evidence or position in preparing the Plan. If having established that it does not have a five year supply of housing by maintaining its methodology, it should seek to increase the supply of housing consistent with the Governments objectives as opposed to reducing the housing requirement and manipulating the five year supply position.

I trust that the Inspector will find the above comments useful in her consideration of the Council's revised evidence which Bovis Homes considers to be unsound.

Yours sincerely



**TIM WATTON BA (Hons) Dip TP MRTPI**  
**TECHNICAL DIRECTOR**  
**Direct Line: 0121 213 5532**  
**Email: [tim.watton@rpsgroup.com](mailto:tim.watton@rpsgroup.com)**

Cc Victoria Trotman, Bovis Homes