

Newark & Sherwood District
Council

Amended Allocations &
Development Management

DPD

Matter 3 Statement

Prepared by Fisher German on
Behalf of Richborough



01 Introduction

- 1.1 This Matter Statement is prepared on behalf of Richborough in respect of their land interests at Allenby Road, Southwell, as illustrated on Figure 1 below. The site has been previously promoted and was included as a preferred residential site in the Allocations & Development Management Options Report (2011), however was not included in the subsequent adopted Plan in 2013.
- 1.2 The site remains a deliverable and logical location for growth within Southwell, a Service Centre behind only Newark, the Sub-Regional Centre, within the adopted Settlement Hierarchy, with the realistic prospect of the site being built out within 5 years.



Figure 1 - Illustrative Masterplan

- 1.3 In accordance with the transitional arrangements within the NPPF (Annex 1), as the final Regulation 19 consultation was undertaken on the 25th September 2023, the applicable NPPF for this Examination is the September 2023 NPPF (published on the 5th September 2023). It is however noted that the September 2023 NPPF predominantly reflects the 2021 NPPF, save for matters relating to sustainable energy generation.

02 Matter 3 - HOUSING LAND SUPPLY

Issue 1 – Whether the Plan will provide for a sufficient housing land supply to deliver planned growth over the Plan period and whether a deliverable five year supply of housing will be available on adoption

Q3.1 - Could the Council provide an up to date housing trajectory, having regard to the responses provided to Q2.10 above, including start dates, build-out rates and completions for each site within the housing supply, supported by evidence including site proformas and Statements of Common Ground, correspondence with site promoters etc.?

- 2.1 Whilst we note that this is essentially a task for the Council, we would highlight that in order to classify a site as deliverable, the NPPF is clear that where a site has outline permission for major development, or is proposed to be allocated for development in a Development Plan, it should only be considered deliverable where *“there is clear evidence that housing completions will begin on site within five years”* (NPPF page 67).
- 2.2 The PPG (*What constitutes a ‘deliverable’ housing site in the context of plan-making and decision-taking? Paragraph: 007 Reference ID: 68-007-20190722*) confirms that *“in order to demonstrate 5 years worth of deliverable housing sites, robust, up to date evidence needs to be available to support the preparation of strategic policies and planning decisions”* [our emphasis]. The PPG continues that such evidence to demonstrate deliverability may include:
- *Current planning status – for example, on larger scale sites with outline or hybrid permission how much progress has been made towards approving reserved matters, or whether these link to a planning performance agreement that sets out the timescale for approval of reserved matters applications and discharge of conditions;*
 - *Firm progress being made towards the submission of an application – for example, a written agreement between the local planning authority and the site developer(s) which confirms the developers’ delivery intentions and anticipated start and build-out rates;*
 - *Firm progress with site assessment work; or*
 - *Clear relevant information about site viability, ownership constraints or infrastructure provision, such as successful participation in bids for large-scale infrastructure funding or other similar projects.*

- 2.3 There is much consideration of this point at various Section 78 appeals which provide greater clarity on what counts as clear evidence. Where there is no evidence, various appeals have confirmed that sites should not be counted as deliverable and should be deleted, including:
- APP/R0660/A/13/2197532 & APP/R0660/A/13/2197529 - LAND OFF AUDLEM ROAD/BROAD LANE, STAPELEY, NANTWICH AND LAND OFF PETER DE STAPELEIGH WAY, NANTWICH
 - APP/R3650/W/19/3227970 - Land to the south of Cox Green Road, Rudgwick, Surrey
 - APP/D1265/W/21/3284485 - Station Road, Stalbridge, North Dorset DT10 2RJ
 - APP/L3815/W/21/3270721 - Land within the Westhampnett / North East Chichester Strategic Development Location, North of Madgwick Lane, Chichester
- 2.4 Appeals and Secretary of State decisions have confirmed that evidence can be updated to reflect the fluid nature of site context, acknowledging that during the Plan making or decision-making process, sites evolve, either positively or negatively in a way which may be material. What however is not acceptable is the retrospective justification of a submitted position.
- 2.5 In the appeal decision APP/W3520/W/18/3194926 (Land on East Side of Green Road, Woolpit, Suffolk IP30 9RF) Paragraph 69 of the decision states *"The up-dated PPG on Housing and economic land availability assessment sets out guidance on what constitutes 'deliverable sites' and covers the evidence that a site with outline planning permission [and proposed allocations] is expected to have in support of its inclusion in the supply. The PPG places great weight on the adequacy and sufficiency of consultation with those responsible for delivering dwellings. It is noteworthy that in this case, the Council has failed to adequately demonstrate it has done so. An assessment of the Council's AMR against the updated PPG reveals that the AMR falls substantially short of producing the evidence that a LPA is expected to produce"*.
- 2.6 Paragraph 70 continues *"Furthermore, the Council has had to provide additional information to demonstrate that sites are deliverable as and when it has surfaced throughout the weeks and months following the publication of the AMR in an attempt at retrospective justification. It is wholly inadequate to have a land supply based upon assertion and then seek to justify the guesswork after the AMR has been published"*.
- 2.7 It is noted that this relates to an appeal in relation to the development management function, not Local Plan examination. However, the underlying logic remains applicable and in relation to the

preparation of new development plan documents, the National Planning Policy Framework (NPPF) and Planning Practice Guidance (PPG) outline the expected approach to be adopted, while the Town and Country Planning (Local Planning) (England) Regulations 2012 sets the legal framework with associated legislation.

- 2.8 The NPPF sets out at paragraph 16 that Plans should *“be shaped by early, proportionate and effective engagement between planmakers and communities, local organisations, businesses, infrastructure providers and operators and statutory consultees”*.
- 2.9 Paragraph 31 states *“The preparation and review of **all policies** should be **underpinned by relevant and up-to-date evidence**. This should be adequate and proportionate, focused tightly on supporting and justifying the policies concerned”* [our emphasis].
- 2.10 When submitting a Local Plan, the PPG (Reference ID: 61-034-20190315) states *“Local planning authorities must make available each of the **proposed submission documents** that they intend to submit to the Planning Inspectorate for examination to enable representations to come forward that can be considered at examination, under regulation 19 of the Local Plan Regulations”* [our emphasis].
- 2.11 The Town and Country Planning (Local Planning) (England) Regulations 2012 Part 6 Section 17 sets out that proposed submission documents encompasses the following:
- a) *“such supporting documents as in the opinion of the local planning authority are relevant to the preparation of the local plan”*
- 2.12 Section 19 (Publication of a Local Plan) of the aforementioned legislation states that *“before submitting a Local Plan to the Secretary of State under section 20 of the Act, the local planning authority must—*
- a) *make a copy of each of the proposed submission documents and a statement of the representations procedure available in accordance with regulation 35, and*
 - b) *ensure that a statement of the representations procedure and a statement of the fact that the proposed submission documents are available for inspection and of the places and times at which they can be inspected, is sent to each of the general consultation bodies and each of the specific consultation bodies invited to make representations under regulation 18(1)”*

- 2.13 Section 35 sets out that a document is taken to be made available if it is made for available for inspection in person or by being published on its website.
- 2.14 The Procedure Guide for Local Plan Examinations 2024 at 1.9 states ***“as a minimum, the evidence base should include all documents referenced in the submitted plan”*** [our emphasis].
- 2.15 As acknowledged by the Inspector’s questioning, such evidence does not appear to be available to support the Local Plan’s assumptions on site delivery and thus for allocations or site’s benefiting only with outline permission, the sites should be considered as non-deliverable (which is the approach adopted by the 2023 housing land supply statement).
- 2.16 Moreover, as confirmed by the Secretary of State in respect of appeal (APP/Z1510/V/17/3180729 - LAND EAST OF GLENEAGLES WAY, HATFIELD PEVEREL, CM3 2JT) a simple Statement of Common Ground or statement from a landowner committing to a trajectory is not evidence which can be said to pass the test of deliverable in the PPG. In the aforementioned case, sites were removed for which there was a statement from the landowner, with the Inspector’s Report stating at Paragraph 41 that *“the Secretary of State considers that the evidence provided to support some of the claimed supply in respect of sites with outline planning permission of 10 dwellings or more, and sites without planning permission does not meet the requirement in the Framework Glossary definition of “deliverable” that there be clear evidence that housing completions will begin on site within five years”*. In appeal decision APP/J2210/W/18/3216104, the Inspector states at Paragraph 23 that *“the Council’s evidence is founded on site specific SCGs which have been agreed with the developer or landowner of the site in question. I appreciate that the PPG refers to SCGs as an admissible type of evidence, and I have had full regard to that advice. But nevertheless, the evidential value of any particular SCG in this context is dependent on its content. In a number of cases, the SCGs produced by the Council primarily record the developer’s or landowner’s stated intentions”*.
- 2.17 What is required is a more detailed understanding of each site’s constraints and the infrastructure required to unlock them, a recognition of site constraints, not simply an assertion of intent. Such evidence should, to our reading of the associated guidance, policy and legislation, have already been collated by the Council and made available for comment/consideration at Regulation 19. We are aware that the Council has published more recent housing land supply information, on the basis of the correct requirement, but this does not yet form an examination document and thus we will consider this in detail when/if formally introduced to the Examination.

Q3.4 What evidence is there to support the estimated supply and is it robust?

2.18 None, as acknowledged by the Inspector's questioning there is a lack of evidence on site deliverability.

Five Year Housing Land Supply

Q3.5 What is the relevant five-year period on adoption and what is the requirement?

2.19 At this stage, it is considered feasible that the Plan could be adopted in 2025/26, therefore a 5 year period of 2026-2031, though slippage beyond this is certainly possible, even having regard for Matthew Pennycock's direction to the Planning Inspectorate (July 2024). In respect of the applicable requirement, the PPG confirms (*Paragraph: 005 Reference ID: 68-005-20190722 - What housing requirement figure should authorities use when calculating their 5 year housing land supply?*) that the "*housing requirement figures in adopted strategic housing policies should be used for calculating the 5 year housing land supply where*

- *the plan was adopted in the last 5 years, or*
- *the strategic housing policies have been reviewed within the last 5 years and found not to need updating"*

2.20 In all other cases the 5 year housing land supply will be measured against the area's local housing need calculated using the standard method, which we have calculated as being 437 dwellings per annum (confirmed in the Council's 2024 housing land supply statement). This gives a 5-year requirement of 2,185 dwellings per annum. As this is a new standard method calculation it is not necessary to include historic over/under supply, as this is picked up in the standard method's affordability adjustment.

2.21 NPPF Paragraph 61 confirms that "*to determine the minimum number of homes needed, strategic policies should be informed by a local housing need assessment, conducted using the standard method in national planning guidance*".

3.6 Does past delivery and/or the Housing Delivery Test results have any implications for the appropriate buffer to be added to the five-year land supply?

2.22 Yes, as the NPPF applicable to this Examination is the NPPF 2023 (September), Paragraph 74 affirms that "*Strategic policies should include a trajectory illustrating the expected rate of housing delivery over the plan period*". It continues "*local planning authorities should identify and update annually a supply of specific deliverable sites sufficient to provide a minimum of five years' worth of*

housing against their housing requirement set out in adopted strategic policies, or against their local housing need where the strategic policies are more than five years old. The supply of specific deliverable sites should in addition include a buffer (moved forward from later in the plan period) of:

- A. *5% to ensure choice and competition in the market for land; or*
- B. *10% where the local planning authority wishes to demonstrate a five year supply of deliverable sites through an annual position statement or recently adopted plan, to account for any fluctuations in the market during that year; or*
- C. *20% where there has been significant under delivery of housing over the previous three years, to improve the prospect of achieving the planned supply”*

2.23 Footnote 41 confirms that the 20% buffer is applicable wherein the most recent Housing Delivery Test results in a result of under 85%. Having regard for the Council's most recent Housing Delivery Test result, the Council would need to demonstrate only a 5% buffer as the Council achieved a Housing Delivery Test result of 187% (in the 2022 Housing Delivery Test results which were the last available published in December 2023). As discussed previously, there is no need to include historic delivery as this is already included as an integral part of a fresh calculation of Local Housing Need conducted through the Standard Method, which is the approach which must be adopted here as Strategic Policies are over 5-years old.

Q3.7 Is there clear evidence to support the delivery of sites in the relevant five-year period on adoption?

2.24 No, there is a lack of clarity in the examination documents as to which sites benefit from which permission type and also a lack of supporting information on site deliverability as required by the NPPF/PPG.

Q3.8 Based on a requirement of 371 dwellings per year, would the Plan help to ensure a five-year supply of deliverable sites on adoption over the Plan Period?

2.25 For the reasons discussed above and within our Matter 1 Statement, we do not agree with a requirement of 371 dwellings per annum, being based on an outdated housing requirement and thus not in compliance with the NPPF. The housing requirement applicable to this Plan should be Local Housing Need. Please refer to our Matter 1 Statement and Questions 3.5 and 3.6 within this statement for extended commentary on this matter in full.