

Allocations Plan Examination Forest of Dean DC. Note on housing requirements for the Forest of Dean District 1/11/16

1. In addressing the Inspector's latest material which contains a response to the Council's draft MMs in relation to housing requirements and supply, the Council would welcome guidance from the Inspector at this stage of the examination on one particular issue. The issue concerned is the way in which the so called backlog should be accommodated.
2. The Council are seeking to provide for an OAN of 300pa with an additional 10% above this in order to provide some scope for the additional delivery of affordable homes. This takes the plan requirement to 330pa.
3. There is within the provision currently made, scope for the delivery of about 4805 dwellings over the ten years of the plan period that remains. This includes land allocated, proposed to be allocated in the AP and existing committed large sites, together with an allowance for windfalls. This figure compares with a basic requirement of 3300, or if the backlog of 521 is added to that, 3821. There is a margin of 984 over the requirement. This is some 26% above what is required. There is therefore not an absolute shortage of supply.
4. The AP seeks to bring forward new sites as well as endorsing some held over from the previous Local Plan. These can require considerable lead in times before they are able to deliver or before delivery reaches its peak. The very large site, Lydney East has seen some 200 completions already from one access but only now is the northern (second access) under construction enabling the delivery of 300 dwellings which can be served directly from Highfield Hill before the spine road itself is completed by the extension of this access road. Likewise, but outside the orbit of the AP the strategic access to part of the Cinderford Northern Quarter is now being delivered. Delivery rates have the potential to increase as these and other allocated sites are taken up.
5. With the increase in potential delivery rates in the mid part of the plan period, the greatest potential for the contribution of affordable housing will mirror this availability. The availability of land to meet the newly updated requirements will meet the NPPF requirement which is to boost significantly the supply of land for housing, by meeting fully the identified need (requirement). To ensure that this supply is delivered in a sustainable manner is both a requirement of the NPPF and the adopted CS as well as the emerging AP. Given the reasonable expectation that the requirement has been properly assessed then delivery that meets that requirement will also be likely to be sustainable. This rate and pattern of delivery will also be in accord with the overall CS and is likely to be acceptable (and is acceptable) under the SA.

The five year supply

6. In providing for the delivery of new dwellings, the first consideration must be whether the plan requirement can be met. This means the identification of sufficient sites (land) over the whole plan period. A large part of these will be explicitly allocated in the plan, and with a ten year plan period remaining it is to be expected that some allocations now being made will not deliver in the early part of the plan period. Some will deliver earlier because of the wide range of allocations, windfalls and sites with permission which have potential. In order to facilitate the house building required, it is required that additional land over and above

the basic requirement needs to be available. It is logical that in order to provide a certain number of dwellings there should be some margin of available land over the number required. For the FoD it is accepted that this margin should at present be 20% in accord with the NPPF advice (para 47 and footnotes) where there has been “persistent under delivery”. In addition, the backlog or difference between delivery at the expected rate and the actual rate should be accounted for. The backlog is most commonly shown to be taken up over the first five years, though this is not the only option. With a requirement of 330 pa or 6600 over the 20 year plan period, the backlog currently stands at 521, $(3300-2779= 521)$. The FIVE year requirement is therefore $((330*5)+521) * 1.2$ or **2605** if it is all sought to be accounted for over the first five years. This is a figure that can be contrasted with the five years requirement for completed dwellings of $330*5= 1650$. The margin of supply of land over the likely requirement is at 58% very great. Whilst the indication is that the requirement can easily be met, the margin of supply over it, suggests that a build rate well in excess of any recently achieved would be necessary especially if it were to be closed by the removal of the backlog over the first five years.

7. The AP as submitted used an OAN calculation based on the period from 2011, and there was under this a modest backlog which could be accommodated relatively easily and being recently accrued could for example have arisen as a result of the recent recession. This contention is supported by reference to build rates at the start of the period now being considered (2006/7- 8/9) when 920 dwellings were completed, a figure very close to the then CS requirement of 310pa or 930 over three years. With the end of the recession, completions rose (last three years averaging 339pa), again supporting the adjustment or return to normality. It was both likely and logical to plan for this modest backlog to have been accounted for early on in the first five year period.
8. Both the submitted plan with its OAN and the revised OAN which resulted from changes following the interim findings identify the up to date requirements for the district in a manner which complies with current guidance. The actual annual requirements (310 and 280pa) are quite close to each other and to the actual rates of development achieved over the recent past. However the two approaches result in a different backlog partly because one looks back further than the other and partly as a result of the differing annual rates. Whether or not the actual take up of sites will account for this, the supply of land must be able to meet it. Emerging plans and Inspector’s reports consider and support two basic approaches, according to the circumstances of the individual plans. In doing so it is important to consider the way in which new and especially large sites are likely to come on stream and also how realistic the expected supply figures are.
9. The method for accounting for the backlog which is preferred by NPPG is the five year accounting for the backlog but qualified with the use of the term where possible (Lichfield, para 211 of Inspector’s report, extract below) clearly allows for the alternative when it can be properly justified. The alternative is to account for it over a longer period, usually the remainder of the plan period. In the FoD case the remainder of the plan period is 10 years. That there are alternative methods is clear from an earlier judgement (see Bloor Homes... below) and from the actual conclusions made by various inspectors in plan inquiries.
10. Where the implied rate of delivery appears to exceed a reasonable level, as in the case of Lichfield (Para 212) the inspector there considered the “Sedgefield” method would actually lead to a plan that would be unsound and could not be delivered. A closely related point is made in the Inspector’s note of August 2015 in respect of the Canterbury Local Plan. Here

the 5 year supply calculation would lead to a figure well in excess of any past delivery and would be in the opinion of the Inspector unrealistic (para 33, quoted below).

11. The case in the FoDDC is that the current five year supply figure is well in excess of the peak delivery achieved in recent years and would imply a very great change in the rate of delivery achieved over the past few years. It is considered unrealistic to expect such a change.
12. If a range of sites are to be allocated in the AP then it must be expected that these will have varying lead times. While some sites new to the AP are proceeding and some are currently under development they will generally have longer lead in times than those carried over from the old LP which may have permission. As a result even though the AP is considered with its draft MMs to provide an adequate supply, new sites or large existing sites are likely to build up to full delivery from mid part of the plan period, say years four and five. This is the approach supported in the case of the Canterbury LP.

“33. The shortfall is over 700 dwellings – not far short of the annual requirement for the Plan period as a whole. Given the likely lead times on any new sites coming forward, if Sedgefield were to be used the shortfall would not be materially addressed until years 4 and 5 of the period. The Council’s trajectory already shows a very significant increase in completions in those years. If the full shortfall were added then in my estimation the completions in those years would be substantially higher than ever achieved over the last 20 years, including at the top of the market. Notwithstanding that the land supply may have been restricted in the past, the likely difference is so large that I consider that it would be an unrealistic assumption even if more sites were allocated.”

<https://www.canterbury.gov.uk/planning/local-plan/emerging-local-plan/local-plan-latest-news/> 7th August 2015 Inspector’s note. Plan 2011-31.

13. It is plain from a 2013/14 High Court judgement (extract below) that Inspectors are free to consider the approach of accounting for the backlog over 10 years, the “Liverpool method”, this to be the appropriate way forward for a plan:

.....”107 I do not see any force in Mr Cahill's submissions about the inspector's choice of the Liverpool method of assessment in preference to the Sedgefield. Both methods were well established as means of assessing the supply of housing land. The inspector knew that. He had evidence from either side urging him to accept one method or the other, for reasons that were fully explained, the Council contending for the Liverpool method, Bloor for the Sedgefield. I have referred to relevant passages in the evidence and submissions at the inquiry, which show how the argument was put on either side (see paragraphs 72, 73, 82 and 83 above).

108 Neither method is prescribed, or said to be preferable to the other, in government policy in the NPPF. In my view the inspector was free to come to his own judgment on this question. In paragraphs 7 and 8 of his decision letter he referred to the essential characteristics of each method. In paragraph 7 he said the Liverpool method spreads any shortfall in supply in a given year over the remainder of the plan period, and is an appropriate method to adopt where there is not a severe shortage in supply. In paragraph 8 he described the Sedgefield approach as one that seeks to meet any shortfall earlier in the plan period. And he acknowledged Bloor's assertion that this

approach accords with the imperative of significantly boosting the supply of housing, stated in paragraph 47 of the NPPF.

<http://www.bailii.org/ew/cases/EWHC/Admin/2014/754.html> *Bloor Homes v Secretary of State for Communities & Local Government* [2014] EWHC 754

14. The Inspector responsible for the Lichfield Local Plan (2008-28) summarised as follows in his report dated January 2015:-

“210. The question of whether the Liverpool or Sedgefield approach is adopted has a critical impact on housing land supply calculations. The advice is that the Sedgefield approach should be taken where possible. This is understandable as seeking to remedy any past undersupply within the first five years of the Plan is consistent with the aspiration of boosting significantly the supply of housing land.

211. However the use of the words ‘where possible’ clearly anticipates that there will be circumstances in which it will not be possible to apply the Sedgefield approach.

212. Applying the Sedgefield approach would mean that between 754 and 825 houses would need to be built per annum over the first five years of the Plan period. A housing trajectory produced by the Council indicates that in the short term the projected completions would need to approach 1,000 dwellings a year. Such figures would be well in excess of the highest number of houses ever delivered in the District - which was 647 delivered in 2005/6 when the economy was healthy and the supply of housing sites was not constrained. Such figures are also well in excess of those which I have concluded can be realistically delivered on a consistent basis. (see paragraph 56 of this report). It is difficult to conceive how such figures could be achieved in the short term even if additional sites were allocated. Plans are required to be realistic as well as aspirational. I consider that the Plan would fail the first of these tests if the Sedgefield approach were adopted.

213. The Liverpool approach, on the other hand, would lead to an annual requirement of between 581 and 653 homes over the first five years of the Plan period with a peak in delivery of some 800 or so dwellings per annum early in the plan period when a number of the Strategic Development Allocations would be delivering housing. Such figures would be broadly consistent with the highest rates of delivery achieved in the District and would represent a marked increase over the annual rates of housing achieved since 2008. I consider therefore that the Liverpool approach would lead to housing supply figures which would be both realistic and aspirational. For these reasons I consider that the Liverpool approach to dealing with the shortfall in housing supply should be used when calculating housing land supply figures in Lichfield.”

<http://www2.lichfielddc.gov.uk/localplanexamination/files/2015/01/Lichfield-Report-Word-16-Jan-2015.pdf>

15. The “Liverpool” method is preferred due to the rate of delivery from strategic sites being higher after a number of years and also because the implied rates needed if the backlog were to be accounted for over five years being unrealistically high. The latter point is especially relevant in the FoD but so is the need for a method that allows for properly allocated sites to come on stream and meet the requirement in a plan led sustainable manner.
16. The JCS (Gloucester, Cheltenham and Tewkesbury Joint Core Strategy) Inspector in her interim findings of May 2016 (2011-31) summarised as follows in her interim report (May 2016).

“... 24. There is currently a shortfall in supply, which has accumulated since the start of the plan period. The question over whether this should be accounted for via the Sedgefield or Liverpool method was debated at the March hearings. Whilst the PPG generally prefers the Sedgefield method, there can be circumstances in which the Liverpool method is justified.

25. As indicated above, the 5 year housing land supply relies heavily on strategic allocations coming forward at pace, and consequently there is a risk that not all units will deliver on time. Moreover, the housing buffers add to the required supply. As agreed at the March hearing, a 20% buffer should be added to the 5 year housing land supply for both Tewkesbury and Cheltenham, and a 5% buffer for Gloucester. These buffers should be applied to the housing requirement plus the shortfall, not just the housing requirement.

26. On the figures presented in the most recent trajectories²⁰ only Tewkesbury could demonstrate a 5 year housing land supply using the Sedgefield method. Whilst the figures will change with the recommendations set out in this report, there is nonetheless a good argument for using the Liverpool method. In order to increase the chances of maintaining a 5 year housing land supply, particularly in the case of Cheltenham, I take the view that the Liverpool method is justified...”

<http://www.gct-jcs.org/Documents/Examination-Document-Library-6/EXAM232---JCS-Inspectors-Interim-Findings---31052016.pdf>

17. From the above it is concluded that when there is a planned provision that will allow increased land to be available in the mid or late part of a plan period, then the backlog can be accounted for over that longer period.
18. The two approaches outlined above are both appropriate to consider. In considering the two alternatives, there is a need to ensure that the plan’s requirements for delivery of what is required in a sustainable manner can be met. The implementation of the plan’s allocations are directed to this goal. There is also a need to consider the two methods from the standpoint that it is preferable to meet the backlog in the shorter period. Where this seems unrealistic or even contrary to the aims and objectives of the plan an alternative exists which has the Inspector’s support at several recent Plan examinations.

19. The shorter period requires a greater supply overall as well as in the short term. In this case it would be one of 2605, the equivalent of 521 per year. The longer period would however still require a supply of 2292, or 458pa. This is still 128 greater than the basic dwellings per year figure of 330 and would enable the backlog to be met on land which has been identified. A figure of 3821 is the supply needed to meet the ongoing annual requirement and the current backlog ($3300 + 521 = 3821$). The currently identified supply from the submitted AP and the draft modifications as commented on by the inspector is 4805 so there is still a 25% surplus.
20. The backlog for the FoD, 521, is 58% larger than the 330 requirement. Were it to be met over five years the implied trajectory curve would be even steeper than that submitted by the council on 21st September and the prospects of meeting it would be less. In practice the additional land would mainly come forward in years four and five at the earliest thereby suggesting an unrealistically high rate of completions for these two years. Although the land will be available (able to be developed), the implied rate of completions in the trajectory as submitted is very unlikely to be approached. The sites are available over the whole plan period but lead times need to be taken into account. This is the situation which applies to Canterbury and Lichfield above, as well as in the FoD.
21. Given the range of sites proposed and the locations they are in it is considered that the delivery of land will increase through the early part of the plan period. Larger or more complex sites will be developed after a lead time and will be able and be expected to deliver in accord with this later peak. Sites that are newly identified in the AP will have an inevitable lead in time that means delivery of any new dwellings is likely to begin only in the latter part of the first five years. The delivery and capability of delivering affordable housing will be likely to match this peak.
22. Accounting for the backlog over a longer period is not generally supported by the development industry because it is said to lead to under provision, and is often not supported by appeal inspectors. The key points are that the method is able to be used and that it needs to be justified for each case. Its support by the various inspectors in recent plan examinations is plain and helpful but does not take away the need for specific justification for the FoD. There is no absolute shortage of land for the AP over the whole plan period so the comment in paragraph 108 of the above High Court judgement would not apply. Land that is intended to be identified as deliverable over the first five year period equates to 6.9years supply at 330pa.
23. In summary the following main points apply:
 - The OAN that is emerging for the AP is 300pa, or 6000 over 20 years. This allows for additional housing to cover an increase in jobs at the upper level of what is the current range.
 - To this a 10% addition should be made to enable a greater delivery of affordable housing, giving a plan requirement of 330pa, or 6600 over 20 years.
 - Current land availability, taking into account Inspector's October 2016 comments and reducing delivery from sites accordingly could accommodate 2477 dwellings over five years.
 - The annual requirement- with 10% affordable homes allowance added of 330pa can be contrasted with the annualised five year requirements of 521 or 458 depending on which method is used to account for the backlog
 - Although either the Liverpool or the Sedgfield method can be applied, the former is both more realistic and more appropriate to ensure the AP delivers in a sustainable manner in the

FoD. It is unlikely that the aim of accounting for the backlog over five years would succeed simply because development at the rate implied would be very unlikely. This could adversely affect the balance of the AP and its strategy by encouraging sites that are less suitable to come forward.

10 yr backlog	5 yr backlog	
330	330	annualised OAN
2477	2477	supply total in five years and additional sites
1903	1903	supply total in five years no additional sites
-521	-521	backlog 2006-date
2779	2779	completions 2006/7- 2015/16
3300	3300	requirement for 10yr from 2006/7
2293	2605	total requirement 5yrs with 20% and backlog 2006/7
5.40	4.75	years supply 2006 base additional sites
4.15	3.65	years supply 2006 base no additional sites

- Five year requirement (all backlog met within 5 years) 2605 current supply 4.75yrs
- Five Year requirement (backlog met within ten years- over the remaining plan period) 2293 current supply 5.4 years

24. The FoDDC have considered the Inspector's latest note and have with a proposed change of the plan requirement to 330pa provided additional flexibility for provision of affordable housing in accord with this note. As a result of this the already stretched trajectory has been revisited with the conclusion that the supply required can best be identified if the accumulated backlog is able to be addressed over the full plan period, using the so called "Liverpool method". This offers the most realistic means of being able to show it can be met as to account for it over just five years would for the reasons above be unlikely to deliver and would compromise the plan strategy. The use of this method has the support of the courts and it is being advocated by plan inspectors. A combination of similar factors apply in the case of the FoDDC AP to those cited in the examinations referred to above.
25. Further release of land to address the five year supply for the FODDC AP would be unlikely to be able to be deliverable given the implied rate being very much higher than anything previously achieved.
26. The Council would be grateful of the Inspector's guidance in the above matter before proceeding to fully address his response to their draft MMs of 21st September. They remain committed to the delivery of a sound AP.

Nigel Gibbons 31/10/16.

Table of dwelling completions (net dwellings 2006/7 – 2015/16).

2006/7	205
2007/8	405
2008/9	310
2009/10	118
2010/11	228
2011/12	265
2012/13	230
2013/14	343
2014/15	372
2015/16	303
total	2779

http://www.fdean.gov.uk/nqcontent.cfm?a_id=9033 Examination documents of particular relevance (ED050 on).