

ESBC Response to the Representations on the 5 year Land Supply Calculations

Under Supply and Backlog The Council are satisfied that under delivery from 2006-2012 is incorporated within the OAN figure, therefore there is no requirement to include historic under delivery in the 5YLS calculation.

Buffer and when this should be added – before or after under delivery included.

The Borough Council calculates the 20% buffer using the 5 year housing requirement figure. This approach accords with paragraph 47 of the NPPF which states that the 20% buffer is moved forward from later in the plan period to provide a realistic prospect of achieving the planned supply and to ensure choice and competition in the market for land. The NPPF does not suggest that a further 20% needs to be added to any under delivery against the Council's housing target from the beginning of the plan period. The under delivery is a mechanism used in the NPPF to determine the level of buffer to apply to the calculation and not a mechanism used to justify a further buffer.

Appendix 1 of this representation sets out a recent appeal judgement APP/R0660/A/13/2209335 of which paragraph 14 is particularly important. The Secretary of State disagreed with the Inspectors approach of including allowances for each year's backlog in the overall sum to which the buffer should be applied as he sees this as double-counting. He considers that it would be more appropriate to add the figures for the backlog once the figure for each year's need has been adjusted to include the buffer. Therefore the Council are satisfied that it has correctly included the buffer at the correct stage in the calculation.

Under delivery in the trajectory

The revised housing trajectory (Doc F72) seeks to further clarify the likely rate of delivery from the various components of supply, across the plan period. Not included within the trajectory are extant permissions which at March 2015 were 1704 units. When this additional supply component is taken into account, there is adequate housing coming forward to meet the Council's Objectively Assessed of 613 dwellings per annum or 11,648 dwellings to 2031. Alternatively it also addresses a higher figure of 630 dwellings per annum or 11,970 dwellings to 2031. Whilst the trajectory includes a projection of windfall and sites which are 'outside the strategy' which will be incorporated to some extent in the total of extant permissions, extant permissions are not included within the trajectory and therefore there is no potential element of double counting.

Windfalls

The windfall allowance in the 5YLS has been removed from the calculations to assist with the examination process. The effect of which is to have a worse case scenario 5YLS calculated to support the examination. Further windfall work will be undertaken to re-introduce a windfall allowance back into the 5YLS calculation which will be robustly supported by evidence. It is possible and in line with the suggestion by Gladman developments that the windfall allowance is reintroduced for years 4 and 5 only, to allow for the assumption in the first three years that extant permissions will be delivered. However the trajectory which demonstrates the delivery of the plan only includes an estimated delivery of the windfall set out in the development strategy in order to avoid the issue of double counting. However until the Borough Council has worked on the location of the extant permissions and relationship with windfall there will be no provision made within the calculation.

The Borough Council is still comfortable with the Windfall Paper (Doc C.8). It provides a transparent and robust calculation of the contributions that windfalls make to land supply, which is healthy.

Delivery rates

A 30 dwellings per year delivery rate reflects a recessionary view provided by the development industry (SHLAA Panel) in 2012. Whilst this might have been appropriate at that time the Borough Council is aware that there has been an up turn in the development industry in the Borough, evidenced by the volume of planning applications received year on year. Sites are being delivered at 40 dwellings per year and the developers of some of the larger sites have indicated that 50 dwellings per year is closer to the delivery rate that they want to have. During the hearing sessions the developers for Uttoxeter West indicated that 75 dwellings per year would be closer still. Using a 40 dwelling per year delivery rate is therefore not considered to be unreasonable particularly given the potential over the next 5 years for economic conditions to improve even further.

It is clearly in the developers interests to keep the dwelling delivery rate as low as possible to drive down the 5YLS.

Turleys suggest that the Borough Council have changed their minds on delivery rates over the last couple of years in the various published versions of the 5YLS. This is indeed correct. Both Hazelwalls and Branston Locks sites which are referenced in Turleys representation have developers which the Council have been involved with and the rates reflect their thinking at that time. The developers for Hazelwalls, for example, are due to submit an application very soon but their planning strategy has changed over time. We are expecting a full application for the entire site which will deliver units quickly – this has not always been the case during the gestation of their planning strategy. Submitting a full rather than outline application further reiterates their commitment to site delivery.

The Branston Locks delivery rates have been supplied to the Borough Council by the applicant's agents. The Borough Council has already started discussions on Reserved Matters, the aim of which is to meet the delivery rates set out in the 5YLS.

10% Discount to Extant Permissions

The 5YLS methodology is clear that extant permissions receive a 10% discount whereas sites in Tables A-D do not. This is because sites in Tables A-D discount by applying in a bespoke way the annual delivery rate of 40 dwellings across the 5 years of supply depending on how far along the application is e.g. consented, s.106 signed, awaiting determination, outline, reserved or full. This is a far more sensitive approach to the 5YLS than applying the 10% discount throughout.

Commencement of Development

The Borough Council has applied a transparent approach to the commencement of development depending on the stage of the application and how far through the process it has got. Our understanding is based on discussions with some landowners, an understanding of the likely site constraints, the number of developers likely to building the site out but also a good knowledge through our pre-application service of potential applications coming forward for outline, reserved or full consent. The development industry will always have opposing views and ultimately we are in their hands in terms of when sites are delivered, however, for the purpose of the 5YLS calculation

are approach is both transparent and reasonable and based upon a logical set of assumptions applied consistently and coherently.

Phasing/Stepped delivery of Objectively Assessed Need

The Council's spatial strategy, as tested through the Sustainability Appraisal, was deemed to be the most sustainable for the Borough. This strategy included a number of large sustainable urban extensions but also included a number of medium and smaller sites.

The development sector would prefer that this strategy is supplemented by a further suite of smaller sites which can quickly deliver and support a five year land supply. There are a number of issues which require re-iterating at this point.

- Sites set out in the Council's SHLAA do not necessarily fit within the definition of 'small'. Many are considerable tracts of land which would take some time to move through the consents process and deliver housing and infrastructure on the ground.
- Most of the smaller sites in the SHLAA are located in the rural areas, which would be contrary to the spatial strategy.
- Allocating further sites would not lead to the restoration of supply as these sites would still need to go through the consents process. Other smaller sites in the Borough at Efflinch Lane Barton under Needwood (130 dwellings) or Heritage Park in Tutbury (112 dwellings) took four years from submission of the initial outline application to the commencement of construction. Using sites such as this in the short term is not going to address 5YLS concerns but will instead leave the Local Plan and the Council's vulnerable to paragraph 49 of the NPPF which will be used to secure speculative and unwelcome development on sites outside of the Council's spatial strategy.
- The allocation of further sites to bolster the Council's 5YLS will result in housing being delivered over and above the level of housing need required, which has not been tested through the evidence base in terms of impact on infrastructure requirements, particularly education which is an issue for those current planning applications not identified in the development strategy.
- The Council has already consented approximately 1000+ dwellings over the current strategy on a range of sites. These applications, some of which were full applications, will be delivered far quicker than any new allocations.
- Windfalls continue to be delivered particularly in Burton upon Trent which represents a range of sites, but mostly smaller sites more appropriate to the urban fabric of the town. Known SHLAA sites are also coming forward for development across the Borough which is a further component of supply.

The stepped approach better reflects the delivery of sites within the Borough. 5YLS shouldn't lead the spatial strategy or OAN, but be a consequence of both of these issues. The stepped approach responds to the spatial strategy and OAN and provides a 5YLS supply figure which is both robust and reasonable.

During the hearing sessions the Borough Council made the point that whatever our 5YLS position is; the development industry will always seek to undermine it. This is adequately demonstrated by the representations that we have received. Every representation demonstrates a different supply

position and there is no consensus within the industry. A number of representations seek to dismiss sites following detailed discussions with agents and landowners. However the Borough Council is comfortable with its transparent and reasonable approach to the assumptions that underpin the supply calculation. It does however highlight that the 5YLS position is marginal and vulnerable in a s.78 appeal situation. This further supports the need to step the trajectory.

Despite consenting most of the spatial strategy and an additional 1000+ dwellings the Borough Council struggles to identify a 5YLS. This is not a matter of land supply but delivery. The stepped trajectory reflects this issue and allows for a robust supply to be restored. The important point to make is that the stepped approach does not result in a lower level of supply over the plan period. The employment-led OAN coupled with the level of consents in the Borough demonstrates that the Local Plan significantly boosts the supply of housing.

College Fields Site, Rolleston on Dove

The Borough Council agrees that this site, which is part of the Borough Council's strategy, should be included within the 5YLS calculation.

HBF comment on calculation error

The representation refers to the total of tables B, C and D which were amended following discussion in hearing day 5, particularly for Brookside, Uttoxeter (30 deducted) and Bargates/Molson Coors, Burton Upon Trent (100 deducted). The Council's calculation is shown as 1,988 only taking into account the deduction of 30 rather than 130. However upon further investigation the total should deduct a further 100 and therefore read 1,888. This is correctly shown in Doc. F.71 (using 500 dwellings per year). Taking into account this difference of 100 dwellings, the amendments to the other 5YLS calculations are:

- 466 dwellings = 7.1 years
- 613 dwellings = 5.07 years
- 630 dwellings = 4.91 years

Conclusion

The Borough Council reiterates its position that a stepped approach to the trajectory is a reasonable and transparent approach. The OAN can be delivered over the plan period with additional sufficient extant permissions to boost the supply of housing in the next 5 years whilst allowing the large Sustainable Urban Extensions, a key element of the development strategy to come forward for the remainder of the plan period.