

# THE CITY OF DURHAM TRUST

Response to the County Durham Plan Pre-Submission Draft

## COUNTY DURHAM PLAN PRE-SUBMISSION DRAFT - Consultation October 2013

For Office Use Only

Consultee ID:

Received:

Acknowledged:

Processed:

Please use a separate form for each representation.

<b>NAME &amp; ADDRESS</b> The City of Durham Trust Registered Office Quality Solicitors BHP Law Kepier House Belmont Business Park Belmont Durham DH1 1TW  Email Address trust@durhamcity.org	<b>NAME &amp; ADDRESS (AGENT)(IF APPLICABLE)</b> <b>ROGER CORNWELL (CHAIR)</b>  <b>OTHER DETAILS AS AT LEFT</b>
---	--

Preferred method of contact (please tick):      Email          Letter

To which part of the County Durham Plan does your representation relate?  
**Policy 5: Developer Contributions**

**Q1**

**Do you consider that this policy/proposal of the Pre-Submission Draft Local Plan to be Legally & Procedurally Compliant and Sound?**

**Legally and Procedurally Compliant** No (Go to Q3)

**Sound** No (Go to Q3)

**Q2** – not relevant.

**Q3**

**Why do you consider that this Policy/Proposal of the Pre-Submission Draft Local Plan is not Legally & Procedurally Compliant or sound? Is it:**

**Positively Prepared?**                      **No**

**Justified?**                                      **No**

**Effective?**                                      **No**

**Consistent?**                                   **No**

### Q4

If you do not consider this policy/proposal of the Pre-Submission Draft Local Plan to be Legally & Procedurally Compliant or Sound please use this box to explain why.

**Policy 5 fails to meet the soundness tests set out in the NPPF as follows:**

1. The infrastructure priorities required to support the delivery of the Plan are set out in the Infrastructure Development Plan, with a list of needs until 2030. The City of Durham Trust's primary concern is with Plan proposals in and around the City of Durham, and their funding covered under IDP sections 3.107 – 3.136 for the Central Durham delivery area. In this regard, by far the largest expenditure items are the Durham Western Relief Road, estimated to cost £31.5m from 2015/6 onwards, and the Northern Relief Road, £50m from 2017/8 onwards. The funding gap/shortfall for the delivery area is given as £63m.
2. The City of Durham Trust aims to show elsewhere in its evidence that the major development proposals in the Durham Delivery Area are not based on existing needs, utilising infrastructure capacity in an efficient way, with essential new development planned relative to costs and benefits. Rather, the new developments, the moreso those occupying Greenbelt, are a package of aspirations which somehow must be funded – needing developer contributions – pushing up the costs of some elements of the package to the subsidy of others – arguably not a sustainable or sound approach. The Delivery Area Schedule provides many instances, if Green Belt development is planned, of the inadequacy of infrastructure in the Central Delivery Area which would need to be addressed at considerable cost. By paying a contribution, some developers will help fund the infrastructure that is needed to make development acceptable, rather than the equivalent amount falling to the wider public purse. Conversely if development is not acceptable in any case, sufficient funding for desirable infrastructure or community benefits may not be forthcoming. In any case, no amount of funding offset will right the wrong of unsuitable or inappropriate development.
3. Although the prospect of developer contributions might appear fair in principle to share out the cost of essential infrastructure, the Trust envisages risks and potential difficulties, resulting in uncertainty and therefore unsoundness in the Plan:
  - In the first place there is doubt about the justification for the infrastructure development requiring funding, the moreso where this is being promoted as a significant consequence of new primary land use development - the “tail is wagging the dog” (inappropriate development in inalienable Green Belt, inconsistent with national policy, being promoted as a owner/developer-led exercise, not on grounds of need or real merit).
  - In some cases the development is planned to precede the anticipated receipt of developer contributions, with consequent real risk to Council tax payers.
  - There is a danger that seeking to raise monies to fill a funding gap for infrastructure by promoting development will not be effective or deliverable – leading to both the Plan commitment to inappropriate development as well as unfunded infrastructure requirements. The prospect of financial sufficiency for infrastructure becomes greater depending on the viability of development proposals in unpredictable future economic circumstances and the actual willingness of developers to contribute. The viability of a

# THE CITY OF DURHAM TRUST

## Response to the County Durham Plan Pre-Submission Draft

---

scheme may become an issue at any point in the run up to or implementation of the development, if requirements are considered or become too onerous, putting the whole or aspects of a development at risk.

- The costs of developing preferred areas/sites outweighs the developer contributions anticipated [The IDP spells out many negative aspects of Housing sites H1 + H5, or consequential traffic growth, sewage treatment, school places and people services provision etc., which will have to be addressed, some might say unnecessarily] .
- There is a question whether limited developer contributions are being used for the wrong priority needs, aspirations of DCC rather than to other service providers' aspirations (not in the remit of DCC or DCC alone).
- The risk of relying on developer contributions via CIL, an untried and not fully accepted (some believe not fit for purpose) means of financing, or S106, which depends on legal agreements with developers, and viability of development finances – which can easily change, leading to developers wishing to amend agreements or delay/abandonment of proposals. It is reported that there is increasing countrywide experience of CIL in practice suggesting these arrangements are unlikely to collect the level of contributions initially anticipated, largely due to current viability circumstances and lower than anticipated charge rates, together with an increasing number of exemptions. CIL, even if it survives ongoing political reassessment, is an additional financial burden that can act as a barrier to not facilitator of development.

### Q5

**What change(s) do you consider necessary to make this policy/proposal of the Pre-Submission Draft Plan Legally & Procedurally Compliant and Sound?**

The development and current state of the County Plan suggest that planning considerations affecting Durham City have in important cases been overridden by the Council's ambition to generate funding, sacrificing considerations of planning principles and environmental sustainability to the perceived demands of the market. These matters we have addressed elsewhere in our responses.

### Q6

**Do you wish to participate in the Examination in Public? (Please note that the Planning Inspector will make the final decision on who will be invited to attend individual sessions at the Examination).**

Yes

### Q7

**Do you want to be informed of the following:**

**The submission of the Local Plan to the Secretary of State? Yes**

**The publication the Inspector report? Yes**

**The adoption of the County Durham Plan? Yes**