

DURHAM COUNTY COUNCIL

EXAMINATION OF THE COUNTY DURHAM PLAN

INSPECTOR'S INTERIM VIEWS ON THE LEGAL COMPLIANCE AND SOUNDNESS OF THE SUBMITTED COUNTY DURHAM PLAN

1. Following the adjournment of the Hearing Sessions on 13 November 2014, I confirmed that I would inform Durham County Council (DCC) about the future progress of the examination. Initially I indicated that I would await the issue of the 2012 ONS household projections and re-consult with relevant parties before issuing my interim views. However, the latest information from DCLG¹ suggests that these projections would not be published until the end of February 2015. In view of this I wrote to DCC on 19 December 2014 and advised that I would proceed to give my interim views on the basis of the evidence and discussions already submitted.
2. Having considered the submitted County Durham Plan (CDP), the representations, submission documents, background evidence, hearing statements and the discussions and material submitted so far during the course of the examination, I am writing to set out my interim views on the legal compliance and soundness of the submitted plan below. For the avoidance of doubt, this note does not set out a final view on the soundness of the plan in respect of these or any other matters and is issued without prejudice to the contents of any final conclusions when the examination is completed.
3. The purpose of these interim views is to inform DCC about whether it has met the legal requirements, including the Duty to Co-operate, and whether the overall strategy, including the economic and housing strategy, objective assessment of housing needs, settlement hierarchy and spatial distribution of development, approach to the Green Belt and other strategic policies, seems to be soundly based.

A. Summary of interim views

4. In summary, my interim views are that:
 - The Council has met the minimum legal requirement of the Duty to Co-operate;
 - The objective assessment of housing needs is too high because the Council's vision for a successful local economy incorporates unrealistic assumptions about jobs growth and associated in-migration. There are also shortcomings in the housing requirement in terms of calculating the residual for allocation figure;
 - The proposed settlement hierarchy seems to be justified, effective and soundly based but the spatial distribution is not justified particularly in respect of Durham City. Further work is needed to justify the spatial distribution of development, including addressing the needs of settlements not constrained by the Green Belt in the Central, North, East and South Delivery Areas;

¹ Department for Communities and Local Government

- The process and evidence relating to the proposed amendments to the Green Belt boundary are flawed, particularly in relation to the release of sites to accommodate some 4,000 unnecessary dwellings in Durham's Green Belt. A full review of non-Green Belt sources of supply should be undertaken. Policies 6, 7, 8 and 14 are not sound;
- The proposed Western and Northern Relief Roads are not justified, deliverable or environmentally acceptable. They are incompatible with the Government's soundness tests and directly threaten the achievement of sustainable development. The Relief Road proposals should be withdrawn as unsustainable and unnecessary. The CDP needs to protect and exploit opportunities for the use of sustainable travel modes and make the fullest possible use of public transport provision, cycling and walking. Policy 9 and Policy 10 should be deleted from the Plan;
- Policies 12 and 13 in relation to Executive Housing would not accord with policies in the NPPF and would fail the Government's soundness test;
- There are concerns about the content and soundness of policies in relation to Houses in Multiple Occupation and Student Accommodation. The PMEHC² for Policy 32 is not sound, effective or sufficient to achieve more balanced communities;
- Most of the concerns about the content and soundness of other strategic policies can probably be overcome by detailed amendments to the wording of the policies and accompanying text.

B. Legal and Procedural requirements, including the Duty to Co-operate

5. Section 19 of the Planning and Compulsory Purchase Act 2004 (as amended) requires development plans to be prepared in accordance with the Local Development Scheme, to have regard to national policies and guidance and to the Sustainable Community Strategy and to comply with the Statement of Community Involvement. It also requires the Council to carry out a sustainability appraisal of the proposals in the plan and prepare a report of the findings of the appraisal.
6. The most recent Local Development Scheme (LDS)³ was adopted by the Council in September 2013. Publication and consultation on the Submission Draft was undertaken in October/November 2013 in accordance with the timescales set out in the LDS. Actual submission of the Plan was however, one month later than anticipated, in April rather than March 2014. The CDP is prepared in accordance with the content and broad timescale outlined in that document. The submitted CDP also has regard to the vision and priorities for action set out in the Sustainable Community Strategy (SCS).⁴
7. In addition to meeting its legal requirements under Regulation 18 of the Regulations⁵ the Council undertook extensive consultation in accordance with its own requirements set out in the adopted Statement of Community Involvement (SCI).⁶ The Council used a number of techniques at various stages of the

² DCC54 Proposed Main Examination Hearing Changes

³ K22

⁴ V2

⁵ The Town and Country Planning (Local Planning)(England)Regulations2012

⁶ K23

development plan process. The objectives of the SCI are, briefly, to engage effectively with all sections of the community; to use appropriate techniques and to improve the quality of decision-making. The Council has provided copious details of the steps it has taken to inform people.

8. Given the geographic size of County Durham, the Council acknowledges that its consultation efforts will never be brought to the attention of every resident. Nevertheless, it is clear to me that considerable efforts have been made to reach as many as possible.⁷ A critical aspect of consultation is providing feedback. At each stage of plan preparation the Council produced a Statement of Consultation⁸ where the main issues raised and the Council's response were included. Many changes were made to the Plan as a result of comments made during consultation relating to both sites and policies.
9. At the hearings some participants, including the City of Durham Trust (CDT), Sedgefield Resident Forum (SRF) and the Friends of Durham Green Belt (FDGB), were concerned that DCC has constructed an elaborate and costly consultation exercise with little evidence of willingness to respond positively to contrary views or to simplify the process to encourage genuine public engagement. The Regulations require the Council to provide a summary of the main issues raised by the representations and how those main issues have been addressed in the Plan. The Council has summarised the main issues raised and has prepared responses to these main issues as set out in the Council Feedback Reports.⁹ It is neither the intention nor is it necessary to provide a summary of all comments received during the consultation process. Key points raised by participants are dealt with later in this report. All of the representations were available to view on the Council's website. I am satisfied the Council has carried out the relevant techniques listed in the SCI.
10. Following the submission of the CDP, in August 2014, DCC revisited all of the representations made as part of the Pre-Submission Draft Consultation. It identified an additional 86 representations that were not correctly processed. These representations were added to the consultation database with the relevant consultee/agent formally notified by the Programme Officer. These representations will be treated consistently with those representations processed prior to the submission of the CDP. A Supplement has been produced to the Council's Feedback report (C1a and C2a). The steps taken by DCC ensure that those submitting the incorrectly processed representations have not been prejudiced.¹⁰ DCC has also produced Self Assessments of Legal Compliance and Soundness of the submitted Plan including consistency with the National Planning Policy Framework (NPPF).¹¹

Sustainability Appraisal

11. The NPPF¹² confirms that a sustainability appraisal which meets the requirements of the SEA Directive should be an integral part of the plan preparation process and

⁷ DCC3

⁸ C1, C2, C8, C9, C11 and C12

⁹ C1 and C2

¹⁰ DCC20a gives full details of the comments not previously considered by DCC

¹¹ K31 and K30

¹² National Planning Policy Framework (NPPF) paragraph 165

should consider the likely significant effects on the environment, economic and social factors; further guidance is given in the PPG.¹³ The Plan has been subject to Sustainability Appraisal (SA) which has been integrated with the plan preparation process in accordance with legislative requirements and relevant guidance. The SA Report¹⁴ documents the entire SA process which commenced in 2009. At each stage of the Plan development all draft policies and allocations have been subject to SA. Accordingly, the SA process has influenced, the consideration of alternative Plan options, the selection of preferred policies and refinement of such; and the final selection of allocations presented within the Pre-Submission Draft Local Plan. The SA report is a comprehensive document which evaluates the predicted social economic and environmental effects of the policies and proposals in the submitted plan, along with the mitigation required.

12. However, at the hearings some participants had serious concerns that the SA and plan preparation process had not considered a more moderate growth option rather than the high level growth option based on Durham City. The FDGB's position was that the Council's main assessments in the SA are only variants of the same high growth option. FDGB argues that a comparison should have been made with alternatives such as a 'moderate growth' alternative accommodated on brownfield sites and adjoining surrounding towns and villages served by sustainable modes of transport which, in their view, would be far more sustainable than car dependent peripheral housing estates. The Council has dismissed such an alternative which seems to me to have significantly diminished the credibility of the SA.
13. The Issues and Options Paper published in June 2010¹⁵ presented two options for the development strategy - Options A and B. The high level growth option was clearly established early on in the plan preparation process and this is evident in the SA report.¹⁶ Although the result of the 2010 consultation was not conclusive, there was a 60% preference for something other than the first option. The later Core Strategy Policy Directions Consultations Paper May 2011¹⁷ presented Option C which was claimed to be the best of Options A and B and discarding their respective weaknesses. A majority of representations, other than from developers, objected to the proposed major new housing development at Durham City of a scale which required most of this development going on land that is currently designated as Green Belt. The proposed strategy identified in the subsequent Preferred Options¹⁸ in September 2012, and carried through to the Submission Plan document, is a combination of Option A and Option B. It retained the proposals for major housing development and two relief roads in the Durham Green Belt which attracted significant opposition from objectors.
14. Options for lower growth were not considered through the SA process since DCC did not consider this to be a reasonable alternative. As part of its forecasting work on the objective assessment of housing needs DCC undertook a wide range of forecasts but lower estimates were not assessed at the same level of detail as the

¹³ Planning Practice Guidance (PPG) ID 12-016-20140306

¹⁴ K28

¹⁵ K2

¹⁶ K28 page 96 paragraph 6.10 shows that the minimum net housing requirement at Issues and Options stage for Options A and B was calculated at 29,000 dwellings

¹⁷ K4

¹⁸ K5

option submitted. The choice of reasonable alternatives for environmental assessment is a matter for DCC's judgement as decision maker¹⁹ and it has been held that any shortcomings in this process can be rectified in a subsequent addendum.²⁰ Nevertheless, the failure to fully assess the social, economic and environmental implications of lower growth options in the SA work is a serious omission.

15. As well as moderate growth options there are alternatives in respect of how Durham City is envisaged to fulfil its potential as the driving force of economic growth in the County and how the SCS's and Regeneration Statement's (RS)²¹ aim of "A Thriving Durham City" may be achieved. The SCS itself when referring to "A Thriving Durham City" refers to 'a coordinated regeneration programme in the city centre' and 'the cultural and tourism ambitions for the City'.²² The FDGB echo these thoughts in their submission with the comment: 'There is every reason to invest in Durham City's future by exploiting its strengths as a World Heritage Site and a city with a world class university that spins out high technology and knowledge-based enterprises in the County, such as NetPark in Sedgefield'. Also, the 2030 vision in the SCS refers to County Durham being known for "renaissance of its small towns and villages."²³ There is the risk that releasing easy to develop Green Belt sites around Durham City could undermine such renaissance. A review of the SA highlights a critical concern that remains with the plan's approach.²⁴ Overall, DCC's general economic directions and ambitions can be supported. However, there are different growth and spatial alternatives to achieve these ambitions which would be more consistent with the Altogether Greener elements of the SCS and the NPPF. Unfortunately these alternatives have not been considered or appraised.

Duty to Co-operate

16. Section 33A of the Planning and Compulsory Purchase Act 2004 (as amended) requires the Council to co-operate in maximising the effectiveness of plan making, and to engage constructively, actively and on an on-going basis with neighbouring planning authorities and prescribed bodies when preparing development plan documents with regard to a strategic matter. This is defined as sustainable development or use of land which has or would have a significant impact on at least two planning areas, including sustainable development or use of land for strategic infrastructure.
17. The Duty to Co-operate (DTC) is an on-going requirement throughout the preparation of the plan. It does not need to result in agreement between the relevant authorities and prescribed bodies, but local authorities should make every

¹⁹ Ashdown Forest Economic Development LLP v SSCLG, Wealden Dc & South Downs NPA [2-014] EWHC406

²⁰ Cogent Land LLP v Rochford DC [20-12] EWHC 2542 and PS D008

²¹ V1

²² DC21a page 20

²³ DC21a page 20

²⁴ K28 page 342 "There is, however, still a question over whether the quantity of new housing development proposed for Durham city could be better distributed amongst more sustainable sites within the city/ Central Durham as a means of avoiding the potential negative social and environmental impacts of proposed strategic allocations, but still enabling the positive economic effects to be achieved as there still would be a concentration of development in this core part of the County".

effort to secure the necessary co-operation on strategic cross-boundary matters before they submit their local plan for examination. Effective co-operation is likely to require sustained joint working with concrete actions and outcomes. The DTC is related to the requirements in the NPPF,²⁵ which indicate that planning should take place strategically across local boundaries and confirm that strategic priorities can include the homes and jobs needed in an area, along with infrastructure and other facilities; it also sets out the soundness tests which require plans to be positively prepared and effective. Further guidance on meeting the DTC is given in the PPG.²⁶

18. DCC has submitted evidence outlining how it has engaged constructively, actively and on an on-going basis with neighbouring local authorities and prescribed bodies during the course of preparing the plan. As evidenced by the tables in the Council's Duty to Co-operate Statement of Compliance,²⁷ it has identified the formalised working arrangements with prescribed bodies, neighbouring local authorities and other bodies. The supporting evidence sets out how the duty has been fulfilled through undertaking regular meetings, formalised working arrangements, a collaborative policy development and the development of a joint evidence base.
19. Some parties are concerned about the degree and effectiveness of co-operation. A Memorandum of Understanding (MoU) was agreed on 5 October 2012 by Chief Executives of the seven local authorities.²⁸ This MoU demonstrates the Councils intent to work collaboratively to meet the requirements of the NPPF and the Localism Act. CPRE suggests that the MoU seems in practice to be more of a 'treaty of non-intervention' than a framework for co-operation. The FDGB agrees with the CPRE on this issue. The Home Builders Federation (HBF) and Ros Ward note that DCC has engaged with neighbouring local authorities and other prescribed bodies but question how effective it has been.
20. Most of the prescribed bodies have been involved in the plan making process, including the HA, Environment Agency, Natural England and English Heritage. However, even though the HA expressed some concerns about the impact of the proposed development on the strategic highway network during the consultation, this has been resolved following an assessment by the HA of junction capacity in light of the CDP growth aspirations. DCC has had on-going discussions with Northumbria Water Limited, Sport England, English Heritage and the HBF. There are Statements of Common Ground for each of the strategic housing allocations and other proposed housing sites.
21. In considering the legal requirements of the DTC, my main concern is the nature, extent, effectiveness and timing of co-operation and engagement during the early stages of plan preparation. The most frequent meetings and correspondence appear to have been with authorities to the north of Durham County such as Newcastle, Gateshead, North and South Tyneside and Sunderland. During the earlier period of plan preparation each of the Tyne and Wear local authorities expressed reservations about the plan's strategy for growth and even by May 2013 the minutes of meetings record that further work needed to be done on strategic issues relating to housing, employment and transport. It was noted that, 'All seven

²⁵ National Planning Policy Framework (paragraphs 156, 178-182)

²⁶ Planning Practice Guidance – Duty to Co-operate (PPG; ID 9)

²⁷ K56

²⁸ K56 page 1360

authorities seek to retain or encourage growth to support sustainable economic growth, maintain a proportion of economically active population, accommodate the trend of ageing population profiles to meet objectively assessed needs. In some instances it may be necessary to claw back economically active households from adjoining authorities'.²⁹

22. Each of the authorities wanted growth but it is doubtful that this was being planned for strategically following the cancellation of the RSS³⁰ which advocated growth being concentrated in the major conurbation of Newcastle/Gateshead. There is less evidence of meetings and correspondence with the local authorities south of Durham County such as Darlington, and Stockton. The conclusion from the minutes is that few cross-boundary issues were of note. Co-operation with Cumbria County Council was even more sparse.
23. I conclude that DCC has engaged constructively, actively and on an on-going basis with neighbouring authorities and prescribed bodies, particularly during the later stages of plan-making, and has therefore complied with the minimum legal requirements of the DTC. In coming to this view, I have had regard to the Council's Note on Draft Supplementary Planning Documents (SPD)³¹ and the PMEHC for Auckland Castle SPD10.

C. Planning for Growth

24. The North East Independent Economic Review³² and the North East Strategic Economic Plan³³ (SEP) highlight the need to create and add more jobs to the North East Economy. The SEP sets out a vision that by 2024 the economy will provide over one million jobs, representing an increase of 10,000 jobs per year across the Local Enterprise Partnership area (100,000 jobs from 2014-24). With DCC reporting that the last economic growth cycle resulted in the provision of circa 70,000 jobs (1998-2008), the SEP target is evidently very ambitious.³⁴
25. The overarching priority of DCC is to improve the economic performance of County Durham. This priority is reflected in the SCS, the RS and it is the central theme of the CDP. To achieve this improvement in economic performance, the development strategy seeks to direct new development to locations that are considered attractive to the development industry, have resilient land values and a track record of delivery. In particular, Durham City is felt to offer major opportunities to attract private sector investment and support the growth in employment numbers.

Objectively Assessed Needs (OAN)

26. The NPPF³⁵ sets out that local planning authorities should ensure that their Local Plan meets the full, objectively assessed needs for market and affordable housing (OAN) in the housing market area, as far as is consistent with the policies set out in

²⁹ K56

³⁰ Regional Spatial Strategy

³¹ DCC29

³² V4

³³ V3

³⁴ NS4 - DCC Opening Statement on Employment Strategy

³⁵ National Planning Policy Framework (NPPF) paragraph 47

the NPPF. They should also prepare a Strategic Housing Market Assessment (SHMA) to assess their full housing needs, working with neighbouring authorities where housing market areas cross administrative boundaries. The scale and mix of housing should meet household and population projections, taking account of migration and demographic change, addressing the need for all types of housing, including affordable housing, and catering for housing demand.

27. The starting point for establishing the OAN is the latest demographic projections, but adjustments may have to be made to take account of economic and housing factors, including market signals and affordability. Neither the NPPF nor the PPG specifies a particular methodological approach, data or single source of information, but recommend a standard methodology to ensure that the assessment findings are transparently prepared. It is for DCC to consider the appropriate methodology, but this should be comprehensive, addressing all relevant factors, and be consistent with the guidance in the NPPF and PPG. In determining the OAN, various assumptions and judgements have to be made, and it is not for me to substitute my judgement for that of DCC. Nevertheless, I have to assess whether these assumptions and judgements are soundly based.
28. Based on migration data which indicates that 77.5% of households moving originated within County Durham, the Council have defined County Durham as a self-contained housing market area. Whilst PPG notes that DCLG household projections should provide the starting point estimate of overall housing need, the PAS Technical Advice Note "Objectively Assessed Need and Housing Targets", June 2014 (TAN), highlights that until new DCLG household projections come out, most housing assessments will have to rely on bespoke scenarios, starting from the ONS 2012 population projections.
29. DCC has not sought to start from ONS 2012 for reasons covered later but it has developed bespoke scenarios. Prior to the Submission Draft Local Plan, DCC consulted upon two earlier rounds of population, housing and employment forecasts that were based upon a range of published data and in-house modelling.³⁶ Communal/special populations (including students in halls of residence/colleges, prisoners and older persons living in domiciliary care) were removed from both population and household projections.
30. For the Submission Plan, the population, household and employment forecasts were subsequently updated to take account of 2011 Census data in conjunction with the POPGROUP modelling software. Scenarios based on DCLG 2008 and DCLG 2011 headship rates were formulated and an average figure of the total households and dwellings per annum (dpa) was used, described as a 'mid-point'. This is a logical approach as it seeks to avoid taking forward extremes in the economic cycle, whether that be an economic boom encapsulated in DCLG 2008 or the effects of recession in DCLG 2011.
31. The outcome of this work was a "Trend" based forecast whereby the population of the County rises from 513,000 to 560,721 during the plan period (+47,721/9.3%) and an average of 1,435 dpa are needed. In terms of jobs, the "Trend" indicates there would be 3,266 fewer jobs in the economy by 2030, based on an employment

³⁶ The basis for these forecasts is summarised in R5, Appendix 4

rate of 66.3% reflecting the rate 2011/13. Clearly, the latter outcome would not accord with the economic growth aspirations of DCC, the North East Local Enterprise Partnership (NELEP) or the NPPF. Consequently, it is appropriate to consider alternative scenarios that aim for economic growth. However, in accordance with the NPPF's general guidance on Local Plans,³⁷ such growth scenarios should be aspirational but realistic.

32. DCC's preferred economic growth scenario, incorporated in the plan, is "Employment rate 73% plus 30,000 jobs". In this scenario the population is forecast to rise from 513,000 to 570,502 during the plan period (+57,502/11.2%) and an average of 1,651 dpa is needed. The 30,000 jobs would be equivalent to jobs growth of approximately 23,000 in County Durham itself with the remainder created in the wider regional area and accessed by County Durham residents, essentially out-commuting.
33. The 73% employment rate figure has been chosen because DCC considers it to be close to County Durham's pre-recession rate. It also accords with the 73% rate envisaged in the SEP and the long term measure of success agreed by the County Durham Economic Partnership in the RS. However, document R5, paragraph 3.6, advises the employment rate was 72.1% in June 2007 and 71.5% in March 2008, very close to the national average. Since then it has fallen to 65.1% in March 2013, below the national average of 71.6%. The chosen 73% rate seeks to close the gap with the national average but the historic pre-recession rates indicate this will be a challenging target although not, in my opinion, beyond the realms of possibility.
34. DCC states the 30,000 jobs target was developed to reflect the need for existing residents of the County, who experience worklessness, to find routes to employment, and to rebalance the economy, through the attraction of more highly skilled employment opportunities for migrants. The Council emphasises the figure is supported by evidence in terms of the projected County Durham share of the job creation targets set in the SEP and Experian econometric forecasts.³⁸ The latter forecasts a 'policy neutral' increase of 22,900 jobs over the plan period with potentially further jobs derived from planned interventions and development proposals. The econometric forecasting concludes DCC's 23,000 jobs target is ambitious but achievable.
35. DCC has not sought to amend the plan/OAN based on revised forecasts which take into consideration the ONS 2012 based population projections. As the Council points out, PPG³⁹ advises Local Plans should be kept up-to-date, but this does not automatically mean that housing assessments are rendered outdated every time new projections are issued. Furthermore, ONS 2012 draws on the period 2007-12 and predominantly incorporates a recession based trend.
36. Nevertheless, the Council produced DCC2 which assessed ONS 2012 against their "Trend" and "Employment rate 73% plus 30,000 jobs" scenarios. This document can be used to identify issues arising from the population projections and the preferred economic growth scenario.

³⁷ National Planning Policy Framework (NPPF) paragraph 154

³⁸ R4

³⁹ Planning Practice Guidance (PPG) ID 2a-016-20140306

37. The ONS 2012 "Trend" has a population growth of 35,300/6.9% and an average of 1,321 dpa. This is a considerable downward move on DCC's 2011 "Trend" of 47,721/9.3% and 1,435 dpa. It serves to illustrate the highly volatile effect of different DCLG population projections.
38. The ONS 2012 "Employment rate 73% plus 30,000 jobs" has a population growth of 59,447/11.6% and 1,893 dpa. This is an upward move on DCC's 2011 "Employment rate 73% plus 30,000 jobs" of 57,502/11.2% and 1,651 dpa. It reveals that when there is a lower population growth input into the preferred economic growth scenario, this produces an upward population outcome, opposite to the recent population trend indicated by ONS 2012. This is because the anticipated population growth totals vary to accommodate the required labour force target (30,000), with a higher level of net in-migration used to ensure an appropriately sized labour force.
39. The reliance on high employment growth and associated high levels of in-migration that is built into the preferred economic scenario represents an unacceptable risk which I cannot support on the basis of the evidence before me. Although the chosen jobs target may accord with regional economic aspirations and the results of econometric forecasts, it is imperative to take account of the fact that other authorities in the North East are similarly seeking growth. The econometric work highlights that competition from other regional business centres is currently a key challenge. Given the growth envisaged by other authorities, such competition will continue throughout the plan period and this will have a moderating effect on the Council's economic ambitions. In addition, I consider the evidence in support of the Strategic Employment Site at Aykley Heads accommodating 6,000 jobs to be unconvincing and excessively optimistic. The level of interest from potential occupiers and the job density assumptions from elsewhere in the country do not support the Council's case.⁴⁰
40. A second concern relates to the 7,000 of the 30,000 jobs that will be created in the wider regional area and accessed by County Durham residents. It appears from the evidence submitted⁴¹ that some authorities are seeking to reduce the proportion of jobs taken-up by in-commuters through making housing provision within their own area. DCC confirmed at the examination there was cross-boundary alignment in this regard. Whilst this appears to be the case in respect of aligning workforce levels and the location of jobs,⁴² I am unable to independently verify from the evidence before me that this extends to the housing provision. As such, it brings into question whether there would be a potential degree of housing over-provision derived from this element of the jobs target. This concern is more related to the soundness of the plan rather than the duty to co-operate.
41. In respect of the need for affordable housing, the SHMA identifies an overall net shortfall of 674 affordable dwellings across the County per year. Policies 17 and 31 seek to address this need with the percentage targets in the latter justified by a viability study.⁴³ To my mind, this accords with the PPG⁴⁴ which sets out that the

⁴⁰ SPD1, R16, R19, DCC24

⁴¹ RS7 Statement from CPRE on Matter 1

⁴² K56 Pages 210 and 213

⁴³ R12

⁴⁴ Planning Practice Guidance (PPG) ID 2a-029-20140306

total affordable housing need should be considered in the context of its likely delivery.

42. The PPG goes on to state that, "An increase in the total housing figures included in the local plan should be considered where it could help deliver the required number of affordable homes" and the NPPF⁴⁵ states that plans should take account of market signals. However, as Fig 3.1 in the TAN indicates, affordable housing need and market signals are amongst several factors, including future employment, which could lead to an upward adjustment in the housing need suggested by the DCLG projections. Given the significant upward adjustment already brought about by the jobs target, I consider any further upward adjustment in respect of affordable housing need and market signals would result in a calculation of OAN that is not grounded in realism in respect of associated population levels.
43. In conclusion, for the reasons expressed above, I disagree that 1,651 dpa would be a reasonable calculation of OAN. Although it would reflect the economic aspirations of the Council and its partners, a more realistic view about employment growth and the associated levels of in-migration is necessary. A more cautious jobs growth target, reducing the reliance on in-migration, would be a more realistic and deliverable scenario that would reduce the evident risk that the planned level of housing might well be forthcoming but the anticipated jobs may not. As such the OAN is too high and should be lowered. In my view, a reduced economic growth scenario, closer towards that envisaged by Scenario 2 in Table 4 of R5⁴⁶, would represent a more realistic forecast upon which to plan for. I have considered the alternative models and approaches to calculating OAN put forward by other parties.⁴⁷ These produce either significantly lower or higher estimates which I consider to be less robust than the work undertaken by the Council. For example, the FDGB's proposals do not use a recognised methodology whilst the house builders use unrealistic data inputs and assumptions.

Housing Requirement

44. DCC has taken the OAN of 1,651 dpa to be the housing requirement, albeit rounding up the 31,369 units over the plan period to 31,400. There is no requirement arising from the Duty to Co-operate to meet the housing needs of neighbouring authorities.
45. Table 2 of the CDP sets out the components of the housing requirement. This incorporates supply elements and identifies a "Residual for allocation" of 15,583 units. I consider there are significant shortcomings in the calculation of this figure. Firstly, there are two factors that will push the residual figure higher. No allowance has been made for demolitions. The Council's housing delivery team envisage there will be some future unplanned demolitions but in much smaller numbers than in previous years. More significantly, all the 13,547 commitments are expected to be delivered within the plan period, even though the Council accepts that this is unlikely to happen in reality.⁴⁸

⁴⁵ National Planning Policy Framework (NPPF) paragraph 17

⁴⁶ Scenario 2 Employment Rate 73%; 1,435 dpa

⁴⁷ Summarised in R6

⁴⁸ CDP paragraph 4.33

46. Secondly, counteracting the above, there are factors that will push the residual figure lower. No allowance has been included for bringing empty homes back into use⁴⁹, notwithstanding it being a stated priority for the Council. There is also no allowance for small windfall sites (under 0.4ha) despite the table for housing trajectories for each delivery area in H20 indicating a total supply of 1,890 units from this source.⁵⁰ Furthermore, there is every reason to believe this figure is likely to be an under-estimate. It is based upon the three year period 2011/12 to 2013/14 which is a low point in the economic cycle. It also does not take into account the proposed revised policy framework. Policy 15 (Development on Unallocated Sites in Built Up Areas) represents a move away from the general previous use of settlement limits whilst Policy 13 (Other Executive Housing Proposals) effectively promotes a new form of brownfield exception site.
47. Finally, there is no allowance for large windfall sites or for the release of former family homes back to the market as the existing properties converted to student accommodation become vacant. The latter will be the consequence of the University of Durham's estate strategy of significantly increasing the proportion of students to be housed in purpose built accommodation.
48. Making the conservative assumption that large windfalls and demolitions cancel each other out due to their likely irregular nature and even after making an allowance for the non-implementation of some of the commitments, I consider the "Residual for allocation" figure is over-stated by something in the order of around 2,000 units.⁵¹ The case for the windfall supply is significantly bolstered by the Strategic Housing Land Availability Assessment (SHLAA). The SHLAA only considers sites greater than 0.4ha or capable of accommodating in excess of 12 units and primarily addresses sites above this threshold that developers/agents have put forward for consideration. As a result, many brownfield areas of land in the County have not been assessed.
49. Obviously, there are arguments for omitting such sources of supply on the basis that site allocations provide more certainty of delivery. Nevertheless, given the plan is reliant on demonstrating exceptional circumstances for the release of Green Belt sites, in this particular situation I consider it is of paramount importance that sources of supply are fully accounted for.

5 Year Housing Land Supply

⁴⁹ H7 Table 4.1 indicates there were 10,110 empty homes in 2011; an overall vacancy rate of 4.3% compared to 3.6% in the North East region and 2.8% for England.

⁵⁰ $378 + 336 + 588 + 280 + 308 = 1,890$

⁵¹ Assuming +1,890 from small windfalls, + 950 from empty homes (50 per annum based on current HCA programme referred to in H7/9.4% reduction on current total), +250 from former student housing (50% of that assumed by FDGB and others) but deducting 1,355 (10% of the commitments) = +1,735 minimum.

50. The Council considers there is a 5.15 year supply.⁵² This is based on a housing requirement of 1,651 dpa and after the application of both a 20% buffer and the "Sedgefield method" in respect of addressing the shortfall from previous years within the first five years of the plan period. Furthermore, where a site with planning permission is considered to be in a weak market area or without a house builder on board, it has been moved out of the 5 year supply. Unlike the "Residual for allocation" calculation explained above, the 5 year housing land supply does incorporate an allowance for small windfall sites. This is from year 3 onwards so as to avoid double-counting in relation to small site commitments.
51. From the evidence, I consider the application of a 20% buffer is appropriate in Durham's case. However, I do not consider it would be meaningful to explore the 5 year supply calculations to any greater degree as my concerns about the OAN and the contribution of the Green Belt sites mean that it will need to be comprehensively recalibrated. At the examination I noted that H20 refers to 6,941 units that are identified as suitable (green) within the SHLAA but which are not earmarked as housing allocations within the plan, do not benefit from an extant planning permission and are not included in the housing trajectory. It is apparent from the submissions⁵³ that there needs to be greater consistency between the conclusions of the SHLAA assessments and the findings of the detailed sustainability appraisal of the sites in determining suitable (green) sites.
52. On the basis of the evidence and discussions during the examination so far, I consider there are serious shortcomings with the Council's objective assessment of housing needs and the housing requirement in terms of the residual for allocation figure. A combination of the two would indicate the latter figure in the plan should be closer towards 11,000⁵⁴ rather than 15,583. This suggests that further work needs to be undertaken in respect of these matters, having full regard to the NPPF and PPG and using assumptions which are both robust and realistic.

Settlement hierarchy and spatial distribution of development

53. The settlement hierarchy set out in Policy 2 comprises Main Towns, Smaller Towns and Larger Villages, Other Settlements, Smaller Communities and Rural Areas and is largely justified in the supporting evidence including the County Durham Settlement Study (CDSS).⁵⁵ The CDSS established a methodology for comparing the sustainability of the settlements in County Durham. Scores were awarded to a settlement depending upon the amenities it possessed:- health facilities; schools; shops; post offices; pubs; built sport and leisure facilities; community centres; employment (in terms of industrial estates); proximity to main town centres; and public transport services. A weighting was then applied to the scores, reflecting the importance of each type of facility to the settlement's sustainability.
54. There is no dispute that the 12 main towns, including Durham City, identified in the CDP are the primary service centres within their locality. Due to their extensive

⁵² H20

⁵³ RD37 ID Planning Statement regarding 5 Year Housing Supply

⁵⁴ This is derived from utilising an OAN figure closer towards 1,435 dpa and including within the supply, (after applying 10% non-implementation to the commitments) around 1,735 units from small windfalls, empty homes and former student housing

⁵⁵ R2

range of facilities and good transport links they appropriately sit at the top of the settlement hierarchy in the CDSS. Similarly, most of the 22 Smaller Towns and Larger Villages are appropriate and justified. Hallam Land considers that it is inappropriate to omit Parkhill from this tier of the settlement hierarchy given, in their view, that it is a sustainable part of Coxhoe.

55. The CDSS identifies settlement 'clusters' whereby a local facility is counted as being within a settlement if it is within the built up area or within 800m of the settlement centre. Clusters were identified taking into account the 800m distance threshold, along with settlement morphology and severance factors. The CDSS identifies Coxhoe and Parkhill as a 'cluster' which effectively functions as a single entity within the Central Durham Delivery Area. On the basis of the conclusions of the CDSS I consider that 'Coxhoe and Parkhill' should be identified as a settlement within the Smaller Towns and Larger Villages level of the settlement hierarchy. Paragraphs 4.6, 4.53, Policy 4 and Policy 30 of the CDP should be amended to reflect this. The issue of whether this cluster can accommodate further development would be considered at the Site Allocations stage.
56. Barton Willmore express concerns about the wording of Policy 2 in that it fails to prioritise Local Service Centres ahead of medium-sized villages, small villages and hamlets as set out in the Settlement Study. Reference is made to Coundon, which received the highest joint weighted score alongside Ouston and Urpeth, and falls under the umbrella of Local Service Centre whilst it has been demonstrated that it is the most sustainable location in the 'other settlements' category in part c of Policy 2. In my view growth outside of the Main Towns and Smaller Towns and Larger Villages should take account of the sustainability credentials rather than size alone as the deciding attribute for growth. Minor changes are therefore necessary to the wording of Policy 2 (sub sections c and d) to reflect this. In addition, in view of the evidence submitted,⁵⁶ Great Lumley and Coundon should be identified in the hierarchy as Smaller Towns and Larger Villages with their own target for growth. Comments about the status of Burnhope within the SHLAA would be considered at the Site Allocations stage.
57. The FDGB and others highlight that the hierarchy of settlements included in Policy 2 is accompanied by text that concedes that growth in Durham City is more likely to dominate.⁵⁷ In my view, if economic growth is lower than the target for the County set in the CDP, the allocations in the strongest market – Durham City- would all be taken up. The resulting lower amount of house building in the rest of the County would fail to achieve the regeneration and renewal aspirations of the CDP for the County's towns and villages. The over-emphasis on building up Durham City results in major incursions into the Durham Green Belt and for reasons explained below these would be directly contrary to national policy. It seems to me the CDP must examine a different spatial strategy alongside a more probable lower growth scenario to protect the interests of the rest of the County and to protect the City from harmful development. This would require major consequential changes to be made to Policies 4, 6 and 8 and their accompanying reasoning.

⁵⁶ DCC33

⁵⁷ CDP paragraphs 4.7, 4.14 and 4.15

58. The proposed spatial distribution of development set out in Policy 4 is justified with a range of evidence and has evolved during the preparation of the plan including the CDSS, SHMA, the SHLAA, the Housing Implementation Strategy and the CIL Viability Study.⁵⁸ Alternative growth scenarios have informed the distribution of development. These are presented in the Core Strategy Issues and Options Paper (2010) as Option A (Economic Growth) and Option B (Regeneration). Justification for the Plan's spatial approach, which is a blend of these two options and upon which Policy 4 is based, is set out in paragraphs 4.41-4.44 of the Policy Directions Paper (2011).⁵⁹
59. The principal consideration when distributing the housing development was the role and function of the settlement in relation to the Plan's spatial approach. However, other factors were taken into consideration including: market attractiveness; relationship to proposed job growth; consultation responses; the location of existing housing commitments; past performance in delivery; the regeneration requirements of communities and an understanding of neighbouring Authorities' strategies and evidence base.⁶⁰ The distribution of future employment land to settlement level has been informed principally by the Employment Land Review (ELR) 2012/2014.⁶¹ The distribution is based on Functional Economic Market Areas.⁶² The distribution of land for new retail facilities has been informed by the Retail and Town Centre Uses Study 2009/2013.⁶³
60. There is broad agreement that the larger, more sustainable settlements should be the focus of proportionally more of the development that is envisaged to be delivered by the CDP. Larger settlements such as Durham City, Bishop Auckland and Newton Aycliffe are inherently more sustainable due to a higher order level of services and facilities that are present along with corresponding employment opportunities and supporting infrastructure. The SHMA⁶⁴ suggests County Durham represents a single market area, which is then broken down into 5 Delivery Areas.⁶⁵
61. I accept that this approach is required to take account of the scale and diversity inherent within County Durham, although it does also raise the question whether County Durham is a single housing market area or whether it should be viewed as a number of smaller inter-linked yet separate areas. The SHMA further assesses general market supply and demand in each delivery area. Table ES2 clearly identifies that, with the exception of the South Durham area, there are discrepancies between supply and demand across a range of house types within most delivery areas. Yet this does not appear to be adequately addressed through the CDP.
62. The Council's approach is to focus development in and adjacent to the City of Durham with proportionately less development in the other settlements within the Central Delivery Area. This approach necessitates huge releases of Green Belt land around the City, which I cannot support (see below), as opposed to allocating

⁵⁸ H1, H7, R2, R8, R10, E1, E3, E10, E11

⁵⁹ K2 and K4

⁶⁰ CDP paragraph 4.41 and R8 Section 5

⁶¹ E1 and E3

⁶² CDP paragraph 4.44

⁶³ E10 and E11

⁶⁴ H7

⁶⁵ Central, North, South, East and West Durham

suitable sites elsewhere in the Central Delivery Area. The most appropriate approach would be to seek a more even balance between focussing development within the City of Durham and allocating suitable sites elsewhere in the Central Delivery Area. This is because the settlements in the Central Delivery Area are well placed for accessing economic opportunities in the City of Durham due to the comparatively narrow Green Belt and bus service provision to the City.

63. Such an approach would obviate the need for Green Belt releases and would support the development of suitable sites throughout the Central Delivery Area and the regeneration of settlements located there. Of the 5,220 dwellings allocated in Durham City a significant proportion (about 4,000) are sites currently in the Green Belt with a heavy reliance on 3 large sites.⁶⁶ As the CDT argues, with more realistic population and household projections, there would be less justification to take land from the Green Belt to accommodate the 3 Durham City strategic sites.
64. The Durham Local Plan and CIL Viability Study⁶⁷ indicates that beyond the Central, North and West Delivery Areas development is marginal. It is noteworthy that a significant proportion of development is located outside these areas. The HBF and others do not dispute the need for development within these other locations but maintain that the CDP should consider allocating additional land within the more viable delivery areas. I agree that this would address the disparities in supply and demand and provide greater flexibility and choice but this needs to be considered in the context of my comments on the overall housing requirement which I have set out earlier in this report.
65. In order to achieve soundness, the table in Policy 4 should be re-calculated following a comprehensive review of allowances made for windfall sites, use of empty homes and release of properties currently used as student HMOs.⁶⁸ If a lower growth target for County Durham is used and with a more balanced distribution this would result in a considerably lower figure than the 5,220 calculated for Durham City. An appropriate adjustment could then be made to the provision in other towns and villages in the Central Delivery Area not constrained by Green Belt such as Brandon, Coxhoe/Parkhill, Bowburn, Langley Park, Lanchester and Sherburn.
66. For similar reasons, in the North Delivery Area additional allocations could be made in Consett, Stanley and Sacriston and in the East Delivery Area at Seaham, Peterlee and Shotton Colliery. In the South Delivery Area there is scope for dispersing the housing allocations more widely with additions in Coundon, Chilton and Willington and reductions at Sedgefield to safeguard the character of the area. Although an attractive market area I consider there would be little scope to allocate additional sites in the West Delivery Area due to infrastructure constraints.
67. It therefore seems to me that although the settlement hierarchy is, for the most part, appropriate, justified and soundly based, further work is required in relation to a comprehensive review of allowances for windfall sites particularly in the Central Durham Delivery Area. A lower overall target growth figure and a more equitable distribution of housing allocations for the whole of County Durham would

⁶⁶ CDP page 64 – sites H1, H2 and H3

⁶⁷ R10

⁶⁸ Houses in multiple occupation

also prevent the reliance on 3 large sites currently in the Green Belt. Appropriate adjustments could then be made to other towns in the Central Delivery Area not constrained by the Green Belt. Additional allocations could then be made in other Delivery Areas.

Durham City Strategic Sites, the Green Belt and Relief Roads

68. In CDP Policies 6-10 the Council presents Durham City as a key opportunity to deliver the economic prosperity required in County Durham over the next 16 years alongside the County's other main centres. The Council's approach within the CDP is to facilitate the step change in economic performance necessary to meet the economic growth ambitions for the County and the wider area. The identification of Aykley Heads as a Strategic Employment Site is central to achieving this. The Council argues that it is imperative that a complementary housing stock is delivered alongside the employment strategy to ensure that in-migration can occur and that the economic ambitions are sufficient to demonstrate the exceptional circumstances necessary to justify large Green Belt releases.
69. Green Belt sites at Sniperley Park (2,200 dwellings), North of Arnison (1,000 dwellings) and Sherburn Road (475 dwellings) are identified as strategic sites. Merryoaks (250 dwellings) and Durham Northern Quarter (40 dwellings) although too small to be considered strategic are also proposed to meet the housing requirement. It is further argued that the Western and Northern Relief Roads are justified, deliverable and consistent with the Council's transport strategies and that both are deliverable, environmentally acceptable and viable.
70. The NPPF⁶⁹ confirms that once established, Green Belt boundaries should only be altered in exceptional circumstances, through the preparation and review of the Local Plan; it also advises that new Green Belts should only be established in exceptional circumstances and sets out the factors to be considered. DCC has provided evidence to justify its approach;⁷⁰ this identifies that the exceptional circumstances needed to justify altering Green Belt boundaries are essentially the economic challenges the County is currently experiencing and a requirement to meet housing need.⁷¹ However, it is plain to me that both the process and the evidence are seriously flawed.
71. I accept the principle embodied in Policy 6 of the CDP that Durham City is a key location for new development but this has to be seen in the context of its physical limits. The NPPF makes it clear that need alone is not the only factor to be considered when drawing up a Local Plan. The NPPF sets out that LPAs should, through their Local Plans, meet objectively assessed needs unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF as a whole or specific policies in the NPPF indicate development should be restricted.⁷² Such policies include those relating to land designated as existing Green Belt.

⁶⁹ Paragraphs 82-85

⁷⁰ R29, R30 and R31

⁷¹ R29 paragraph 1.5

⁷² NPPF paragraph 14

72. The CDP depends upon the fundamental proposition that Durham City needs a 'critical mass' of employment, population and visitors to build on opportunities and become a city of regional, national and international significance. This 'critical mass' is the rationale for proposing 5,200 dwellings and two relief roads in Durham City. The CDP does not explain why this particular figure of 5,200 is required or why Durham City is allocated 16.6% of the total of 31,400 new dwellings shown in Policy 4 Table 3. There is no evidence to support this figure. Similarly, I consider that the addition of 5,200 dwellings within Durham City would not raise the significance of the city in the manner which DCC apparently envisage. The evidence for Policy 6 is seriously lacking and to my mind this significant policy seems to be unsound.
73. Importantly, this ambition for growth on the scale desired does not respect the special character of the City. Durham City is already a city of regional, national and international importance based on its existing assets and development on the scale envisaged will do little to improve it and is more likely to harm it. The setting and special character of Durham City derive their importance not only from direct views of buildings on the peninsula or from the intrinsic architectural or landscape quality of the town and its setting, but from the relationship between the physical size and topography of the built-up area and the open areas around it. In essence the character of Durham does not derive solely from views of the Cathedral and Castle, which are at the centre of a World Heritage Site, but from the relationship between them and the actual size of the built-up area. Any increase in the physical size of the City, irrespective of any effects on views or countryside quality, would be likely to have a generally harmful effect on the character of the City. The fingers of open space which extend right into the built-up area are of particular importance in terms of the special character of Durham.
74. Aykley Heads has long been designated as the premier office location in the City and indeed the County and its continued designation is in principle soundly based. Two parts of the extended designation are in the existing Green Belt. These two parts are the southern portion of Area A and the former playing fields plateau designated Area C in SPD1. Area A is largely occupied by County Hall and associated car parking together with areas of amenity open space and woodland. Area C comprises 4.2 hectares with a capacity for 19,775 m² of floorspace.⁷³ I have already indicated that the number of jobs at Aykley Heads appears to be excessively optimistic.
75. Whilst I agree that Aykley Heads should be supported as a strategic employment location, on the evidence that is before me, there are no exceptional circumstances to justify removal of Area C from the Green Belt. Area C is an elevated location which is integral to the green setting of the City included in the 2004 Green Belt designation. It continues to fulfil several Green Belt purposes as set out in the NPPF.⁷⁴ Other parcels of land including Area A and the proposed development in the north around the former police headquarters can be considered at the Site

⁷³ SPD1 page 30

⁷⁴ NPPF paragraph 80. It would serve the first, third and particularly the fourth bullet points in this paragraph

Allocation stage.⁷⁵ As submitted therefore, Policy 7 seems to be unsound as it conflicts with requirements in the NPPF.

76. Turning to the Durham City Strategic Housing Sites (Policy 8), I have already set out the reasons why I cannot support the Council's evidence which underpins the economic growth strategy and housing need requirement in the CDP. I consider the assumptions underlying the economic strategy, including the notion of critical mass and the proportional distribution of 5,200 dwellings in Durham City, are excessively optimistic and not justified. There are no exceptional circumstances arising from the economic strategy or from the housing need requirement which would justify the release of land from the Green Belt for large housing sites. It follows that I cannot support the proposed three strategic sites identified in the CDP at Sniperley Park, North of Arnison and Sherburn Road for the following reasons.
77. First, there is no need to release 3 large sites from the Green Belt to meet the objectively assessed housing requirement. Secondly, the reasoning and justification for a 'critical mass' for Durham City is weak and unconvincing. Thirdly, there are significant shortcomings in the assessment of capacity within the built up area. The FDGB has estimated from H20 that there is capacity for 2,800 new dwellings within Durham City over the plan period. Although this was reduced to 2,058 there still remain significant differences between DCC and FDGB in relation to brownfield capacity, windfall allowances, empty houses and family re-occupation of HMO accommodation. Furthermore, the strategic proportion of 16.6% allocated to Durham City is not explained or justified. The existing share is only 8.2%. In my view a more rigorous assessment of these components is required in the context of the housing need requirement and a much lower growth figure for Durham City.
78. Fourthly, I recognise that a wide range of evidence has influenced the release of particular sites from the Green Belt⁷⁶ and that there is support for such releases from the HBF and developers. Nevertheless, as the CDT points out, the 'exceptional circumstances' were formulated well after the decision had been taken to remove the strategic sites from the Green Belt. It was not until the 2012 Durham City Green Belt Site Assessment Phase 3⁷⁷ that exceptional circumstances were first mooted. No exceptional circumstances are included in the 2010 Durham City Green Belt Assessment Phase 2.⁷⁸ The 2010 Core Strategy Issues and Options document acknowledges the need for exceptional circumstances but does not identify them.⁷⁹ The Council has not provided the required justification for releasing Green Belt sites in respect of Green Belt purposes in Green Belt assessments and the SA and has simply identified the least damaging of the sites.⁸⁰ Sites outside the Green Belt that are accessible to key employment sites in the City have not been rigorously tested. Therefore, there can be no justification for releasing 3 large Green Belt sites.

⁷⁵ This includes consideration of the depiction of the boundaries of the Strategic Employment Allocation on page 58 of K9

⁷⁶ R2, R10, R28-R34, R38, K28, SPD1-SPD4

⁷⁷ R29 paragraph 1.5

⁷⁸ R30

⁷⁹ K2 paragraph 5.26

⁸⁰ K7 paragraph 4.203

79. Fifthly, it is plain to me from several of the hearing sessions that the Council has not responded to submissions from FDGB, the CDT and others that all options for development outside the Green Belt should be assessed. Whilst it has consulted on the general principle of concentrated development versus dispersed development to other towns and villages around the County in its high growth strategy, there has been no evidence published of an assessment for Central Durham of a lower overall growth strategy with higher levels of brownfield development and dispersed development to nearby towns and villages. The unwillingness to consider and test such an alternative strategy is a critical flaw in the local plan process. It is not surprising to me that this has led to some 3,596 representations against the CDP.
80. Finally, I have considered the detailed evidence in relation to the release of these strategic sites including that contained in the relevant SPDs and carried out site visits. The strategic sites at Sniperley Park, North of Arnison and Sherburn Road, together with the smaller sites at Merryoaks and Durham Northern Quarter, comprising about 4,000 dwellings, all fulfil the purposes of Green Belt set out in paragraph 80 of the NPPF. The Government attaches great importance to Green Belts and the PPG, in the revision dated 6 October 2014, confirms that Green Belt boundaries should only be altered in exceptional circumstances.
81. In my view all of these sites would contribute to urban sprawl and several have no natural boundary to limit further development. The sites to the north of the City in particular would spread out unacceptably towards the villages adjacent to the Green Belt and would contribute towards coalescence. The out of centre proposal for a new supermarket on the North of Arnison site is not justified in the light of all the policies in the NPPF.⁸¹ All of these sites would assist in safeguarding the countryside from encroachment and preserve the setting and special character of this historic City and World Heritage Site. Furthermore, the protection of all of these sites from development would assist in urban regeneration, by encouraging the recycling of derelict and other urban land. Overall there are no exceptional circumstances to justify release of these sites from the Green Belt. There would be serious conflict with the purposes of Green Belt and the environmental harm which would arise from these proposals would render Policy 8 of the plan unsound.
82. For similar reasons I cannot support the CDP's proposals to allocate 31 ha of land south of Drum, Chester-le-Street; 15ha as a prestige employment allocation and 16ha as a housing land allocation (H19). The Council has argued exceptional circumstances for the removal of the land at Drum from the Green Belt including the strength of economic performance of this area of the County and in particular the take up rates at Drum Industrial Estate.⁸² However, the focus of the NPPF is on promoting sustainable patterns of development with paragraph 84 requiring consideration of the consequences of channelling development towards non Green Belt locations while paragraph 85 seeks consistency with the strategy for meeting identified requirements for sustainable development. The release of Green Belt land to achieve the strategic objectives of the CDP, specifically releasing land for employment allocations, can only be justified if exceptional circumstances exist.

⁸¹ Policy 8c and Policy 25

⁸² R33

83. I consider that exceptional circumstances would only exist if there was an overriding need for employment development to achieve strategic objectives of the Plan and either all possible options for development outside the Green Belt have been exhausted or the development would represent a significantly sustainable option than development of all other non-Green Belt land. In addition, there should be no conflict with the purposes of Green Belt. From the evidence submitted⁸³ there are 4.5ha of undeveloped allocated employment land at the existing Drum Industrial Estate to the north of the A693 outside the Green Belt. The ELR analyses the existing employment land stock and requirement and concludes that County-wide, Durham has some 815ha of available employment land on existing and allocated employment sites all of which are outside the Green Belt.
84. The Drum Industrial Estate is in the A1 corridor according to the ELR within which it states that about 382ha of undeveloped and available employment land still exists. The requirement will be between 200ha and 325ha over the plan period. The ELR concludes that there is a clear need to significantly reduce the stock of employment land. The attractiveness of the proposed extension at Drum does not comprise exceptional circumstances. There may be desire for an extension to the existing Industrial Estate but that is not sufficient to override Green Belt policy. Exceptional circumstances do not exist as there is no overriding need for employment or housing development to achieve strategic objectives of the CDP and all possible options for development outside the Green Belt have not been exhausted.
85. The whole 31ha site at High Flatts Farm fulfils Green Belt purposes set out in the NPPF. Accordingly, its development would be in direct conflict with the NPPF.⁸⁴ There is a clear undeveloped gap between the developed area of the north-west part of Chester-le-Street and the Drum Industrial Estate to the north. This gap checks the unrestricted sprawl of these two large built up areas and prevents neighbouring settlements merging together whilst assisting in safeguarding the countryside from encroachment. For these reasons the plan is unsound in relation to the proposals at Drum. There are no exceptional circumstances which would justify the removal of land from the Green Belt at Drum for housing or employment purposes.
86. Lambton Park Executive Housing Site is also proposed as a strategic Green Belt release. DCC investigated sites specifically for executive housing as part of the formal consultation on the Policy Directions version of the CDP⁸⁵ following previous consideration at the Issues and Options stage. All sites which were made known to DCC were assessed within the Executive Housing Site Selection Paper.⁸⁶ A previous version of this Selection Paper informed the Preferred Options version of the CDP.⁸⁷ The paper concluded that the Lambton Park Estate best meets the criteria adopted for the assessment process compared to the 107 sites considered within the paper.
87. In my view DCC's approach to promoting executive housing sites in Policy 12 of the CDP is unsound for several reasons. First, the Council has not provided any

⁸³ E1 County Durham Employment Land Review 2012 and R4 Durham ELR Update : Defining Economic Growth 2014

⁸⁴ NPPF paragraph 80

⁸⁵ K4

⁸⁶ R26

⁸⁷ K5

reasoned justification as to why the delivery of executive housing needs to be on a single specific site rather than forming part of any housing site. Secondly, DCC accepts there is no clear evidence to quantify the specific number of executive homes which should be planned over the plan period.⁸⁸ Thirdly, DCC has not put forward any evidence to demonstrate the economic benefits that would be delivered as a result of providing an executive housing allocation which can only be achieved through this allocation. Fourthly, DCC's approach is wholly contrary to the NPPF which seeks to create sustainable, inclusive mixed communities.⁸⁹

88. There are no exceptional circumstances which would justify the release of 72.4ha of land in the existing Green Belt to accommodate up to 400 executive homes at Lambton Park Estate, Chester-le-Street given that DCC has not justified the need for executive housing and given that executive housing can readily be accommodated on proposed housing allocations throughout the County without the need for Green Belt land. DCC argues that the 'aspiration' for executive housing, the heritage significance of the Lambton Park Estate and the need for intervention to establish a sustainable future and the public benefit that could be delivered through enhanced public access, provide the exceptional circumstances. I disagree. Alternative options have not been sufficiently explored to demonstrate why only the delivery of executive housing can secure a sustainable future for the estate. Moreover, seeking to restrict the type of occupier would be extremely difficult to manage. There is nothing in the NPPF that supports the proposal for future occupiers of an exclusive housing estate to be restricted to those creating business in the Local Authority area.
89. The development would not comprise sustainable development as it does not accord with the social and environmental roles set out in the NPPF. The proposal would not create a mixed community and would not deliver on-site affordable housing. Paragraph 4.193 of the CDP suggests that the site is not appropriate for affordable housing given its proposed function and the nature and setting of the location. Again this approach is contrary to the NPPF which supports the creation of inclusive, mixed communities. The heritage and public access benefits do not outweigh the unacceptable harm which would arise from this development. The proposal would conflict with the main purposes of the Green Belt. It would contribute to urban sprawl; it would contribute towards the coalescence of Bournmoor and Chester-le-Street; it would not safeguard the countryside from encroachment and it would not assist in urban regeneration. For these reasons there are no exceptional circumstances to justify the release of this site and Policy 12 should be deleted from the CDP.
90. DCC argues that Policy 13 is necessary, reasonable, appropriate and in accordance with national policy. I disagree. The first part of the policy supports developments for executive housing on allocated housing sites and sites which accord with Policy 15. This part of the policy would be sound if it advised that executive housing would be supported as part of housing developments on these sites rather than as exclusive sites only for highly skilled workers and entrepreneurs. The second part of Policy 13 supports the development of executive housing sites which are not allocated and do not meet the criteria set out in Policy 15 provided the site is

⁸⁸ K7 paragraph 4.183

⁸⁹ NPPF paragraph 50

brownfield, closely related to the existing settlement, served by an appropriate level of public transport, can provide a well-established attractive landscape setting, is no longer required for its lawful use and will not prejudice the delivery of the Lambton Estate. There is no support within the NPPF for the delivery of executive homes under these circumstances. Indeed it is questioned how many brownfield sites would be suitable for executive housing that would meet all of these criteria. DCC should support the delivery of brownfield sites for a mix of housing in accordance with the NPPF. Policy 13 needs to be re-written because it is unsound. The revised policy should specifically refer to an appropriate scale of development to avoid proposals for up to 400 executive dwellings being proposed.

91. In addition, I cannot support the release of the proposed housing sites at Merryoaks or the site at Durham Northern Quarter.⁹⁰ In my view both of these sites fulfil Green Belt purposes as set out in paragraph 80 of the NPPF. I consider there are no exceptional circumstances which would justify the removal of either of these sites from the Green Belt. Furthermore, in my view, substantial harm would be caused to the significance of designated heritage assets such as the Crook Hall collection of listed buildings, the setting of the Durham (City Centre) Conservation Area and the World Heritage Site if the Durham Northern Quarter site were to be developed.
92. The justification for a new Green Belt in North Durham is set out in the North West Durham Green Belt Update Paper 2013 and summarised in paragraphs 4.198 and 4.200 of the CDP.⁹¹ The principle of designating a new Green Belt in North Durham was originally conceived within Regional Guidance Note 7 for the Northern Region (1993), and subsequently identified in the County Durham Structure Plan Review (adopted in 1999). The key objectives for creating the Green Belt in North Durham were to check the unrestricted sprawl of the Tyne and Wear Conurbation and to encourage the regeneration of urban areas including Consett and Stanley. The Chester-le-Street Local Plan implemented the eastern part of the North Durham Green Belt while the remaining section has not been implemented due to delays in updating the Local Plan for the former Derwentside Local Planning Authority area.
93. Paragraph 82 of the NPPF addresses the criteria which have to be met before a new Green Belt can be established. Whilst DCC's evidence attempts to address the criteria within paragraph 82 of the NPPF it does not adequately explain why existing planning and development management policies cannot provide sufficient protection for the area and would not be adequate. The HBF considers that the existing policy controls combined with the NPPF would prevent inappropriate development without the need for a further Green Belt designation.⁹² Having considered all the evidence, factors and discussions on this matter there seems to be insufficient justification to establish a new Green Belt in this locality. For the reasons set out above I consider Policy 14 to be unsound.
94. DCC contends that the Western Relief Road (WRR) and the Northern Relief Road (NRR) are justified, deliverable and consistent with its transport strategies and that

⁹⁰ H8 and H5

⁹¹ R32 and K7

⁹² Reference is made to the case *Copas v Royal Borough of Windsor and Maidenhead* [2001] EWCA Civ 180 provides clear direction of the exceptional circumstances required when increases to the Green Belt are proposed.

both are deliverable, environmentally acceptable and viable. DCC's evidence is summarised in document DCC9. Reference is made to a number of documents including the Durham City Integrated Transport Approach and to wider road modelling work carried out by Jacobs who were asked to consider the impacts of the proposed development strategy versus a more dispersed scenario.⁹³ I have taken all of this evidence into account together with the submissions made by representors and the discussions which took place at the hearing sessions.

95. Despite the case which is argued in DCC9 and the further evidence given at the hearings, I cannot agree that these two relief roads are justified, deliverable and consistent with DCC's transport strategies. Nor do I accept that DCC has shown that both proposals are deliverable, environmentally acceptable and viable. Several reasons support my contention. First, and fundamentally, it is already clear that I cannot support the assumptions which underlie the proposed housing requirement that DCC has adopted. In order to facilitate the development of the strategic sites at Sniperley Park, North of Arnison and the housing allocation at Merryoaks, the WRR is shown to be required by the transport modelling in the Durham Local Development Framework (LDF) Option Appraisal 2012⁹⁴ and the Durham Local Plan Option Appraisal 2013 Volume 2: Results.⁹⁵ However, I cannot agree that the Council's forecasts should form an agreed input to this part of the analysis. Not only do these forecasts drive the land releases which DCC seeks to use as a policy justification for the roads, but they are also built directly into the strategic modelling which seeks to underpin the evidence base for the roads.
96. Secondly, in relation to conformity with LTP3 (2011)⁹⁶ and the Council's sustainable transport strategy,⁹⁷ I note that LTP3 does not directly address the question of the relief roads – it simply cross refers to the Local Plan documents.⁹⁸ Moreover, Policy 5 of LTP3 states that 'proposals for improvement to the highway network will only be brought forward in the absence of suitable alternatives, capable of achieving the same objectives'. Plainly, DCC is acting contrary to this policy in the case of these relief roads. Furthermore, the 2008 TIF study⁹⁹ provides cogent evidence that traffic restraint measures, coupled with support for public transport fares, would generate substantially positive net economic benefits. When the analysis was extended to include highway building options, the latter were shown to generate substantially lower annual economic benefits than options involving traffic restraint and discounted bus fares.¹⁰⁰ The previous authority did not pursue traffic restraint policies but that does not justify DCC excluding such policies from analysis.
97. Thirdly, the CDT has provided evidence about shortcomings in relation to the strategic modelling undertaken by the Council. It is noteworthy that the 2013 modelling described in DCC9 took a 7-10% range of car trip reduction as its target and describes this as an ambitious target. However, the DfT publication Smarter Choices showed that a high intensity programme of sustainable travel initiatives

⁹³ T2, T21-T31, K15, K27, R20, K6 and V3

⁹⁴ T28

⁹⁵ T27

⁹⁶ T2

⁹⁷ T41

⁹⁸ T2 page 69

⁹⁹ T30 Transport Innovation Fund Study Table 4a page 27

¹⁰⁰ T30 Table 5B page 40

could achieve a reduction in peak hour traffic of 21%. The issue for Durham is all about peak hour travel demand so such evidence should be fully taken into consideration.

98. Fourthly, the CDT has highlighted further shortcomings in the strategic transport modelling undertaken by DCC. There are two problems; the first is that the picture of a worsening situation of traffic congestion and delay which is set out in DCC9 does not accord with DfT official statistics. On the A167 through Crossgate Moor and the A690 over Milburngate Bridge, the DfT traffic count data shows that traffic volumes in 2013 were still below their 2000 volumes. Durham's relative position as measured by DfT's average speeds and journey times during the morning peak period is significantly better than the North East or England regional average (32.8mph compared to the English average of 24.4mph). These statistics do not support a claim that Durham's roads are unduly congested. The second problem relates to robustly forecasting future traffic growth in the current circumstances, when there is considerable emerging national and international evidence to question the assumed correlation in DfT's forecasting guidance between GDP growth and background traffic growth. In my view the strategic modelling does not provide the robust justification that the Council claims for these schemes. In coming to this view I have considered the evidence submitted by DCC in response to points raised by the CDT.¹⁰¹
99. Fifthly, the model outputs are reported in documents T26, T27 and T28. From the evidence it is clear, in either absolute or percentage terms, the development sites do not seem to give rise to a significant increase in total traffic volumes in the study area (though obviously there would be local concentrations, for example on the approaches to Aykley Heads). The numbers do not suggest therefore, that the traffic generation from these sites can justify the provision of the relief roads.¹⁰² The CDT has also shown that the overall effect of the new roads is to directly increase the volume of highway trips in the study network in 2030.¹⁰³ I also note the important caveat that Jacobs make in T26 to the effect that "Technical considerations affecting the delivery of either Relief Road have not been considered in this study. Neither have we considered a value-for-money appraisal of either scheme. Both would need to be completed before committing to fund and build either Relief Road."¹⁰⁴
100. Finally, the costs of these relief roads which need to be included in the assessment are not just financial: they include environmental and other wider impacts and the effects of these impacts on the City and its setting are overwhelmingly adverse. These concerns are reflected in the coherent and persuasive evidence provided by the CDT, the FDGB, CPRE, NECTAR, Mr J Grant, Mr M Phillips, Dr D Hamilton, Dr G Holland and others both in the 2013 responses and also at the hearings. Their concerns range from the macro level, such as the diversion of traffic from the A1 north of the Belmont interchange on to local roads when the NRR is provided, to the significant increase in traffic on the local road network at Bearpark. I also note the serious concerns about the qualitative effects of both relief roads on the

¹⁰¹ DCC32

¹⁰² T28 Table 20 on page 31 and Tables 24 and 25 on page 39. Also T27 Table 10 page 38 and paragraph 6.3.1 on page 51

¹⁰³ Comparison of T28 tables 20 and 35 on pages 31 and 65

¹⁰⁴ T26 page 3

environment and purposes of the Green Belt that would be the inevitable consequences of forcing these routes through unspoilt countryside that forms the setting of the City and the World Heritage Site.¹⁰⁵ DCC has submitted various documents which seek to mitigate the effects of the two relief roads on historic assets¹⁰⁶ and to deal with air, noise and water impacts. Nevertheless, these documents acknowledge the damage to 'tranquillity' that would result from these roads.¹⁰⁷

101. I conclude that on the evidence that is before me, both the WRR and the NRR proposals are not justified, deliverable or environmentally acceptable. Both proposals are incompatible with advice in the NPPF on promoting sustainable transport and supporting the move to a low carbon future. The CDP needs to protect and exploit opportunities for the use of sustainable transport modes and make the fullest possible use of public transport, walking and cycling. No lower growth alternative has been tested on a settlement pattern which favours the use of sustainable modes of travel. Policy 9 and Policy 10 seem to be unsound and should be deleted from the CDP and consequential amendments should be made to other policies and text.

Houses in Multiple Occupation and Student Accommodation

102. For County Durham and especially Durham City, student housing is a strategic issue. Policy 32 – Houses in Multiple Occupation (HMO) and Student Accommodation seeks to address the issues in terms of meeting housing demand and the impact on the amenity of residents in areas where student HMOs are dominant. The Council's evidence in DCC15 is supported by several background papers.¹⁰⁸ At the hearing session on Matter 13 part 2, I asked DCC to reconsider Policy 32 in the light of discussions and to bring forward a revised policy. DCC42 and DCC54 reflect the Council's position.
103. In essence, I cannot support the Council's position on Policy 32 for several reasons. First, the continued use of postcodes to determine areas of HMO restraint would be arbitrary, inconsistent and unmanageable. Proposals near a postcode boundary would receive different treatment to those in the middle of a post code area. Instead, using a 100m radius around a proposal would ensure equal treatment for all proposals. I do not accept the point about Data Protection issues as the same software and same Council Tax data base would be used on an anonymised basis. Secondly, the tipping point for constraining HMO applications is defined only by the proportion (10%) of HMO properties per postcode. To be effective in sustaining mixed, balanced and sustainable communities it is essential to take into account

¹⁰⁵ The areas that would be crossed by the relief roads include extensive footpath and bridleway networks which are well used by residents and tourists both for recreation and for active travel. As well as the effects experienced at the identified receptors, users of historic paths such as Club Lane and Frankland Lane, together with the more recent railway walks would be exposed to noise, air and visual pollution nuisances along large sections of these linear routes. They would also be directly affected by the significant physical severance that the relief roads would create in the Green Belt

¹⁰⁶ This also includes Neville's Cross Battlefield and Beaurepaire Monastic Retreat House and Park

¹⁰⁷ T10 paragraphs 8 and 13 and Appendix 2 page 14 and T11 paragraphs 10-11 and Appendix 1

¹⁰⁸ H14, H15, H16, H17 and H18

that a single property that is a Purpose-Built Student Accommodation block (PBSA) may contain hundreds of students. The tipping point should also refer to the proportion (20%) of the population resident in HMOs and PBSAs in the given area.

104. Thirdly, the revised Policy 32 continues to include the 'escape clause' of "where planning permission is required". Revised Policy 32 would not bear on most proposals for HMOs because planning permission is not required for change of use from Use Class C3 to Use Class C4. The Manchester City Council model, referred to during the hearings, only works because it has an Article 4 Direction to control the development of 'small' HMOs which in Durham comprise most of the HMOs in the City. Fourthly, the welcome aspiration to rebalance and rehabilitate communities would be undermined by substantially weaker environmental controls than in Manchester's Policy DM1 and the absence of controls on 'To Let' boards - an Article 7 Regulation is available to do this - and on HMOs outwith mandatory licensing. Legislation allows for an additional licensing regime to be introduced which is self-financing and brings discipline to the management of HMOs, something which I consider is needed in Durham. For all of these reasons I consider that Policy 32, as proposed to be modified in DCC54, is unsound. In coming to this view I have taken into account the comments of the group comprising Durham City Neighbourhood Planning Forum, County Councillors, Durham University, the local MP, local residents and community associations.¹⁰⁹ The responses by FDGB and SRA¹¹⁰ incorporated in DCC49 demonstrate how Policy 32 could be amended.

Other strategic policies

105. During the hearings, other strategic policies in the plan were discussed. For the most part, concerns about the content and soundness of these policies could probably be addressed by detailed amendments to the wording of the policies and accompanying text, as discussed at the hearings. These do not seem to raise such fundamental concerns about the soundness of the submitted plan.
106. In order to assist the Council I provide brief comments on three matters. First, I deal with the proposals submitted by Project Genesis Ltd at Consett. Given the significance of the site as a long term regeneration initiative, I consider Project Genesis should be expressly recognised in the CDP with a policy which reflects the submissions made to the examination on Matter 12. The policy would secure co-ordinated investment in housing, employment, retail, leisure, education, health facilities, infrastructure and renewable energy. In my view, the majority of the proposals set out in the master plan are in broad conformity with policies in the NPPF and can be supported. The CDP should be amended accordingly. In coming to this view I have taken into account the Council's response in DCC43.
107. Secondly, having considered the Council's comments in DCC48, I would raise no objection, in principle, to a mixed use scheme such as that proposed by the Ethical Partnership at North Chilton.¹¹¹ It seems to me that there is justification for such a scheme in the context of the CDSS, the need for regeneration and investment in the town and to reverse decline.

¹⁰⁹ RD56 and RD91

¹¹⁰ Sidegate Residents' Association

¹¹¹ RD25

108. Thirdly, with regard to the employment land allocation South of Bowburn Road (Policy 23) and the safeguarded specific use employment site at Tursdale (Policy 24), I consider that there is scope to bring forward the whole site (including land to the west of the railway line) with a comprehensive and prestigious employment-led mixed use development as proposed by Acorn Business Parks. This should include a residential component, a hotel and ancillary uses which would assist with the major site infrastructure costs required, the development of the employment land and the rail freight facility during the plan period. In my view the land to the west of the former railway line must be included in any comprehensive scheme to achieve the major benefits envisaged as well as other stakeholders such as Network Rail and the NELEP. The residential component should not be excessive (up to 300 dwellings) so as not to undermine the housing strategy for the Central Durham Delivery Area. Policy 23 and Policy 24 need to be revised accordingly.
109. Alongside this, the longer-term aim of re-opening the Leamside Line should have a much higher profile in the plan. The re-opening would bring significant benefits both in terms of transport movements within the County and relieving congestion on the region's strategic transport arteries, namely the East Coast Main Line and the A1 (M). The support amongst the region's local authorities for re-opening the line is highlighted in the Council's Duty to Co-operate work. Notwithstanding the considerable capital costs involved, the plan should play its part in emphasising to Network Rail, the NELEP and the Government that it should be viewed as a sustainable transport funding priority.

D. Future progress of the County Durham Plan examination

110. The Council will need time to fully consider the implications of these interim views, since they clearly affect the future of the examination. In these circumstances, it may not be appropriate to resume the hearing sessions in the near future, as previously suggested.
111. As far as the future progress of the examination is concerned, it seems to me there are limited options available to the Council:
- (a) Continue the examination on the basis of the current evidence;
 - (b) Suspend the examination;
 - (c) Withdraw the plan;
112. If Option (a) is chosen, it is very likely that, on the basis of the evidence submitted so far, I would probably conclude that the submitted Plan is unsound due to the shortcomings in the proposed strategy and evidence base, including the economic and housing strategies, the relationship between them and the objective assessment of housing need, the spatial distribution of development, the approach to the Green Belt, the two relief roads and houses in multiple occupation. In my view, these shortcomings are so fundamental that proceeding immediately to the remaining parts of the examination would be unlikely to overcome these problems.
113. In relation to Option (b), suspension of the examination should normally be for no longer than 6 months. Given the fundamental issues that I have described it is very

likely to be unrealistic to suggest that these could be rectified within 6 months. To overcome the identified shortcomings it would be necessary to carry out significant additional work on strategic matters, revising policies and content of the plan including the legal implications and consultations with participants. It may be that once this further work is completed the Council would have to consider alternative strategic site allocations which would amount to a significantly different plan. If that is the case then withdrawal would be the most appropriate course of action.

114. If Option (c) is chosen, the examination would not proceed and I would take no further action in the examination of the submitted plan.
115. These interim views are being sent to DCC for it to take the necessary action and are being made available to other parties for information only; no responses should be submitted. However, it would be helpful to know, as soon as possible, which option DCC wishes to choose. In presenting these interim views, I am fully aware of the Council's ambition to adopt a Local plan for County Durham as soon as practicable and to avoid unnecessary delays to examination. However, it is not in the best interests of planning or plan-making to recommend an unsound plan for adoption, which would clearly run the risk of subsequent legal challenge. Consequently, I would ask the Council to carefully consider the implications of these interim views before advising me on the preferred course of action.

Harold Stephens – Development Plan Inspector

18 February 2015