

# Darlington Local Plan

## Skerningham Estates Limited (ID: 1250841)

### Matter 1 Statement - Legal and Procedural Requirements and other General Matters

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Issued April 2021

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- 1.1 Our Client (Skerningham Estates Limited) responds to Questions 1.1; 1.2 and 1.3; 1.4 and 1.5; 1.8; 1.10; and 1.14 and 1.15.

#### **The duty to cooperate**

**Q1.1. Is there any substantive evidence to demonstrate that, during the preparation of the Plan, the Council failed to undertake effective and on-going joint working with relevant bodies on strategic matters that affect other local planning authority areas?**

- 1.2 NPPF Paragraph 24 makes clear that local planning authorities are under a duty to cooperate with each other, and with other prescribed bodies, on strategic matters that cross administrative boundaries.
- 1.3 The Council's Statement of Common Ground (including Duty to Cooperate) (2020) [CD05] sets out how the Council has met its duty to cooperate obligations. In particular, the Statement sets out the ongoing engagement and discussions between Darlington Borough Council, its neighbouring local planning authorities and the other prescribed bodies regarding strategic cross boundary issues. It is evident from this that consistent and ongoing cooperation has taken place and will continue to take with regard to strategic matters that cross administrative boundaries.
- 1.4 The Council's Statement of Common Ground includes signatories by Stockton on Tees Borough Council, Durham County Council, Hambleton District Council, Richmondshire District Council and North Yorkshire County Council which demonstrates effective and on-going joint working.

#### **Public consultation and engagement**

**Q1.2. Is there any substantive evidence to demonstrate that the public consultation carried out during the plan-making process failed to comply with the Council's Statement of Community Involvement or legal requirements?**

**Q1.3. Was the Plan shaped by early, proportionate and effective engagement with communities, local organisations, businesses, infrastructure providers and operators, and statutory consultees?**

- 1.5 The Consultation Statement (2020) (SCI) [PD01] and other Procedural Document [PD02 to PD07] set out the processes that the Council has committed to follow in the engagement and consultation with local communities and key stakeholders in the preparation, including submission of Local Plan documents.

- 1.6 Consultation on the emerging Local Plan has been ongoing over the last 5 years and has been subject to wider press coverage. The consultation included the following stages:
- Strategic Issues and Scoping Consultation (15th June – 15th August 2016)
  - Draft Local Plan Consultation (21st June – 2nd August 2018)
  - Proposed Submission Local Plan (6th August – 17th September 2020)
- 1.7 As described in section 1.4 of the Consultation Statement [PDO1], a number of specific consultation bodies were also consulted at the various stages which has resulted in amendments to address the comments received.
- 1.8 The Town and Country Planning (Local Planning) Regulations 2012 provide the legislative requirements that the Council must adhere to in the preparation of Local Plan documents.
- 1.9 The Consultation Statement [PDO1] sets out how the consultation and publicity requirements of the Local Planning Regulations 2012 and Statement of Community Involvement [PDO5] have been met.

## **Sustainability Appraisal**

### **Q1.4 Is there any substantive evidence to demonstrate that the sustainability appraisal failed to meet the relevant legal requirements?**

- 1.10 Our Client considers that the Sustainability Appraisal [CDO3] meets the legal requirements of the Planning and Compulsory Purchase Act 2004 and European Directive 2001/42/EC (the Strategic Environmental Assessment Directive).

### **Q1.5 Did the sustainability appraisal consider and compare reasonable alternatives as the Plan evolved, including for the broad spatial distribution of housing, economic and other development? Was the Plan informed by the findings of the sustainability appraisal?**

- 1.11 The Sustainability Appraisal [CDO3] (SA) demonstrates that assessment has been undertaken during the various stages of the development of the Local Plan to date, advising on the sustainability implications of various policy and site options.
- 1.12 Section 6 of the SA documents the various stages in the preparation of the Local Plan from the Issues and Scoping consultation in May 2016. It states:
- 1.13 *“Following the recommendations of the Draft Sustainability Appraisal, the Council published the Draft Local Plan in June 2018 for consultation. As a result of the comments received during the consultation period a number of changes were made to the emerging Local Plan policies. Where required the assessments of local policy options have been updated to reflect changes in policy coverage following the consultation on the Draft Local Plan.” (Paragraph 6.1)*
- 1.14 This demonstrates how the Local Plan has been appraised from the outset and also how the SA has been the subject of consultation. Appendix D within the SA presents the Assessment of the Local Policy Options.
- 1.15 In terms of the broad distribution of development, Appendix D considers the effects of the following three options:
- A: settlement hierarchy based on the urban area and service villages;

- B: settlement hierarchy based on the urban area, service villages and other medium sized rural villages with development limits; and
- C: settlement hierarchy based on the urban area, service villages and all rural villages/hamlets.

1.16 It concludes that Option B is the preferred policy options as it “*would provide the most positive potential effects and is considered the most appropriate approach for the Borough*”.

1.17 Our Client considers the SA to be robust and justified.

## **Climate change**

### **Q1.8. Is the Plan consistent with national planning policy relating to the mitigation of, and adaptation to, climate change?**

1.18 Yes, our Client is satisfied that the Council has demonstrated that due regard has been given during the preparation of the Local Plan to the mitigation of, and adaptation to, climate change.

1.19 In particular, Policies DC1 (Sustainable Design Principles and Climate Change), DC2 (Flood Risk & Water Management) and IN9 (Renewable Energy Infrastructure) include policy requirements and/or encouragement to measures with the aim being to reduce carbon emissions and adapt to climate change.

## **Plan period**

### **Q1.10. Is the Plan period 2016 to 2036 consistent with national policy or otherwise justified?**

1.20 With an anticipated adoption of the Darlington Local Plan in 2021, the plan period remaining would be 15 years to 2036. This is in alignment with paragraph:064 (ID: 61-064-20190315) of the PPG which states that strategic policies should be prepared over a minimum 15-year period.

## **Viability**

### **Q1.14. Is the Plan informed by a proportionate and up to date assessment of viability that takes into account all relevant policies, and local and national standards?**

1.21 As our Client’s land interest relates to residential development this representation is made only within that context and therefore makes no comment in relation to the Council’s evidence in respect of retail and commercial viability.

1.22 Our Client is satisfied that the assessment of viability, carried out in connection with the development of the Council’s Local Plan Viability Assessment [CDO8] and related appendices [CDO8 Appendices A-F] has been carried out in broad accordance with national planning practice guidance (‘NPPG’). As is appropriate for area-wide viability assessment exercises, a residual appraisal approach has been applied to a range of site typologies, in accordance with National Planning Practice Guidance (NPPG)<sup>1</sup>.

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<sup>1</sup> Paragraph: 003 Reference ID: 10-003-20180724

**Q1.15. Does the viability evidence demonstrate that the policies in the Plan are realistic, and that the cumulative cost of all relevant policies will not undermine deliverability of the Plan?**

- 1.23 In relation to its land interest at Skertingham Garden Village, our Client is satisfied that the Council's viability evidence demonstrates that the cumulative cost of all policies will not undermine deliverability. Our Client supports the application of a tiered system of affordable housing contributions to reflect the variations in anticipated sales revenues across the Borough. The viability of development that delivers 20% affordable housing in the medium value market areas on greenfield land (including at Skertingham Garden Village) is adequately demonstrated by the Council's evidence, summarised at Table 10 [CDO8].
- 1.24 This is further supported by a site-specific assessment of viability at Skertingham Garden Village (appended to this response). This has been prepared by Lambert Smith Hampton and has been assessed on the basis of an indicative phasing plan for delivery prepared by Pod Architects and costed infrastructure elements provided by Turner and Townsend. This assesses a scheme that delivers 1,650 homes during the Plan period (to 2036), whilst also supporting the delivery of 20% affordable housing and a range of other infrastructure requirements (including an East Coast Mainline crossing, a primary access road, primary school, local centre and open space requirements). The assessment shows that the scheme yields a land value of approximately 14 times the existing (agricultural) use value (EUV).
- 1.25 With reference to NPPG<sup>2</sup> for assessing benchmark land value (BLV), the return to the landowner(s) should reflect both a reasonable incentive to release land for development balanced against a range of costs such as policy requirements and infrastructure and abnormal costs. The viability assessment provides a commentary on an appropriate BLV within the context of this guidance and the specific circumstances presented by this scheme. It concludes that the land value represents a reasonable incentive and therefore that the scheme is viable.
- 1.26 The report adds further context to this by indicating that scheme viability would improve further under a series of plausible alternative scenarios:
- 1 A modest increase in sales revenues from £2,314 to £2,368 per sq.m (£215 to £220 per sq.ft); and
  - 2 An 'accelerated delivery' scenario – a maximum delivery rate achieved of up to 180 dwellings per annum (over and above the Plan delivery rate of 150 dwellings per annum).
- 1.27 Furthermore, it is important to consider the recent (January 2021) proposed amendment to the NPPF [paragraph 22] in respect of the time horizons that policies should consider for larger scale development, including that of the scale proposed at Skertingham Garden Village (up to c.4,500 homes). The proposed amendment states that "*policies should be set within a vision that looks further ahead (at least 30 years), to take into account the likely timescale for delivery*". Within this context, whilst the viability of delivery during the Plan period is important, consideration should also be given to the viability implications of delivery beyond the Plan period, which in the case of Skertingham Garden Village will extend another 15 years beyond 2036. Although further infrastructure contributions will be required to support the wider allocation beyond 2036, the most significant infrastructure costs can be provided to support the delivery of 1,650 homes during the Plan period. Factoring in the cost of delivering an additional primary school, local centre and land set aside for a potential secondary school, a scheme of this size would generate an even greater land value return. This is an important

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<sup>2</sup> Paragraph: 013 Reference ID: 10-013-20190509

consideration given the proposed shift of emphasis in national policy. In this context, in addition to delivery during the Plan period, the viability assessment also considers the full build out of Skerningham Garden Community. Under both scenarios it demonstrates that the scheme is viable.

Word Count: 1,501