

**BANES
CORE STRATEGY DPD
EXAMINATION**

DAYS 1 & 2

**Issue 2: Spatial Strategy for the
Delivery of Housing and Jobs**

HEARING DATE:

**TUESDAY 17 & WEDNESDAY 18
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STATEMENT

PREPARED BY:

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For

The Duchy of Cornwall

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Executive Summary: Test of Soundness

PPS12 sets out the principal components to be included in local spatial plans.

Paragraph 4.42 of the PPS requires that in order to be “sound” a core strategy should be justified, effective and consistent with national policy.

PPS3 sets out the specific outcomes that the planning system should deliver. It also sets out a requirement for development plans to take into account evidence of current and future levels of need and demand for housing and affordability levels based upon, inter alia, local and sub-regional evidence of need and demand as set out in SHMAs. This duty to cooperate is carried forward under Part 6 (Sec.110) of the Localism Act 2011, the requirements of which may come into play if further preparation and/or consultation is likely.

In order to be justified the Core Strategy (CS) must be founded upon a robust and credible evidence base and represent the most appropriate strategy when considered against the reasonable alternatives. Effective means that the document must be deliverable, flexible and able to be monitored.

For the reasons set out in our submissions, we are of the view that the Core Strategy fails the following PPS12 tests of soundness:

Justified

The suggested approach to (i) establishing a housing requirement (ii) housing delivery; and (iii) distribution does not represent the most appropriate strategy when considered against the reasonable alternatives.

Effective

The approach to addressing housing, employment and growth related needs has not been demonstrated to be either deliverable or flexible.

Consistent

The proposals are not consistent with national policy in that they fail to provide a sufficient supply of deliverable/developable housing land.

The draft CS should be amended in accordance with our detailed representations.

In accordance with our recommendations we are of the view that additional technical work is required to be undertaken in relation to the Green Belt and the District-wide scale of provision for jobs and housing. This would need to be followed by a further round of public consultation and re-examination of the changes before the plan could be found sound.

ISSUE 2:

Is the spatial strategy for the delivery of housing and jobs justified and are there reasonable prospects for delivery consistent with national advice?

Summary

- 1.1. For the reasons set out in our detailed representations submitted in response to the submission draft CS and the subsequent Significant Changes consultation, we are of the view that the CS is unsound. We expand upon our reasoning below.
- 1.2. As set out in our Issue 1 Statement, the Council's approach to the overall amount of housing to be met during the plan period is neither justified or effective in so far as it fails to represent the most appropriate strategy when considered against the reasonable alternatives and nor does it provide either a deliverable or flexible strategy.
- 1.3. Even at the level of housing growth proposed in the submission draft CS, we remain to be convinced that the components of supply relied upon by the Council are deliverable (within five years) and/or developable at the point envisaged.

Statement of Case

Q3.1 - SHLAA

- 1.4. Policy DW1 proposes the distribution of the locally derived housing requirement totalling 11,000 dwellings as follows:

Within the Bath urban area	6,000*
Keynsham	1,500
Somer Valley	2,700
Rural Areas	800
Total	11,000

*The figure for Bath includes (but not limited to) some 3,500 dwellings to be met within Bath Riverside and 1,200 on the MOD sites.

- 1.5. We have questioned the appropriateness of the distribution strategy, not only having regard to the total number of dwellings planned for the District in the period to 2026 (and beyond to 2027 in order to cover a 15 year timeframe from the anticipated date of adoption in accordance with the requirements set out at PPS12) but also in relation to the geographical context and travel to work patterns.
- 1.6. By decanting part of the strategic housing requirement which was proposed to be met in the form of an urban extension to Bath, the CS is encouraging a more dispersed pattern of growth that is unlikely to provide for a sustainable pattern of development. Such an approach is only likely to serve to increase commuting and travel distances to Bath to access employment opportunities and the retail and leisure attractions provided within the Bath urban area.
- 1.7. As to the appropriateness of the 11,000 figure, this is even below the 11,600 said to be required in the LPA's own evidence (see Woodhead (CD4/H1 and the SHLAA Version 2.1, paragraph 2.1 CD4/H13). The Inspector has asked that due to a mathematical error the figure should be 12,100 rather than 11,600.
- 1.8. The delivery assumptions set out in the SHLAA (Version 2.1, May 2011) assume that all of the identified sites will be delivered at the point envisaged, resulting in a total supply of 11,205 dwellings during the plan period. This includes the delivery of a material amount of dwellings from Bath Riverside amounting to some 3,000 dwellings¹.
- 1.9. Even in the unlikely event that all of the LPA's identified components of supply come forward for development there would remain a 400 dwelling shortfall against the incorrect 11,600 "requirement" figure.
- 1.10. However, and for the reasons set out in our Issue 1 Statement, we are of the view that the CS is not sufficiently flexible to accommodate even the planned scale of growth at 11,000 dwellings set out in DW1, particularly if the brownfield first strategy (focusing upon the Western Riverside) fails to deliver housing numbers at the envisaged rate and/or if they have less housing capacity than planned due to, inter alia, flood constraints (which matters are addressed below as well as in Annex 2 to our representations upon the

¹ The sites are listed at Appendix 2 to the SHLAA (CD4/H14) and in Topic Paper 8.

Significant Changes consultation comprising the flood risk note prepared by PBA).

- 1.11. The Council's admission of their inability to meet the 11,600 requirement is set out at paragraph 2.12 and footnote 3 to CD/H13. This demonstrates a clear lack of flexibility and/or contingency in the CS.
- 1.12. The LPA continue to rely on delivery from the Western Riverside (SHLAA ref Wes1) to produce a material amount of their housing numbers. A larger part of the Western Riverside is allocated for development under Policy B1 of the adopted Local Plan with the expectation that the site would deliver up to 600 dwellings during the plan period to 2011.
- 1.13. As identified in the SHLAA, there are a number of constraints to releasing the site for development and the timescales for implementation continue to slip.
- 1.14. Outline planning permission for the entire site (including the erection of 2,281 dwellings and commercial development) was only granted at the end of December 2010 (LPA Ref: 06/041733/EOUT). The decision notice states that the development must be commenced within a 10 year period. Moreover, scale, appearance and landscaping are reserved for future determination. This could serve to delay implementation of the scheme. However, it is acknowledged that full planning permission has been granted for the first phase of development (Phase 1A). This provides for the construction of some 299 dwellings. Accordingly, whilst we have no objection in principle to the anticipated delivery of all 299 dwellings in the period to 2016 from Phase 1A we do not accept the optimistic delivery rates assumed for the outline permission. The Dec 2010 SHLAA assumed first completions being achieved in 2014/15, increasing to approximately 170 dwellings per year thereafter to 2025/26. The revised trajectory in the May 2011 SHLAA now assumes first completions in 2015/16 (a year later) with increased completions each year at between 180 and 200 dwellings up to 2025/26. This further emphasises the lack of certainty in the delivery of this site.
- 1.15. There are also marketing and delivery issues with provision of up to 3,400 dwellings expected to be delivered in a limited area on the Western Riverside in an ever reducing timeframe. Not only will many units be flats (thus not providing conventional family housing) but sales rates in the local area would

need to total between 250-400dpa in the later part of the plan period. We do not accept this is deliverable.

- 1.16. We also remain to be convinced about the delivery of certain of the other sites in Bath, particularly the MOD sites e.g. a Development Guide for Foxhills was published in 1998. The site is also allocated for development in the adopted Local Plan. Yet, and to date, it has failed to come forward for development. Moreover, the CS suggests a total of 1,200 dwellings could be achieved from redevelopment of the three MOD sites (Foxhill, Ensleigh and Warminster Rd). However, the MOD's own Disposal Strategy (Oct 2011) suggests a capacity of 970 dwellings. In addition, the sites redevelopment provides an opportunity to provide for a mixed use development, to include an element of employment provision in order to, inter alia, provide for a sustainable form of development and to offset job losses.
- 1.17. Including for the reasons set out in our below response to the flood risk concerns, we do not accept that the trajectory is reasonable either in relation to the five year period to 2016 or beyond to 2026.

Q3.3 - Five Year Housing Supply

- 1.18. We have previously set out our objections to the lack of clarity within the draft CS, particularly in relation to the residual requirement to be met during the plan period.
- 1.19. As drafted, the CS fails to identify a residual requirement figure to be met within the District (as well as the component parts in line with DW1), yet this information is available within the supporting evidence base, including the AMR and SHLAA. This information should be included in the supporting text to the policy which should set out what level of housing completions have been achieved to date and as a result, what the residual requirement is that needs to be planned for within the District during the remainder of the plan period.
- 1.20. As to timeframes, the CS only covers the period to 2026. However, and in accordance with the requirements at PPS3 (para 54) and PPS12 (paragraph 4.13) the CS should plan for a 15 year period from the anticipated date of adoption. This means making appropriate provision for the period to 2027.

- 1.21. The respective positions based upon the Council's stated requirement of the need to plan for 11,600 dwellings in the period to 2026 (580dpa) and the 14,400 requirement for the same period set out in the IPPR Report (720dpa) are summarised below. In making an assessment of the position under these scenarios, table 1 below uses the housing land supply information contained within CH4/H13 and CD4/H14 and extrapolates the annualised requirement to cover an additional year to 2027.
- 1.22. Table 1 demonstrates that even on the LPA's delivery assumptions (which unrealistically expects all of the components of identified supply to come forward) and their 11,600 dwelling requirement, there remains a shortfall of 975 dwellings during the period to 2027.

Table 1: Housing Position for the Plan Period to 2027

	BANES 11,600 (580dpa)	IPPR 14,400 (720dpa)
Requirement 2006 to 2026	11,600	14,400
Requirement 2026 to 2027	580	720
Total Requirement 2006 to 2027	12,180	15,120
Completions 2006 to 2011	1,967	1,967
Residual Req. 2011 to 2027	10,213 (638dpa)	13,153 (822dpa)
LPA Identified Supply	9,238	9,238
Shortfall/Surplus	-975	-3,915

- 1.23. The above findings translate into the following five year position:

Table 2: The Five Year Position 2011 to 2016

	BANES 11,600 (580dpa)	IPPR 14,400 (720dpa)
Residual Req. 2011 to 2027	10,213 (638dpa)	13,153 (822dpa)
Five Year Req. 2011 to 2016	3,190	4,110
LPA Identified Supply	3,346	3,346
Shortfall/Surplus	+156	-746

- 1.24. Based upon the Council's delivery assumptions (which figures we dispute given our assessment of the identified components of supply) the LPA is able to demonstrate a marginal 156 dwelling surplus for the five year period to 2026 against their assumed requirement, whilst there is a 746 dwelling shortfall against the IPPR requirement.
- 1.25. Even on the LPA's optimistic assumptions, there is no margin for error in the delivery of the identified sites. However, their delivery assumptions include sites where deliverability remains to be demonstrated, including at, inter alia:

Wes 1	299 dwellings
K1 and K2	300 dwellings
MSN10	120 dwellings

- 1.26. In the event that the NPPF were to become national policy before the close of the Examination, to include the five year plus 20% requirement, there is no means, based upon the identified components of supply, that LPA could demonstrate compliance.

Q3.4 - Plan Period

- 1.27. For the reasons set out above, we are of the view that the plan period should be extended to 2027 with the additional requirement to be met, in part, in the form of a review of the Green Belt to the west of Bath.

Q3.5 and 3.6 – Flood Risk and Sequential Test

- 1.28. The evidence base to the Council's strategy includes the work undertaken by Atkins. Details are set out in the Bath and North East Somerset Flood Risk Management Strategy Report (June 2010).
- 1.29. The report states that the only option open to the Council in support of the urban intensification approach to the location of development within Bath (and Western Riverside in particular) is to provide a compensatory storage area(s) upstream of the centre of Bath.
- 1.30. The report states that the provision of an upstream storage area would need to offset the volume of water that would theoretically be displaced by the combined developed footprints of the development sites within Bath centre.
- 1.31. The Council's approach introduces a whole range of practical, implementation and environmental issues, not least in relation to, inter alia, impact on the Green Belt, AONB and archaeology. Moreover, there is then the timing issue of designing such a scheme, purchasing the necessary land, undertaking a full EIA and then implementing the scheme all before any development over and above existing permitted schemes takes place within the Western Riverside area.

- 1.32. Paragraph 4.94 of the Bath and North East Somerset Flood Risk Management Strategy Report (June 2010) concludes in relation to the likely flood mitigation strategy and viability of such an approach as follows:

“The only favoured option which is fully feasible in terms of the appraisal criteria is the installation of flood defence measures at the individual development sites. However, a number of sites present issues of development viability that are exacerbated by the additional marginal cost of the identified flood risk infrastructure, which may impact on viability and site delivery in the absence of supporting scheme funding.”

(Our emphasis)

- 1.33. In the circumstances, it is difficult to see how the sites are achievable, at least in the short to medium term. This further emphasises the need to plan for a contingency in the form of a sustainably located urban extension.
- 1.34. Planning Policy Statement 25 provides the national planning guidance relating to development and flood risk. Paragraphs 5 and 6 of PPS 25 set out the general aims which are to avoid risk where possible and then to only develop in higher risk areas where it is exceptionally necessary. Only if this sequential approach is adopted and there are no reasonable available lower risk sites, or other benefits that outweigh the risk of flooding should development occur in these higher risk areas and then only if the development can be made safe and not increase flood risk to others.
- 1.35. In considering the allocation of sites within Bath, BANES have identified flood risk as a key constraint. The area along the river corridor to the west of the city is almost entirely within flood zone 3 of the River Avon and as such would be considered as high risk (See CD4/FR3). Whilst it is accepted that there are many other sustainability benefits of city centre regeneration, PPS 25 requires that alternative sites at lower risk of flooding must be considered (paragraph 7, fourth bullet point) and their suitability assessed against the wider planning and sustainability objectives.
- 1.36. As demonstrated in our previous representations upon the submission CS, the Significant Changes consultation and in our Statements for the Examination, land to the west of Twerton is able to deliver a mixed use scheme including approximately 2,000 dwellings. All of the areas proposed to be developed within the site are located entirely within flood zone 1 and considered at low risk.

- 1.37. A judgement needs to be formed as to the suitability of any site based on wider planning and sustainability objectives but there is no doubt that in terms of flood risk land west of Twerton is sequentially preferable to the sites along the river corridor.
- 1.38. The first paragraph on page 13 of CD6/D2 (Sequential and Exception Test (November 2010)) sets out the reasons why an urban extension would have significant negative impacts which are, *inter alia*, the impacts on landscape, ecology, Greenfield sites and the provision of infrastructure. It should be noted that since sites within the Western Riverside rely on the provision of significant engineering measures in the catchment upstream that these impacts are, to an extent, common to these proposals.
- 1.39. The other consideration with respect to flood risk is the deliverability of the proposed housing within the high risk area. Even if the river corridor sites were deemed to be sequentially preferable based on other planning and sustainability objectives it would be necessary for the proposals to satisfy the exception test within PPS 25. In particular, this test requires that the development can be occupied safely and that flood risk to others should not be increased.
- 1.40. The largest potential impact of the riverside development is that in protecting the proposed development from flooding the existing volume of flood storage available would be reduced and this would consequently increase flood risk downstream. Flood storage compensation would therefore be required to mitigate this impact.
- 1.41. The Council are relying on the potential to create areas of upstream flood storage to provide this mitigation and based on their own estimates these would amount to some 205,000 cubic metres of additional storage. In principle this approach is sound but there are considerable obstacles to delivery, not least;
- The sites would lie in the AONB and/or WHS.
 - There have been no discussions regarding land availability or ownership.
 - The potential environmental impacts have not been assessed in any detail.
 - There has been no detailed hydraulic or hydrological assessment undertaken to assess the impacts of the scheme on flood flows or geomorphology.
 - It is not clear how these proposals would be funded.

- 1.42. The Council has undertaken two strategic studies, by Atkins in 2010 and by WYG in 2011, to support these proposals. However the questions above remain unanswered.
- 1.43. To provide an independent expert opinion the Duchy of Cornwall has commissioned HR Wallingford to assess the existing reports and comment on the technical feasibility and deliverability of the proposed flood compensation scheme. Their report is attached as Annex A and their findings can be summarised as follows:
- As part of the **Exception Test** the sustainable benefits of development in the river corridor should be substantiated.
 - It must be clearly demonstrated that compensatory storage will be effective, with **no increase in flood risks**. This has not been done.
 - The **Environment Agency** must agree to site-specific details, not simply the high level principles so far agreed.
 - There has been limited consideration of **environmental issues** for the storage sites.
 - There are significant **access problems** at all of the identified sites.
 - **No cost assessment** has been carried out for each of the potential sites to confirm overall viability.
- 1.44. To conclude, there is insufficient evidence to demonstrate that a suitable compensatory storage solution will be found. On this basis the strategy of redevelopment in the river corridor is currently **not robust**.
- 1.45. In light of HR Wallingford's conclusions, the CS cannot be said to be justified and/or effective.
- 1.46. In the absence of a strategic scheme, the individual development proposals would need to provide their own mitigation on site. Whilst this may be technically possible, it will restrict the quantum of development by limiting future proposals to the size of existing buildings. Piecemeal mitigation would also limit the potential to protect the whole area and would therefore not reduce the hazard to the main access routes thus requiring a more interventionist approach to managing the safety of the future occupants. Furthermore, the need to protect individual developments by either raising the

floor levels and/or providing individual protection may limit the uses which are viable at ground floor levels.

- 1.47. As a final point all of the above issues add complexity and cost to the development of the riverside sites. Although there are technical solutions to developing within the floodplain there is considerable uncertainty which has not been addressed which may affect the overall viability and delivery of the proposed housing.
- 1.48. It is worthy of note that none of the issues above apply to the west of Twerton site as it lies in flood zone 1. This is one of the key reasons that low risk sites are considered sequentially preferable in flood risk terms.
- 1.49. Against the above background, we are of the view that the CS must include a contingency as it is clear that the Placemaking Plan is unlikely to be able to satisfy the exception test.

Recommendation

- 1.50. For the reasons summarised above, there is a clear and overriding need to provide for sensible, sustainable and deliverable proposals to ensure the timely provision of new housing in order to meet identified needs.
- 1.51. In the context of the evidence base to the Core Strategy, including the assessment set out in the report to Full Council, this includes the need to plan for additional development in and around Bath (where the need is the greatest).
- 1.52. Providing for an urban extension to Bath is necessary for the following reasons:
 - (i) Both the housing need and employment opportunities are at Bath
 - (ii) There are concerns about the timely delivery of sites within the Bath urban area, including those within the floodplain
 - (iii) The identified housing need cannot be met by providing for delivery elsewhere in the District, in particular:

- It is not possible to plan for growth on the edge of Bristol as BANES' own officers conclude that this does not represent the most sustainable option. The Inspector will also be aware of the associated traffic problems in planning for such a strategy.
- Significant development cannot be met at the rural villages due to inter alia, lack of sustainability including lack of employment opportunities.
- It cannot be met by increasing delivery within the Somer Valley as this part of the District is already expected to delivery some 2,700 dwellings at a rate of approximately 135dpa which equates to the historic build rate. Moreover, the identified development sites comprise former employment sites and further development will exacerbate commuting and travel times into Bath creating a less sustainable pattern of growth.

1.52. The only sensible and practical option is to provide for an urban extension at Bath.
