

OBJECTOR NO: 222

**WOOLF BOND PLANNING FOR
THE DUCHY OF CORNWALL**

**RE: ID/27 – INSPECTOR’S NOTE REGARDING
NATIONAL PLANNING POLICY FRAMEWORK
(NPPF) AND PLANNING POLICY FOR
TRAVELLERS SITE**

3 MAY 2012



Woolf Bond Planning
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1. INTRODUCTION

1.1. This document has been prepared in order to respond to ID/27 concerning the new NPPF. Our clients have no comments to make about Planning Policy for Travellers sites.

1.2. We comment below on each of the 4 matters raised in ID/27

1. **Whether the NPPF significantly changes National Policy in relation to the approach to assessing the housing requirement in a Local Plan.**

Comment

The NPPF sets out a presumption in favour of sustainable development and para 7 identifies that there are 3 dimensions to sustainable development, comprising (i) Economic, (ii) Social and (iii) Environmental.

Para 156 emphasises that this presumption relates both to meeting the needs for homes and jobs (bullet 1), together with other forms of development.

We believe that greater emphasis is put on the need to provide for the housing needs of a Plan area in the NPPF. In particular para 47 requires Local Plans to meet the full, objectively assessed needs for market and affordable housing in the housing market area. The second bullet point of the paragraph also introduces a change whereby an additional 5% or 20% above the 5 year supply (see further comments on this matter below) is now required to ensure that housing provision targets are met.

Para 159 provides guidance in respect of plan making and requires preparation of Strategic Housing Market Assessment (SHMA) which amongst other things should meet household and population projections taking account of migration and demographic change.

The Inspector will have a record of the evidence addressing, amongst others, the additional housing requirements of the BANES Plan area, including migration and

demographic change. We note in particular that the submission Draft Core Strategy housing figure of 11,000 dwellings is significantly below the other estimated provision figures required over the Plan Period 2006-2026 as set out, inter alia at para 1.7 of our Statement on Issue 1. This included the IPPR trading estimate of 14,400 dwellings, together with the BANES SHMA (affordable need only) figure of 16,940 dwellings and the proposed SWRSS changes figure of 21,300 dwellings. The clear mandate from the NPPF is that, at least some attempt must realistically be made to meet these targets which include migration factors. BANES argued that in migration should largely be disregarded at the Examination.

To counter balance meeting these needs BANES may seek to rely on the advice at para 14 regarding plan making to, inter alia, "positively seek opportunities to meet the development needs of their area". Here it is noted that Local Plans should meet objectively assessed needs, unless "specific policies in this framework indicate development should be restricted". There is then reference to Footnote 9. This indicates that regard should be taken of policies relating to sites under the Birds and Habitats Directives and/or SSSI, Green Belt, Local Green Space, AONB, Heritage Coast, National Park, Designated Heritage Assets and Locations at risk of Flooding or Coastal Erosions.

In response, we would suggest that all of these policies relate to intrinsic environmental designations or circumstances with the exception of Heritage Assets and Green Belt. It is these last two matters which are of most relevance to consideration of further development around Bath.

In respect of Green Belt which is merely a land use policy relating to land of no intrinsic merit in itself, there is an allowance at paras 83-85, that Green Belt boundaries can be altered through preparation of Local Plans. This in order to promote sustainable patterns of development (para 84). Moreover, as made clear at para 85 any such review must allow for meeting longer term development needs stretching well beyond the Plan period. Further the consequences of channelling development beyond the Green Belt are also to be considered.

There is no equivalent policy in the NPPF to permit amendments to the boundaries of environmental designations.

As regards Heritage Assets which relate largely to man made features, paras 126 and 127 of the NPPF require that these be recognised as an irreplaceable resource and fully protected. Para 132 requires great weight be given to asset conservation and requires that substantial harm to or loss of designated Heritage Assets of the higher significance, including World Heritage Sites, should be wholly exceptional. It then follows at para 133 that where a proposed development will lead to substantial harm, consent should be refused unless it can be demonstrated that the substantial harm or loss is necessary to achieve such substantial public benefits that outweigh that harm or loss.

We suggest again this underpins the normal planning balance approach of competing requirements and a decision made between competing interests.

Again the Inspector will have come to his own view about the World Heritage Site designation of Bath which follows the former administrative boundary of the City. This will include the extent to which the recent post-war development in the Twerton area, which has little if any architectural or other value, provides a setting to the historic core of Bath. The NPPF simply helps to define the issues between the competing interests which then arise.

2. **Whether the new requirement for a 20% buffer in the 5 year land supply where there has been a record of persistent under-delivery (NPPF, para 47, 2nd bullet) should apply to Bath and North East Somerset (in the light of the evidence already submitted on past performance)**

Comment

There is a technical HLS problem in BANES in that post 2011 there is no Development Plan based housing requirement figure which can be used for land supply purposes.

Firstly and using BANES own data, attached as Annex 1 is an extract from the BANES SHLAA, May 2011. This shows against the Local Plan trajectory to 2011 a significant shortfall against requirements for 10 of the preceding 11 years.

In addressing this matter and looking forward post 2011 we attach, for ease of reference, our Paper dealing with the 5 Year HLS Position issued on the 13th February 2012 (Annex 2). This highlights the difficulties of calculating a requirement figure for BANES to cover the period 2011 to 2016 in respect of a development plan based target. In the circumstances we referred to the available data emerging from the evidence base and, as examples used the BANES derived 12,100 technical housing need figure for the period 2006-2026, together with the IPPR Trading Report figure of 14,400 dwellings as prepared on behalf of our clients. All other figures suggested a higher requirement.

The respective calculations derived annualised requirements of 605 dwellings per annum based on the BANES data and 720 dwellings per annum based on IPPR. This may be compared to the actual achieved completions 2006-2011 of 393 dwellings per annum, i.e. 35% below the BANES estimated requirement at 605 dwellings per annum and 45% below the IPPR estimated requirement at 720 dwellings per annum.

When this is added to the 851 shortfall figure against Local Plan requirements pre-2006 as discussed at the Examination, which is understood to be agreed by all parties, we consider that indisputably this comprises a record of “persistent under-delivery of housing” such that a buffer figure of 20% should be applied in all of the circumstances.

3. **Whether an allowance can and should be made for windfalls in the 5 year supply (NPPF, para 48) and whether any such allowance should also be included in the supply for year 6-15.**

Comment

We consider this to be a matter which would need to be justified by BANES. In particular the requirement is for there to be “compelling evidence”. Further the

preparation of SHLAA documents has largely formalised the process of site identification such that the incidence of unexpected windfall sites, especially larger ones, is nowhere near as prevalent as it would have been within the system 10+ years ago.

The issue of residential back gardens and the extent to which this does, or does not include the removal or redevelopment of the given dwelling(s) which exist on the plots, is also relevant and complicates the process.

Finally, many authorities in preparing SHLAA documents, including BANES, have effectively made a near 100% assumption that sites which they consider to be deliverable or developable over the 10-15 year period can and should be included as part of the housing land supply in the Plan. This ignores the fact that very often such sites fail to come forward or are delayed in terms of providing additional housing delivery for much longer than was originally anticipated. We consider that the fact that additional windfall sites may come forward provides no more than a form of insurance policy against the non-delivery of other elements of the housing supply. Accordingly we question strongly the inclusion of such sites as part of the supply in BANES unless, as noted above, the Inspector is satisfied there is compelling evidence to allow for the same. Even then the figure should be estimated on a very conservative basis, given the need for the planning system to be as precise and specific as possible about the identification of land in the interest of all parties including residents, developers and infrastructure/service providers.

Finally, we question whether the reference at para 48 should be applied to the plan making process. In particular para 37 refers to the need to identify a supply of specific deliverable sites over the first 5 years of the Plan with developable sites for years 6-10 and where possible years 11-15.

Para 48 does not refer to years 6-15 but rather to the 5 year supply only.

On balance we consider that no allowance should be made for windfall sites in BANES for all of the reasons set out above.

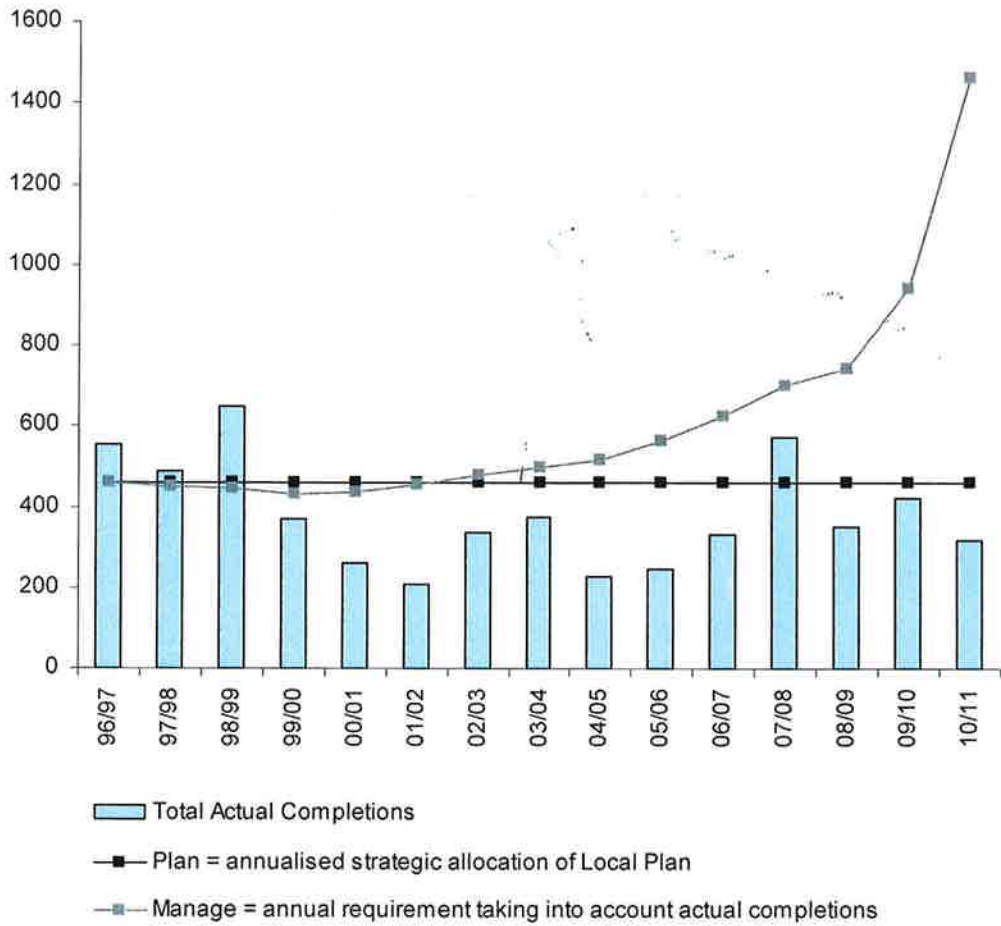
4. **Following on from the above the Council needs to be clear whether it seeks any such allowance, what it should be and its justification.... the Council should recalculate the figures for past small site windfalls (below the SHLAA threshold) ... excluding all such development that was on residential gardens... accurate information to make this adjustment.**

Comment

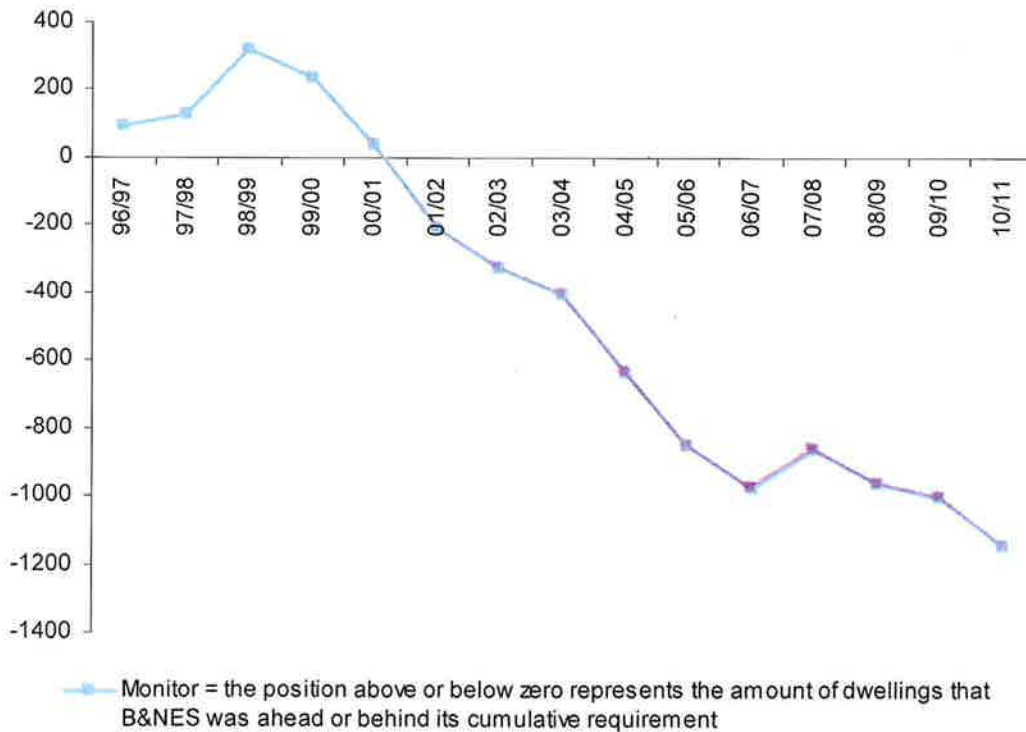
We have limited comments to make on this matter; given this is largely a task for the Council. We would simply reserve the position of our clients to make representation on any such data as may be issued in due course.

Jeremy Woolf for the Duchy of Cornwall

Local Plan Housing Trajectory 1996-2011: Par



Local Plan Housing Trajectory 1996-2011: Part 2



WBP
Five Year HLS Position
 13 Feb 2012

1 General

1.1. The draft SoCG prepared by BNES is too complex and this Statement is prepared as a rebuttal to its content.

1.2. Conventionally one would derive a five year requirement based on an adopted development plan figure. However, there is no such up to date figure for BNES and in particular, the Council cannot rely upon the following documents for this purpose:

- RPG10 – this covers the period to 2016 but there is no agreed figure for BNES
- Draft RSS – this has not progressed to adoption
- Local Plan – this only covers the period to 2011

1.3. In the circumstances, the optimum approach having regard to PPS3 (Para 33) is to use an up to date evidence base. We have therefore tested the 5yr HLS position based upon figures discussed at the Examination which include the BNES derived 12,100 technical housing need figure to be met in the period 2006 to 2026 (BNES 26 and ID/7) together with the findings' of the IPPR Trading's report prepared on behalf of the Duchy of Cornwall which identifies a need for 14,400 dwellings.

1.4. The Inspector is aware from evidence that all other figures (save for the submission draft CS and the Woodhead Report), put forward at the examination and set out in background papers were at or above the IPPR figure and comprise the following:

SoS Proposed SWRSS Changes	21,300 (1,065dpa)
SWRSS Panel's Report	18,800 (940dpa)
BANES SHMA (affordable need only)	16,940 (847dpa)
Draft South West RSS	15,500 (775dpa)
BANES Spatial Options 2009	15,500 (775dpa)
Baker Associates	14,500 (725dpa)
IPPR Trading	14,400 (720dpa)
ID/7, paragraph 2.8	12,100 (605dpa)
Woodhead Report	11,600 (580dpa)

1.5. Against the above background, the best case scenario in terms of the five year housing land supply position, as far as the Council is concerned, is as follows:

2 Scenario A: Residualising the Requirement

2.1. This scenario takes the shortfall in supply from the first five years of the plan period (2006 to 2011) and residualises it over the remainder of the plan period 2011 to 2026. Based upon the components of supply said to be "deliverable" by the LPA, this results in the following five year supply position:

Requirement 2006 to 2026	BNES 12,100 (605dpa)	IPPR 14,400 (720dpa)
Completions 2006 to 2011	1,967	1,967
Residual Req. 2011 to 2026	10,133 (675pa)	12,433 (829pa)
Five Year Req. 2011 to 2016	3,375	4,145
LPA Identified 5yr Supply	3,346	3,346
Shortfall/Surplus	-29	-799

- 2.2. The above assessment results in a shortfall even using the BNES supply data in the five year HLS position when assessed against the technical figure (BNES 26 and ID/7), with a greater shortfall identified against the IPPR figure.
- 2.3. The Inspector will be aware of the misgivings about the true availability of all of the sites relied upon by the LPA to be delivered in the five year period to 2016, especially on the Western Riverside including having regard to constraints such as land ownership and the necessary relocation of the gas holders. We have made separate submissions arguing that student housing should not contribute to the total supply figure.

3 Scenario B: Meeting the Shortfall in the first Five Years

- 3.1. Completions in the first five years of the plan period (2006 to 2011) have totalled 1,967 dwellings, equivalent to 393 dwellings per annum. This is significantly below the 605 dwellings per annum implied by the 12,100 requirement (605 dwellings per annum) or the 720dpa implied by the IPPR requirement. The shortfall in the first five years is equivalent to 1,058 dwellings against the implied technical requirement (605dpa) and 1,633 against the IPPR requirement.
- 3.2. Progress on housing delivery in the first five years of the plan period has been significantly lower than expected. Accordingly, there is a strong justification for attempting to remedy the shortfall in the short to medium term rather than over the plan period as a whole. This approach was accepted recently in a S78 SoS appeal case in Test Valley (appeal ref: APP/X3025/A/10/214096) (June 2011).

Requirement 2006 to 2026	BNES 12,100 (605dpa)	IPPR 14,400 (720dpa)
Annualised Req.	605dpa	720dpa
Req. 2006 to 2011 (5yrs)	3,025	3,600
Completions 2006 to 2011	1,967	1,967
Shortfall 2006 to 2011	1,058	1,633
Req. 2011 to 2016	3,025 (5 x 605)	3,600 (720 x 5)
Add the pre 2011 shortfall	+1,058	+1,633
Total Req. 2011 to 2016	4,083	5,233
LPA Identified 5yr Supply	3,346	3,346
Shortfall/Surplus	-737	-1,887

- 3.3. The above assessment results in a 737 shortfall against the technical requirement in the period 2011 to 2016 and a 1,887 shortfall against the IPPR requirement.

4 Summary

- 4.1. The examples show that BNES is unable to demonstrate a deliverable five year supply of housing land against either of the above scenarios.
- 4.2. There remains the issue about the delivery or otherwise of the Council's 3,346 supply figure which includes, inter alia, reliance upon delivery from the Riverside sites. However, and for the reasons set out at the Examination, there remains considerable doubt as to the ability of these sites (and other components of supply relied upon by the Council) to be delivered within the five year period to 2016 and therefore count towards the 3,346 supply figure.
- 4.3. As regards to the 872 dwelling shortfall for the pre 2006 period, we consider this to be a significant issue as it reflects the long term failure of the Council to meet long term housing needs/requirements and although we have not included this shortfall in our assessment of the five year HLS position, the 872 dwelling shortfall in the pre 2006 period does give weight to the need to address the housing supply issues as early as possible in the plan period up to 2016.
- 4.4. We have submitted a separate statement in response to BNES31 and the issue of student housing. For the reasons set out in our separate statement, we do not consider student housing should be counted as part of the supply and even if it does it fails to address the pre 2006 shortfall.

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