

SATNAM PLANNING SERVICES

17 Imperial Square, Cheltenham, Gloucestershire, GL50 1QZ, U.K.

T: +44 (0)1242227159 F: +44 (0)1242 227160 E: admin@satnam.co.uk

LANCASTER LOCAL PLAN

SATNAM INVESTMENTS AND LUNE INDUSTRIAL ESTATES LTD

LAND AT NEW QUAY ROAD, LUNE

MATTERS 1, 2 & 5, EXAMINATION STATEMENT

1. The T&CP Regs 2012 set out requirements for SA and SEA of plans. They require that an SEA report ***“identify, describe and evaluate the likely significant effects on the environment of implementing the plan or reasonable alternatives, taking into account the objectives and geographical scope of the plan”***. This is confirmed at page 26 of the January 2017 Sustainability Report (The Report) and page 6 of the March 2019 Addendum (The reasonable Alternatives Report). The Report goes on to confirm ***“realistic and reasonable alternatives should be considered”***. Further The Report confirms, page 1, that this is ***“a systematic process to ensure environmental issues are integrated and assessed at the earliest opportunity in the process”***.
2. The Report sets out, page 1, that ***“the appraisal of the proposed land allocations commenced in 2011 and has evolved since then including specific studies into growth options in 2014 and 2015”***. The Report further confirms ***“the options form a key part of the SA for the Local Plan Part One.”***
3. Pages 8-11 set out the policies subject to SEA and this includes SC2: Local Green Space. There are no references however to how the scoping of the SEA or the earlier work was updated to consider this new policy, introduced to the plan after its scoping was agreed in 2012. It appears the plan progressed on the basis of the previous appraisal work, regardless of changing circumstances, policies or opportunities. Issues such as future development needs, best alternative land use and performance against sustainability criteria on these sites has not been undertaken.
4. The Proposed Development Allocations are set out in Table 2-1 but refers to these as ***“committed site allocations”***, rather than proposed or suggested. There is therefore an inbuilt acceptance within the Report that the proposed strategy of the plan is the accepted or final strategy (this feeds into the ***“reasonable alternatives”*** point later in this note). The plan in turn simply relies on the results of the SHELAA 2018 with no sustainability checks or appraisals.

5. Page 14 of The Report sets out a summary of the stages in SEA / local plan production, stating ***“There has been a considerable degree of interaction between the plan-making and SA teams during stage B with SA being undertaken at the Draft Local Plan stage and again at the Publication stage. This has enabled potential adverse effects of the Local Plan to be avoided / minimised and potential sustainability benefits maximised”***. As will be seen however, this appears to have exclusively been to assess the chosen strategy and sites, not to assess reasonable alternatives.
6. Section 5 of The Report sets out the SA of the Publication Plan, dealing with Central Lancaster at 5.2.3, page 53. This includes a proposed allocation site close to the New Quay Road site, which scores highly in the SA to support its allocation for housing. There is no similar exercise however regarding the site at New Quay Road, assessing this alongside the other sites put forward, away from central Lancaster. This lack of assessment of an available ***“reasonably alternative site”*** and blind reliance on the SHELAA position undermines the SEA approach to the plan. This lack of an appraisal of the impacts of the site’s development versus its use as open land (and the allocation of other land in its place) is a clear failure of the plan preparation process.
7. The results of this partial and selective SA exercise, focusing only on the suggested / chosen strategy for the local plan has resulted in sites that may result in less environmental impact on Lancaster as a whole not being considered for development. Reasonable alternative sites for development and the range of impacts arising from those sites have not been assessed. This is a major failing in the process of SA and the plan is legally deficient as a result. The findings of the SHELAA are blindly taken at face value.
8. The Reasonable Alternatives Report merely recounts the validation process undertaken for the strategy of the local plan, not the sites or reasonable alternative sites. It adds nothing to the debate with regard to the failings we have exposed.
9. Neither The Report and the Reasonable Alternatives Report begin to deal with or analyse the issues of urban capacity, the critical factor in so many of the value balancing judgements carried out in the SA reports – urban capacity versus green belt / greenfield growth, driven by housing and employment growth needs.
10. Therefore, the answer to the Inspection’s question **“i) Does the SA adequately consider reasonable alternatives where these exist”** is no, as there has been no analysis or consideration of urban capacity beyond the basic results of the 2018 SHELAA.
11. The plan should not progress further, and these failings must be addressed.
12. Matter 2, Housing, is addressed in the statement from Emery Planning attached at **Appendix 2.**

13. SC2 refers to Local Green Space:

i. ***“the Council has designated”*** - where / how / why / when?

- a. Where is this land designated? - designated for the first time in this local plan. Therefore, it is of utmost importance the land is correctly assessed as being suitable for LGS notation.
- b. How is this land designated? - the policy says these areas ***“have been put forward by the local community”***. It is the case the Council have quite simply moved this area forward for inclusion within the plan with no searching or transparent assessment process to test the site against sensible recognised selection criteria.
- c. Why is this land designated? - The particular site we are interested in, land at New Quay Road is noted as being proposed only on ***“Historic Significance”*** and ***“Recreational Value”*** grounds. As set out following, these grounds are not supportable upon examination.
- d. When was the site proposed for such notation? - it appears this site was proposed for this allocation in in the period 2015-2017 date. No meaningful discussions with the owners have taken place.

14. Table SC2.21 and the associated note shows the motivation of the Council and the local community for this policy notation. For example the Barton Road Allotment site is currently proposed as a Town Green (under appeal). This notation in the plan is based on the same evidence as the proposed Town Green yet the local plan seeks to establish a ***“second go”*** if the appeal against the Town Green notation is successful, without waiting to consider the wording of the outcome of that appeal (and thus an independent assessment of the proposed evidence base for the notation) when received. As noted elsewhere, this objection site is also subject to an appealed Town Green proposal, and once again the Council with this notation is seeking to achieve a ***“second go”*** based on the same evidence in advance of the outcome of the Town Green application. This must be set against the stringent framework advice, the notation is akin to green belt and therefore should only be used in ***“exceptional circumstances”***. **Thus, the policy fails to meet the requirement to be Positively Prepared, is not Justified, and is not Consistent with National Policy.**

15. Policy SC2 is akin to Green Belt and is therefore a Strategic Policy under the terms of paragraph 21 of the NPPF. The test therefore is whether this policy is required ***“to address the strategic priorities of the area to provide a clear starting point for any non-strategic policies that are needed”***. The plan fails to do this on two levels. The first is clearly that the

allocation of individual sites, otherwise suitable for housing, as LGS without proper basis does not comply with this guidance. The second is that the LSG policy as a principle has not been tested or assessed alongside a proper assessment of forward development needs. Lancaster faces “**exceptional circumstances**” in which green belt is required for development, yet these sites have not been assessed on a “**best use**” basis. **Thus, the policy fails to meet the requirement to be Positively Prepared, is not Justified, and is not Consistent with National Policy.**

16. Paragraph 99 of NPPF sets out clearly that designation of land as LGS “***should be consistent with the local planning of sustainable development and complement investment in sufficient homes, jobs and other essential services***”. The approach of this plan however is to designate LGS and then prepare the development and spatial strategy around this conclusion. There has been no balancing of the role of the site in development terms against the claims of its “***demonstrably special...and ..particular local significance***” set out by the local community. The plan proposes land to be released from the green belt rather than allocate this land for housing development without such a balancing exercise being undertaken. Thus, the policy does not comply with the guidance contained within paragraph 99 of NPPF. **Thus, the policy fails to meet the requirement to be Positively Prepared, is not Justified, and is not Consistent with National Policy.**
17. Paragraph 100 of NPPF sets out criteria against which suggested LGS areas should be assessed,
- a. Be reasonably close to the community it serves,
 - b. Be “***demonstrably special***”, not just special or important, to that local community, with reference to matters such as
 - 1. Beauty
 - 2. Historic Significance
 - 3. Recreational Value
 - 4. Use as playing Field
 - 5. Tranquillity
 - 6. Richness of wildlife
 - c. Is local in character
 - d. Is not an expansive tract of land.
18. As set out in Representations, the objection site does not meet any of these criteria. In summary,

- a. Reasonably Close to the community it serves: parts of the claimed community live a distance away from the area and not within easy distance to the site. Other areas of open land are closer and more accessible to parts of the local community. It is not explained which function the site plays for the local community nor how the site “serves” such a function within the community. It should be noted the April 2018 Open Space Assessment Report record that for all the measured open space typographies, Lancaster as a sub area meets the FIT, Allotment and other requirements. There is therefore no shortage of alternative open areas available to the public.
- b. Historic Significance: historically the land was open storage and a workers recreation area associated with a large local factory, not in any way a local asset or park. There is a mistaken belief the land was “gifted” to the local community when the factory was closed, but the land remains private land at the Land Registry with no covenants or similar showing such actions. There is no “demonstrable” recorded historic significance to this land. There are no heritage assets or features associated with or recorded on the land at any recognised database or information source.

There is no explanation, other than a description, of the alleged historic significance of the land, and no assessment or data trawl of likely records of such significance. There is no assessment of how real or relevant is the alleged historic significance (as set out in the proposed inclusion of this site in the local plan LGS designation). The heritage section of the local plan makes no reference to the site or area. It is worth noting that the factory referred to in the nomination was demolished and re-developed for housing some years ago, with no historic significance being attached to it. The plan itself allocates the industrial estate adjacent to this site for housing, again with no reference to local historical significance. It is not explained why these areas are free from significance, whilst this site has “demonstrable significance”. The Council have not tested this point.

- c. Recreational Value: the site has been subject to historic trespass and signs / fences have been erected over many years and vandalised and or torn down. The recreational use therefore has been no more than other sites around the fringe of the town, and therefore does not begin to meet the “demonstrable” trigger required. Trespass is not a recognised form of recreation. No mention is made of the contamination within and on the surface of the site and how this affects or otherwise the use of the site as LGS.
- d. Playing Field: not proposed (but long ago abandoned and now not on site).
- e. Tranquillity: not proposed (but site is not tranquil).

- f. Richness of Wildlife: not proposed (the site has been surveyed and nothing of note found).
- g. The site is 16.6 ha in extent, one of the largest of the proposed LGS areas. There is no definition of how the Council can regard such areas as local in scale rather than extensive. The Council set out in their statement they have no area based criteria to assess compliance in this regard. This scale of site is not able to be described as a ***“local character open space”***, as these would be smaller and more in keeping with suburban / inner areas.

The site is clearly an extensive tract of land, see representations.

- 19. Paragraph 100 of the framework is clear that all of the criteria must be met for designation. **Thus again, the policy fails to meet the requirement to be Positively Prepared, is not Justified, and is not Consistent with National Policy.**
- 20. The Assessment process was not rigorous nor even handed, see representations. The evidence presented and the conclusions reached are often conflicting and without analytical assessment, nor presented on an evidential basis. The **“panel of stakeholders”** did not include the owners of the land, nor was any information or views from the owners sought for consideration by the panel. No engagement with the owners has ever been sought by the Council with regard to this proposed notation (even though **“early engagement”** is required by the framework). Thus, the process was not impartial but partisan and selected from those seeking to establish the sites as LGS. As such the process fails to meet the standards expected for a development plan policy. **Thus, the policy fails to meet the requirement to be Positively Prepared, is not Justified, and is not Consistent with National Policy.**
- 21. The requirement for a robust analysis process and assessment tool was the subject of examination at the Richmond Upon Thames Local Plan Examination, Report extracts at **Appendix 1** dated April 2018. Paragraphs 68/69 are relevant. The assessment should be analytical and evidential rather than subjective (68). With particular reference to sites being allocated for the first time under such a policy, the designation must be justified (69), with robust analysis against the criteria of the Framework and any suggested value adequately justified. It is clear the process followed at Lancaster does not meet these tests.
- 22. The Council in their statement LCC75.0 appear to be mistaken as to sites, notations and policies. At point 5(b) they refer to the Willow Lane Playing Fields site (DOS5) not Freemans Wood (SC2). However much of the text refers to the latter site, making points not related to the present condition of the objection site. There are inaccurate claims regarding the objection site: yet this section should refer to Coronation Fields not the SC2 land. This

demonstrates the confusion and ill-thought out nature of the proposed notations in this area.

23. It is of course correct that the public claim use of footpaths and the site, but these claims are under dispute. It is wrong therefore for the Council to place any reliance for a stringent local plan policy of green belt type restraint on such claims. In any event, the existence of footpaths through an area does not signify “**demonstrably special**” attributes worthy of LGS protection.
24. Paragraphs SF.27 – SF.39 refer to the objection site under SC2. This records the site was regarded as being within 5 – 10 minutes’ walk of the community they serve. There is no definition of area, community or how or in what way the site serves that community. There is no published map or data setting out the process of agreeing the walking distances and routes involved. As noted elsewhere, there is no size requirement of “**extensive expanse**” used in the process. Instead it relies in part on whether the site has “**clear boundaries**”, a test seen nowhere in the guidance.
25. It is interesting to note that in its explanation of this test, paragraph SF.35, the Council conclude the site is not part of the open countryside, is separated from it by clear boundaries and is well related to an existing community. All these are factors which would support the development of the site for housing, but that analysis has never been undertaken by the Council.
26. The Council merely recite the view of the sponsors that this area has significance in historic terms and makes no attempt to analyse it, quite simply accepting the proposed objective view.
27. Therefore, the clarification sought by the Inspector for i) the justification of the proposed notation and ii) the definition of extensive tract of land have proved to undermine the proposed notation in respect of this site. It is clear the Council has merely accepted what has been told to them by the sponsors of this site and have no reasonable definition of size to support the inclusion of this site.
28. The issues raised in these representations go to the soundness and legal standing of the plan. We attach at **Appendix 3** an Advice Note from David Manley QC, setting out his concerns.

APPENDIX 1



Report to the London Borough of Richmond upon Thames

by Andrew Seaman BA (Hons) MA MRTPI

**an Inspector appointed by the Secretary of State for Housing, Communities and Local
Government**

Date: 26 April 2018

Planning and Compulsory Purchase Act 2004

(as amended)

Section 20

Report on the Examination of the Richmond upon Thames Local Plan

The Plan was submitted for examination on 19 May 2017

The examination hearings were held between 26th September and 12th October 2017

File Ref: PINS/L5810/429/10

by definition would be dealt with against the content of criterion A and national policy.

66. However, Part B of the policy provides three further criteria which would be applied as necessary to proposals seeking new small scale structures. These criteria are not consistent with national policy which simply identifies (NPPF para 87, 89 et al) that inappropriate development should not be approved except in very special circumstances and that new buildings should be regarded as inappropriate except where specifically provided for (eg facilities for outdoor sport etc). I therefore cannot find the content of criteria B justified or consistent with national policy; it is insufficiently clear why this part of the policy is necessary. The supporting text of LP 13 endeavours to recognise that there may be exceptional circumstances where inappropriate development could be acceptable, for example water plants and associated facilities, yet such development would fall to be reasonably considered under Part A of the policy in any event. The imposition of further criteria is unnecessary. I therefore recommend that Part B of the policy is modified to ensure effective implementation in line with national policy (**MM7**).
67. Part C of the policy identifies that the Council will take into account the possible visual impacts of development outside of the GB/MoL on its character and openness. I am mindful of national policy as it applies to GB areas and, on balance and whilst recognising that this is a matter of both planning judgement and legal interpretation in its potential implementation, I do not find the policy unsound through its phrasing.
68. Part D of the policy provides protection to identified LGS. National policy makes provision for the development plan process to designate LGS where three criteria are satisfied albeit also states that the designation will not be appropriate for most green areas or open space. The Council has, at para 5.2.10, created a number of additional criteria to be considered for the designation of LGS. The rationale for these is not clearly explained in the pre-submission evidence. Critically however and as accepted by the Council during the Examination Hearings process, there is no clear methodology which explains how the criteria have been applied and what means of value analysis has been applied to the sites identified to be designated as LGS. Thus the justification for any decision to designate land is more one of assertive opinion rather than evidential analysis and consequently is insufficiently robust. In the absence of such analytical process the inclusion of land as LGS cannot be supported at this time. Nonetheless, the LGS references within the Plan can be retained subject to modification to ensure clarity and consistency with national policy (**MM 7**).
69. I have noted the volume of representation received in relation to the Udney Park Playing Fields. It is clear that a large section of the community supports the designation of the land as LGS, albeit this is not universal and I note the submissions to the contrary. Regardless of the particular development aspirations that may apply to the site, my focus is upon whether designation of the land as LGS can be justified. In light of the absence of robust analysis as to its value against the criteria of the Framework and how any judgements have been objectively assessed in relation to, for example, its beauty, historic significance, recreational value etc, the designation is not justified adequately. The land is close to the community but it is unclear how it 'serves' that

community and submissions have been received which argue that the land is both special or, in the contrary, not special and the rationale for both is not well developed beyond assertion. I am unable to conclude that the designation is justified at this time. The site will retain its existing designation as Other Open Land of Townscape Importance (OOLTI). As a simple point of fact, the absence of a LGS designation of itself does not mean the site is, or is not, suitable for development.

70. As iterated above, I accept that the Council can rely on the established GB/MoL designations and I note that the London Plan generally resists the release of designated land. In the absence of a wider GB/MoL review there is no compelling reason to assess the perceived anomalies in the designated boundaries at this time, for example as affecting the Old Deer Park or the location of St Paul's School. The Plan is not unsound as a consequence. Similarly, I note the concerns expressed at the location of the MoL boundary at Belmont Road and a request to release designated land. However, and as justified by the Council in its Hearing submissions, at this moment in time the reliance on established boundaries, remains sound.
71. Thames Water considers that its Hampton Water Treatment Works should retain its previous status as a Major Developed Site. However, such terminology is no longer part of national policy and is not part of the Plan. I consider that the submitted Plan in conjunction with the application of national policy will enable due consideration to be given to development proposals on any site and their justification.
72. Submissions were made to the Examination that land historically used as settlement beds in Station Road, Hampton has erroneously been shown as being within the GB on the Policies Map (and its predecessor). There appears to be a relatively complex background to this matter. However, as noted above, the GB is not being reviewed at this time. The established designations remain in force. It is for the Council to ensure that these designations are accurately depicted on its policies map and it must be noted that the policies map is not of itself under examination for soundness.
73. Consequently, it must remain for the Council to satisfy itself that the established GB boundary, which of itself is not affected by this Plan, is accurately identified on the policies map with due regard to the history of the site and its iterations within the plan production process. Should the Council identify that the previous depiction is inaccurate, it has the ability to correct it as a matter of fact. It has alternatively been suggested that the land in question should be released from the GB. As identified above, there is no justification or requirement to do so outwith a wider GB review and the Plan is not unsound as a consequence.
74. Policy LP 14 relates to OOLTI which is a pre-existing designation for land within its extant development plan. The policy recognises locally important open land and is justified adequately by the available evidence albeit the Council has necessarily confirmed that new OOLTI designations will only be made through the development plan process. Such modifications are necessary to ensure effectiveness and transparency of the policy application **(MM 8)**.

APPENDIX 2



Hearing Statements on behalf of Satnam Investments Ltd (ID: 7)

In relation to: Matter 2: Housing and Matter 3: Spatial
Strategy

for Satnam Investments Ltd

Emery Planning project number: 19-124



Project : 19-124
Hearing : Land at New Quay
Road, Lancaster, LA1
5UZ
Client : Satnam Investments Ltd
Date : 01 April 2019
Author : Ben Pycroft

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1. Introduction

- 1.1 Emery Planning is instructed by Satnam Investments Ltd (representor ID: 7) to prepare hearing statements in relation to Matter 2: Housing and Matter 3: Spatial Strategy. We will be attending the hearing sessions on behalf of Satnam Investments Ltd in relation to Matter 2: Housing, which are scheduled to take place on Wednesday 10th and Thursday 11th April 2019.

2. Matter 2: Housing

Main Issue: Whether the Council's strategy for meeting its housing requirement is sound?

a) The identified objectively-assessed need (OAN) for housing for the area is 14,000 new dwellings (an average of 700 per year). The Council, as set out in policy SP6, identifies a requirement of 12,000 new dwellings at a rate of 522 per year. Is the Council's housing requirement soundly based and supported by robust and credible evidence?

- 2.1 No. From the outset it is unclear what the Council's proposed housing requirement is. The submitted plan proposes a housing requirement of 522 dwellings per year, which the submission version of the plan states is "deliverable" and "realistic". However, the Council's hearing statement for matter 2 (published 22/03/19, ref: LCC7.2.0) now considers that this level of development is unrealistic and proposes an amended "supply-led" housing requirement of 510 dwellings per annum (paragraph 2F.11). This reflects the housing land supply position as set out in the examination trajectory (published 22/03/19 ref: LCC7.2.1). The situation is confused further by the publication of the following further documents on the same date, which only address the 522 housing requirement figure:
- Lancaster Local Plan Sustainability Appraisal Addendum (Arcadis, March 2019 ref: LCC7.1.3);
 - Modelling the demographic implications of the proposed housing requirement for Lancaster District (Turley, March 2019, ref: LCC7.1.4)
- 2.2 Therefore, in answer to the Inspector's question, the Council itself no longer considers the 522 dwelling figure as being soundly based or supported by robust and credible evidence.
- 2.3 Notwithstanding this, whether the housing requirement is 522 dwellings per annum or 510 dwellings per annum, it is significantly below the OAN. The Council claims that there is

insufficient supply to meet the OAN in full. However, within this context, we note that the Strategic Housing and Economic Land Availability Assessment (SHELAA, 2018, ref: Ho_SHELAA_03) considered 600 sites for housing but only "positively assessed" 102 sites for housing (17%) with a combined capacity of 7,112 dwellings.

- 2.4 Firstly, we question whether the SHELAA has properly considered all of the deliverable / developable sites. For example, our client's site at land south of Lune Business Park (site ref: 370) has been considered as being "undeliverable" on the basis that it contains playing fields, woodland and TPOs. The SHELAA analysis is very brief. There is no reference to the fact that the site has been used for industrial storage and is fenced off. An outline planning application for up to 250 no. dwellings has been submitted and is currently pending determination (LPA ref: 18/01520/OUT). The playing fields and the woodland to the east are outside of the application boundary and would therefore be retained as would many of the trees along the south and western boundaries within the application boundary. Our client therefore considers that the delivery of housing on at least part of the site assessed in the SHELAA is achievable.
- 2.5 Given that the Council proposes a housing requirement well below the OAN and now proposes an even lower housing requirement than that set out in the submitted plan, we recommend that the Council re-assesses the sites in the SHELAA.
- 2.6 Secondly, even if the deliverable / developable capacity identified in the SHELAA is correct, the Council's approach is to allocate strategic housing sites to meet a requirement it considered to be realistic at the time the plan was submitted. This includes greenfield land and in some cases releasing land from the Green Belt to the north of Lancaster and to the south of Carnforth. Whilst our case is that sites such as our client's site which is not located on Green Belt land should be considered before any Green Belt release, it is unclear why further strategic sites are not proposed to be allocated (in addition to our client's site) to meet the OAN in full. Within this context, we note that the SHLAA (2015, ref: Ho_SHELAA_01.1) considered that the capacity of 45 identified strategic sites was 9,648 dwellings. In addition to the sites identified in the SHELAA, this would mean that the OAN could be met in full.
- 2.7 The Council then explains that the constrained nature of local infrastructure such as the highways network presents a significant challenge. However, in accordance with paragraph 157 of the 2012 NPPF, the Local Plan should plan positively for the infrastructure required in the

area to meet the objectives of the NPPF, including boosting the supply of housing and ensuring that the objectively assessed housing need is met in full.

Does it take appropriate account of the 2012-based DCLG Household Projections, the likelihood of past trends in migration and household formation continuing in the future, and 'market signals'? Is the housing requirement appropriately aligned with forecasts for jobs growth?

- 2.8 No. Whilst the Lancaster Independent Housing Requirements Study (Turley, October 2015, ref: Ho_SHMA_01) concluded that the demographic starting position based on 2012-based household projections was 341 dwellings per annum, the OAN Verification Study (Turley, February 2018, ref: Ho_SHMA_04), concluded that the demographic starting point set out in the 2014-based household projections is 426 dwellings per annum over the plan period (2011 to 2031). An upward adjustment from the 'starting point' has then been applied to align with longer-term demographic trends in Lancaster and take account of the latest population estimates, meaning the demographic position is 576 dwellings per annum. This is already notably above the proposed submitted housing requirement of 522 dwellings (and the 510 figure now proposed).
- 2.9 The OAN Verification Study then explains that growth in the economy is likely to continue to generate a higher need for housing than implied by a continuation of longer-term demographic trends. The modelling suggests that between 584 and 617 dwellings per annum are needed over the plan period to provide the additional labour force needed to support likely job growth forecast. Most recently, the "Modelling the demographic implications of the proposed housing requirement for Lancaster District" report (Turley, March 2019, ref: LCC7.1.4) concludes that the proposed scale of housing provision at 522 dwellings per annum would constrain jobs growth or lead to a change in commuting relationships with surrounding authorities.

What implications should be drawn from paragraphs 7.9 – 7.13 of the Updated Consultation Statement February 2019, on the OAN figure?

- 2.10 Paragraphs 7.9 to 7.13 of the Updated Consultation Statement (February 2019, ref: LCC4.4) refer to the OAN verification work prepared by Turley (February 2018, ref: Ho_SHMA_04), which was to verify the OAN by taking into account changes to demographic projections, economic growth and changes to Government policy. The verification study states:

- The latest evidence indicates that supporting likely job growth, accommodating projected demographic growth and responding to market signals is expected to generate a need for at least 605 dwellings per annum in Lancaster District over the plan period (2011 – 2031). A higher need for around 620 dwellings per annum would, however, be generated by the slightly higher levels of job growth associated with the Baseline+ scenario developed in the RELP;
- The verification study has not sought to arrive at a concluded updated OAN;
- However, the analysis presented indicates that the need for housing continues to fall within the wider range of projected housing need established through the Independent Housing Requirements Study (IHRS, ref: Ho_SHMA_01) of between 553 and 763 dwellings per annum;
- The narrower range of 650 to 700 dwellings per annum is also considered broadly reasonable.

2.11 The implications are therefore that the OAN remains higher than the housing requirement and therefore there is still housing need which is not being met. The submitted plan remains unsound with regard to paragraph 182 of the 2012 NPPF because:

- It has not been **positively prepared** – the strategy does not seek to meet the objectively assessed housing needs;
- It is not **justified** – the plan is not the most appropriate strategy when considered against the reasonable alternatives, including allocating our client's site for residential development;
- It is not **effective** – the plan is not deliverable over the period or based on effective joint working on cross-boundary strategic priorities; and
- It is not **consistent with national policy** – sustainable development with reference to paragraph 14 of the 2012 NPPF would not be achieved.

b) Are the constraints identified by the Council sufficient justification for not meeting the full OAN for housing in the District?

2.12 No. As above, we do not consider that the constraints identified by the Council provide sufficient justification for proposing a housing requirement which is lower than the OAN. Sites within the SHELAA (including our client's site) should be re-assessed. The Council is already proposing some Green Belt release to meet the housing needs and therefore considers it can demonstrate exceptional circumstances for doing so. Furthermore, in accordance with paragraph 157 of the 2012 NPPF, the local plan should provide the infrastructure solutions so that the OAN could be met in full.

c) What provision has the Council made for any unmet housing need and does the housing requirement take appropriate account of the need to ensure that the identified requirement for affordable housing is delivered?

- 2.13 It is unclear how Lancaster's unmet housing need is to be addressed. The Duty to Co-operate Statement (ref: SD_025) confirms that none of the neighbouring authorities could meet a proportion of Lancaster's unmet needs. Therefore, the plan cannot be found sound within the context of paragraph 182 of the 2012 NPPF.

d) Is the Housing Market Area (HMA) agreed with adjoining authorities in line with the Planning Practice Guidance and does the plan period coincide with housing projections?

- 2.14 We would expect the Duty to Co-operate Statement (ref: SD_025) to confirm that the HMA has been agreed by adjoining authorities. However, there is no reference to this in the statement.
- 2.15 The plan period is 2011 to 2034 and the household projections used from 2013 to 2031. The same rate of delivery (of 522 dwellings per annum) is anticipated by the Council in the three years 2031 to 2034.

e) Are the DPDs clear as to the identified need for additional pitches for gypsies and travellers (policies SP6 and DM9) and is the identified need soundly based and supported by robust and credible evidence?

- 2.16 No comment.

f) Is the amount of land allocated for housing sufficient to meet the requirement and how will it ensure delivery of the appropriate type of housing where it is required within the District (with particular reference to Policies SP2, SG1, SG7, SG9, H1, H2, H3, H4, H5, H6, DOS7, DM1, DM2, DM4, DM7, DM8, DM11 and DM12)?

- 2.17 No. The housing requirement set out in the submitted plan is 12,000 dwellings. Policy SP6 seeks to explain that 12,056 dwellings will be delivered over the plan period 2011/12 to 2033/34. However, the Council's Matter 2 statement (ref: LCC7.2.0) and the associated trajectory (ref: LCC7.2.1) now consider that the supply identified in the policy will only achieve 10,564 dwellings in the plan period.
- 2.18 One of the main reasons for the reduction in the supply over the plan period is because the Council accepts that the strategic development sites will not deliver 3,955 dwellings over the

plan period as the Submitted Plan claims they would. The Council now considers these sites will deliver 3,220 dwellings (i.e. 735 fewer dwellings), with the biggest difference being at the Bailrigg Garden Village (1,055 dwellings over the plan period compared to 1,655 dwellings in the submitted plan).

- 2.19 Additional sites, such as our client's site at land south of Lune Business Park should be identified and considered for allocation to meet the shortfall in the plan period supply.

g) Will the distribution, capacity and speed of deliverability (with regard to viability and infrastructure) of the sites, satisfy the provision of a 5 year housing land supply?

- 2.20 No. Whilst the Local Plan is being examined under the 2012 NPPF, once the plan is adopted, the five year housing land supply will be measured with regards to the 2019 NPPF and the updated PPG and with particular regard to the revised definition of "deliverable". The Council has not provided any "clear evidence" for the proposed allocations or development opportunities without detailed consent to be considered deliverable and therefore against the housing requirement set out in the submitted plan, we consider that the Council can only demonstrate a deliverable supply of **2.14 years** (please refer to appendix **EP3** below). The submitted plan cannot be found sound on this basis.
- 2.21 Rather than identify additional sites (such as our client's site), the Council's suggested approach to provide a five year housing land supply is set out in its Matter 2 Hearing Statement. Essentially, the Council proposes to a) reduce the housing requirement to 510 dwellings per annum, b) defer meeting housing needs by proposing a stepped housing requirement and c) proposing to address the shortfall over the plan period (i.e. the Liverpool method). We do not accept that such measures should be applied when there are other sites available, which could be identified or allocated such as our client's site at land south of Lune Business Park.
- 2.22 Nevertheless, the Council would still be unable to demonstrate a deliverable supply under the provisions of the 2019 NPPF as clear evidence would be required to support the inclusion of allocations without planning permission. This clear evidence should be produced and then we respectfully request the opportunity to comment on it.

h) Do the DPDs make provision for addressing inclusive design and accessible environments issues in accordance with the NPPF?

2.23 No comment.

i) Is the proposed monitoring likely to be adequate and what steps will be taken if sites do not come forward?

- 2.24 The Monitoring Framework (ref: SD_021) explains that the housing targets are 12,000 homes over the plan period and a five year supply at all times. The triggers are a shortfall in the five year housing land supply or a failure to meet the Housing Delivery Test (HDT). These are national requirements as set out in the 2019 NPPF.
- 2.25 In relation to the HDT, as explained in appendix **EP1**, even when the Local Plan is adopted, the HDT will be measured against whichever is the lower figure of either the adopted housing requirement (522) or the local housing need figure (currently 411 – see appendix **EP2**). However, as explained in appendix **EP3**, the five year housing land supply will be measured against the adopted housing requirement for the first five years. As we have explained above in answer to question g) and in appendix **EP3**, the Council cannot demonstrate a deliverable five year housing land supply and therefore the listed actions should be undertaken now.
- 2.26 The proposed actions for when the five year supply shortfall is greater than 1 year is set out in the Monitoring Framework are as follows:
- Identify problems and potential causes of variants and identify measures to address them;
 - Work with key providers, developers and landowners to better manage the delivery of development (this could involve reviewing S106 agreements and other contributions);
 - Identify potential funding opportunities to help bring sites forward;
 - Work with HCA to bring forward sites;
 - Implementation of measures identified by the proposed Housing Delivery Test;
 - Implement a call for sites and potential review of capacity via the SHELAA; and
 - Consider a review Local Plan.

- 2.27 Consequently, given the five year housing land supply cannot be demonstrated now, these actions should currently be carried out and there is no evidence that they have been, particularly with regards to the review of the SHELAA.

j) How will the housing allocations in the DPDs deliver the affordable housing set out in policies DM3 and DM6? What is the likely effect of DM6 on viability?

- 2.28 There is a significant shortfall of affordable housing in Lancaster resulting in an annual need of 376 dwellings per annum, which again does not justify the reduction in the housing requirement compared to the OAN. Due to the timescales involved in delivering very large strategic sites, the affordable housing need is unlikely to be addressed in the short term. A trajectory should be provided by the Council to set out how it anticipates affordable need will be met over the plan period.

k) How do the DPDs sit with the aim of the NPPF to create sustainable, inclusive and mixed communities (Policy SP9)?

- 2.29 No comment.

l) Are policies EN6 Strategic Policies & Land Allocations DPD and DM49 of the Development Management DPD on the Green Belt consistent with the NPPF?

- 2.30 No comment.

m) Could the Council provide clarification on the amount of housing to be provided within individual neighbourhood plans (Policies SC1 and DM54)?

- 2.31 Policy SP6 expects 1,385 dwellings to be allocated in 18 neighbourhood plan areas, which are listed in policy SC1. Paragraph 47 of the 2012 NPPF requires the Council to identify a supply of specific, developable sites or broad locations for growth for years 6-10 and where possible years 11-15. Therefore, the sites that are expected to be delivered within these neighbourhood areas should be at least identified and potentially allocated through the Local Plan because the Council is relying on these dwellings to be delivered.

3. Matter 3: Spatial Strategy

Main Issue: Whether the Council's spatial strategy for development within the District is sound?

a) Is the spatial strategy as set out in policies SP1, SP2, SP3, SP4, SP5 and SP6 and their supporting text soundly based? Is the settlement hierarchy soundly based? Would the spatial strategy be sound if no provision was made for any unmet housing need for Lancaster District either within the District or within the wider Strategic Housing Market Area?

- 3.1 No. Firstly, policy SP1 should be amended to reflect the wording of the 2019 NPPF. Whilst the Local Plan is being determined within the context of the 2012 NPPF, in practice, it will be the definition of the presumption in favour of sustainable development set out in paragraph 11 of the 2019 NPPF, which will apply.
- 3.2 Secondly, whilst we agree that Lancaster has been correctly identified as the regional centre and a focus for future growth in the district (policies SP2 and SP3), it is unclear why the Council has not identified as many available sites for housing as possible within Lancaster through its SHELAA, including our client's site.
- 3.3 As per our responses to matter 2, we do not consider the plan can be found sound due to the level of unmet need for Lancaster that will not be addressed either within the District or in adjoining areas. The Council's matter 3 statement (ref: LCC7.3) seeks to justify the approach with reference to paragraph 14 of the 2012 NPPF but it is unclear why when on the one hand the Council is already proposing to release Green Belt land to meet some of the development needs why on the other hand it cites Green Belt as a constraint meaning the OAN cannot be met in full. Consequently, the plan is not sound with reference to paragraph 182 of the 2012 NPPF for the following reasons:
- It has not been **positively prepared** – the strategy does not seek to meet the objectively assessed housing needs;
 - It is not **justified** – the plan is not the most appropriate strategy when considered against the reasonable alternatives, including allocating our client's site for residential development;
 - It is not **effective** – the plan is not deliverable over the period or based on effective joint working on cross-boundary strategic priorities; and

- It is not **consistent with national policy** – sustainable development with reference to paragraph 14 of the 2012 NPPF would not be achieved.

b) Policies SG1, SG2, SG3 and TC1 (Bailrigg Garden Village), Policies SG7 and SG8 (East Lancashire Strategic Site), SG9 and SG10 (North Lancaster) and SG11, SG12 and SG13 (South Carnforth): are the need and locations for these mixed-use developments soundly based on, and justified by, the evidence assembled by the Council in support of the DPDs?

- 3.4 No. As set out in our client's representations to the submission version of the plan, the Green Belt release selection process is flawed, because it has not properly considered sites such as our client's site at land south of Lund Business Park before identifying land for release from the Green Belt. This is contrary to paragraphs 82, 83, 84 and 85 of the 2012 NPPF in relation to the exceptional circumstances required for Green Belt release.
- 3.5 The sites selected, which are listed in the question above are large and will take time to start delivering dwellings due to the infrastructure required. It is therefore not surprising that not even a year after the plan was submitted for examination, the Council accepts that the supply identified in policy SP6 and the individual policies set out in the question above will not deliver the amount of development the submitted plan claimed they would in the plan period.
- 3.6 Conversely, sites that are more deliverable in the short term within Lancaster, such as our client's site have been overlooked. The approach needs to be reconsidered with proper regard to the evidence base.

4. Appendix EP1 – Housing Delivery Test

- 4.1 The definition of the Housing Delivery Test (HDT) is provided in the Glossary to the 2019 NPPF on page 67 as follows:

"Housing Delivery Test: Measures net additional dwellings provided in a local authority area against the homes required, using national statistics and local authority data. The Secretary of State will publish the Housing Delivery Test results for each local authority in England every November"

- 4.2 The HDT is measured as a percentage each year. The following implications apply where the HDT results confirm delivery falls below specific thresholds.
- 4.3 Firstly, as explained in footnote 7 of the 2019 NPPF, the tilted balance to the presumption in favour of sustainable development set out in paragraph 11(d) of the NPPF applies where the HDT indicates that the delivery of housing was "substantially below" the housing requirement over the previous years. The transitional arrangements set out in Annex 1 of the NPPF explain that "substantially below" means for the 2018 HDT results below 25%, for the 2019 HDT results below 45% and for the 2020 HDT and beyond below 75%.
- 4.4 Secondly, paragraph 73 and footnote 39 of the NPPF explain that where the HDT result is below 85%, the 20% buffer will apply for purposes of calculating the five year housing land supply.
- 4.5 Thirdly, Paragraph 75 of the NPPF explains that where the HDT result is below 95%, the local planning authority should prepare an action plan to assess the causes of under delivery and identify actions to increase delivery in future years.
- 4.6 The HDT Measurement Rule Book (July 2018) explains that HDT is calculated as a percentage of net homes delivered against the "number of homes required". For areas such as Lancaster, where the latest adopted housing requirement is more than five years old, the HDT is measured against the annual local housing need figure.
- 4.7 The transitional arrangements set out in paragraphs 21 and 22 and footnote 18 of the HDT Measurement Rule Book explain that:

"Household projections will be used in the Housing Delivery Test calculation for financial years up to and including financial year 2017-18, as the standard methodology for the minimum annual local housing need figure did not apply

prior to this date. After this date the minimum annual local housing need figure will be used."

- 4.8 For the financial years 2015/16 and 2016/17 the 2012-based household projections are used to calculate the average annual figure between 2015 and 2025 and 2016 and 2026 respectively and for the financial year 2017/18, the 2014-based household projection is used to calculate the average annual figure between 2017 and 2027.
- 4.9 The HDT results for 2018 were published on 19th February 2019. The result for Lancaster is shown in the table below:

	Housing requirement				Housing delivery				HDT %
	2015-16	2016-17	2017-18	Total	2015-16	2016-17	2017-18	Total	
Lancaster	313	317	368	998	515	628	523	1,666	167%

- 4.10 As can be seen from the table above, Lancaster delivered 1,666 new homes over the last three years against a "requirement" over the same period based on household projections of 998 dwellings. This results in a HDT measurement for 2018 of 167% and means that the HDT has been passed. Consequently, the tilted balance set out in paragraph 11(d) of the NPPF is not triggered because of the HDT result, the buffer is not increased to 20% and an action plan is not required.
- 4.11 However, it is relevant to note that in future years, the HDT will be measured against whichever is the lower of the adopted housing requirement or the minimum annual local housing need figure. The proposed housing requirement is 522 dwellings per annum, whereas the local housing need figure using the standard methodology is 411 dwellings per annum as we set out in the following appendix.

5. Appendix EP2 – Minimum Local Housing Need

5.1 Local Housing Need is defined in the Glossary on page 68 of the 2019 NPPF as follows:

"The number of homes identified as being needed through the application of the standard method set out in national planning guidance (or, in the context of preparing strategic policies only, this may be calculated using a justified alternative approach as provided for in paragraph 60 of this Framework)."

5.2 Paragraph 2a-004 of the updated PPG explains how local housing need is calculated. It currently results in the local housing need figure in the following table for 2019:

	Step 1	Step 2	Step 3	
	Projected annual average household growth 2019-29	Adjustment factor	Should the cap be applied?	Local housing need
Lancaster	371	0.109	No	411

6. Appendix EP3 – Five Year Housing Land Supply

Background

6.1 Paragraph 74 of the 2019 NPPF gives Councils the opportunity to demonstrate a confirmed five year supply of specific deliverable sites through the plan examination process and subsequently confirm its position through an annual position statement. However, because the Local Plan is being examined under the 2012 NPPF through transitional arrangements, this is not an option for Lancaster.

6.2 Indeed, paragraph 3-049 of the updated PPG: "How can local authorities demonstrate that they have a confirmed 5 year land supply as part of the plan examination?" states:

"If strategic policy-makers choose to confirm their 5 year supply under paragraph 74 of the NPPF through the examination of a plan, they will need to indicate that they are seeking to do so at Regulation 19 stage, and will need to ensure they have carried out a sufficiently robust assessment of the deliverability of sites. The Inspector's report will provide recommendations in relation to the land supply and will enable the authority, where the authority accepts the recommendations, to confirm that they have demonstrated a 5 year land supply in a recently adopted plan." (our emphasis).

6.3 Notwithstanding this, the Council will still need to be able to demonstrate a five year housing land supply for the plan to be found sound in accordance with paragraphs 47 and 182 of the 2012 NPPF.

6.4 Whilst the plan will be examined against the 2012 NPPF, the Council will need to be able to demonstrate a five year supply in accordance with the 2019 NPPF and updated PPG, with specific reference to the revised definition of "deliverable" as set out in the Glossary on page 66 of the 2019 NPPF.

6.5 Indeed, paragraph 3-038 of the PPG: "When should an authority demonstrate a 5 year housing land supply?" states:

"In principle an authority will need to be able to demonstrate a 5 year land supply at any point to deal with applications and appeals, unless it is choosing to confirm its 5 year land supply, in which case it need demonstrate it only once per year."

6.6 This paragraph of the PPG should be read alongside paragraph 3-028 of the PPG: "What is a 5 year land supply?", which states:

"A 5 year land supply is a supply of specific deliverable sites sufficient to provide 5 years' worth of housing against a housing requirement set out in adopted strategic policies, or against a local housing need figure where appropriate in accordance with paragraph 73 of the National Planning Policy Framework."

Five year housing requirement

- 6.7 At present, in accordance with paragraph 73 of the 2019 NPPF, the five year housing requirement is based on the local housing need figure because the adopted housing requirement (i.e. in the Core Strategy) is more than five years old. However, once the new Local Plan is adopted, the five year housing requirement will be five times the annual housing requirement plus buffer. Notwithstanding our client's objections to the proposed housing requirement elsewhere, the annual requirement proposed in the submitted plan is 522. Therefore, the "base" five year requirement is 2,610 dwellings (i.e. 522 X 5 years).

The level of shortfall

- 6.8 In addition to this, the shortfall since the beginning of the plan period in 2011 must be added. The shortfall since the beginning of the plan period is 1,059 dwellings as shown in the following table:

Year	Requirement (dwellings p.a. net)	Completions (net)	Over / under provision	Cumulative over / under provision
2011/12	522	109	-413	-413
2012/13	522	235	-287	-700
2013/14	522	144	-378	-1,078
2014/15	522	473	-49	-1,127
2015/16	522	483	-39	-1,166
2016/17	522	628	106	1,060
2017/18	522	523	1	1,059
Total	3,654	2,595	-1,059	
Average	522	371		

- 6.9 The Council considers that 318 dwellings will be delivered in the current year 2018/19, meaning that the shortfall increases would increase to 1,263 dwellings at 1st April 2019 (i.e. 522 – 318 = 204 dwellings + 1,059 = 1,263 dwellings).

Addressing the shortfall

6.10 Paragraph 3-035 of the previous version of the PPG stated:

"Local planning authorities should aim to deal with any undersupply within the first 5 years of the plan period where possible. Where this cannot be met in the first 5 years, local planning authorities will need to work with neighbouring authorities under the duty to cooperate"

6.11 The Duty to Co-operate statement confirms that adjoining authorities cannot assist in meeting the Council's shortfall.

6.12 Paragraph 3-044 of the updated PPG: "How can past shortfalls in housing completions against planned requirements be addressed?" explains how any under delivery should be addressed in the five year housing calculation. It states:

"The level of deficit or shortfall will need to be calculated from the base date of the adopted plan and should be added to the plan requirements for the next 5 year period (the Sedgefield approach). If a strategic policy-making authority wishes to deal with past under delivery over a longer period, then a case may be made as part of the plan-making and examination process rather than on a case by case basis on appeal." (our emphasis)

6.13 Therefore, the shortfall since the beginning of the plan period in 2011 should be added to the base requirement, meaning that the overall five year requirement at 1st April 2019 would be 3,873 dwellings (i.e. 2,610 + 1,263 = 3,873).

6.14 We note that the Council's Matter 2 statement seeks to address the shortfall over the plan period (i.e. the 'Liverpool' method). This would mean that the shortfall to be addressed in the five year period is 420 dwellings (i.e. 1,263 / 15 years = 84 dwellings X 5 years = 420 dwellings). However, we do not accept that there is justification for this approach when sites such as our client's site at land south of Lune Business Park are available for residential development in the short term.

The Buffer

6.15 There has been a record of persistent under delivery of housing in Lancaster. Therefore, under the 2012 NPPF the 20% buffer would apply. However, in practice the 2018 HDT results (please refer to appendix **EP1**) mean that the 5% buffer applies. No reference should be made to a 10% buffer because the Council is not confirming its five year housing land supply through the local plan examination under paragraph 74 of the NPPF.

6.16 Therefore, the five year requirement (plus 5% buffer) would be on adoption of the plan 3,852 dwellings as summarised in the following table:

	Requirement	Sedgefield	Liverpool
A	Proposed annual housing requirement	522	522
B	Five year net Local Plan housing requirement (A X 5)	2,610	2,610
C	Shortfall to be addressed in the five year period	1,263	420
D	Total five year requirement (B + C)	3,873	3,030
E	5% Buffer (5% of D)	194	152
F	Total supply to be demonstrated (B + C)	4,067	3,182
G	Annual average (F / 5)	813	636

Five year housing land supply

What constitutes a 'deliverable' site

6.17 The definition of what constitutes a 'deliverable' site has changed significantly since the Local Plan was submitted. The revised definition of "deliverable" is set out on page 66 of the 2019 NPPF as follows:

"Deliverable: To be considered deliverable, sites for housing should be available now, offer a suitable location for development now, and be achievable with a realistic prospect that housing will be delivered on the site within five years. In particular:

a) sites which do not involve major development and have planning permission, and all sites with detailed planning permission, should be considered deliverable until permission expires, unless there is clear evidence that homes will not be delivered within five years (for example because they are no longer viable, there is no longer a demand for the type of units or sites have long term phasing plans).

b) where a site has outline planning permission for major development, has been allocated in a development plan, has a grant of permission in principle, or is identified on a brownfield register, it should only be considered deliverable where there is clear evidence that housing completions will begin on site within five years."

6.18 The NPPF does not provide any further detail on the "clear evidence" referred to in paragraph b) above, but further information is set out in paragraphs 3-036 and 3-048 of the PPG as follows.

6.19 Paragraph 3-048 of the PPG: "What information will annual reviews of 5 year land supply, including annual position statements, need to include?" (our emphasis) states:

"Assessments need to be realistic and made publicly available in an accessible format as soon as they have been completed. Assessments will be expected to include:

- for sites with detailed planning permission, details of numbers of homes under construction and completed each year; and where delivery has either exceeded or not progressed as expected, a commentary indicating the reasons for acceleration or delays to commencement on site or effects on build out rates;*
- for small sites, details of their current planning status and record of completions and homes under construction by site;*
- for sites with outline consent or allocated in adopted plans (or with permission in principle identified on Part 2 of brownfield land registers, and where included in the 5 year housing land supply), information and clear evidence that there will be housing completions on site within 5 years, including current planning status, timescales and progress towards detailed permission;*
- permissions granted for windfall development by year and how this compares with the windfall allowance;*
- details of demolitions and planned demolitions which will have an impact on net completions;*
- total net completions from the plan base date by year (broken down into types of development e.g. affordable housing); and*
- the 5 year land supply calculation clearly indicating buffers and shortfalls and the number of years of supply." (our emphasis)*

6.20 Paragraph 3-036 of the PPG: "What constitutes a 'deliverable site' in the context of housing policy?" provides further information. It states:

"For sites with outline planning permission, permission in principle, allocated in a development plan or identified on a brownfield register, where clear evidence is required to demonstrate that housing completions will begin on site within 5 years, this evidence may include:

- any progress being made towards the submission of an application;*
- any progress with site assessment work; and*
- any relevant information about site viability, ownership constraints or infrastructure provision.*

For example:

- a statement of common ground between the local planning authority and the site developer(s) which confirms the developers' delivery intentions and anticipated start and build-out rates.*

- a hybrid planning permission for large sites which links to a planning performance agreement that sets out the timescale for conclusion of reserved matters applications and discharge of conditions."

6.21 The Council has not provided any of the information required by paragraphs 3-036 and 3-048 in the Submission Draft or the evidence base. Therefore, none of the proposed allocations should be considered deliverable within the context of the 2019 NPPF.

6.22 The Council claims that the deliverable supply (excluding the proposed allocations) is 1,743 dwellings as set out in the trajectory published on 22nd March 2019 (ref: LCC7.2.1). Against the proposed housing requirement, this would only provide a **2.14 year** supply as summarised in the following table.

	Requirement	Sedgefield	Liverpool
A	Proposed annual housing requirement	522	522
B	Five year net Local Plan housing requirement (A X 5)	2,610	2,610
C	Shortfall to be addressed in the five year period	1,263	420
D	Total five year requirement (B + C)	3,873	3,030
E	5% Buffer (5% of D)	194	152
F	Total supply to be demonstrated (B + C)	4,067	3,182
G	Annual average (F / 5)	813	636
	Supply		
H	Five year supply 1 st April 2019 to 31 st March 2024	1,743	1,743
I	Annual average (H / G)	2.14	2.74

APPENDIX 3

RE: SUBMISSION VERSION LANCASTER LOCAL PLAN (2011 - 2031)

A D V I C E

1. I have been asked to reduce into writing advice that I gave in conference on 27th March 2019. I do so.
2. My client has made various representations of objections to the submission version of the Local Plan and to the rather bizarre suggested modifications of October 2018. For present purposes it is only necessary to note that amongst their objections are:
 - SP6 - The Delivery of New Homes. In essence, my clients (Satnam Investments Limited) argue that the housing requirement in the Plan is set too low.

H1 - Residential Development in Urban Areas. My clients seek the inclusion of a site they have an interest in at New Quay Road, Lune in the housing allocations list. An allocation for 250 units is sought.
 - SC2 - My clients object to the inclusion of the New Quay Road site in the Local Green Spaces designation list.
3. The purpose of the conference was to primarily assess the strength of the Council's case for including the site within SC2 *ibid*. However, it soon became apparent, as will appear below, that the multiple errors made by the Council in respect of the New Quay

Road site signal a concern that goes to the soundness of the Plan's evidence base and therefore of the Plan itself.

4. The FOAN for the Plan area over the life of the Plan is 14,000 new dwellings (ie an implied average of 700 units pa). The Council has only identified a requirement of 12,000 dwellings (ie 522 pa) (although the Council's Matter 2 statement actually works to a Document LCC 7.21 (the trajectory) and only looks to deliver 10,564 dwellings, a figure of 510 dpa). The Council is therefore proposing not to fully address housing need. The shortfall implied by the trajectory is clearly very large. This is likely to have serious consequences, not least because the shortfall in affordable housing in Lancaster means there is a requirement for affordable housing alone of 376 dpa. Such significant unmet need in both market and affordable housing can only have serious social and economic consequences. The Council's justification for this is that constraints in the area including green belt, landscape designations, flood zones and infrastructure mean that the housing requirement must be supply led. The Council nonetheless propose two green belt releases in order to assist supply.
5. In order to release land from the green belt the Council must demonstrate exceptional circumstances. The scale of the shortfall, even with green belt release, certainly indicates a compelling need for additional housing that is capable in theory of amounting to an exceptional circumstance. Nonetheless, a very significant unmet need will remain. Such a situation is highly undesirable in planning terms and requires a very clear and compelling justification.
6. The problem is compounded by the fact that there must be a serious doubt that the Council will be able to identify a 5 year housing land supply as at the date of adoption (the Council are plainly alive to this because their Matter 2 Hearing Statement looks to defer meeting needs by introducing a stepped requirement and use of the Liverpool Method). In other words, they seek to make a bad situation worse by adopting additional exceptional measures.
7. I am concerned that the evidence base available is flawed. The Council document "Assessing the Reasonable Alternatives - Informing the Spatial Distribution of Development" (Document P-012) is a high level document that really does no more

than describe how the Plan got to where it is. It does not, in itself, condescend to any detailed analysis of anything. Moreover, it accepts the 2018 SHELAA document at face value. The Sustainability Appraisal (2017) and its addendum (March 2019) do not engage with the issue of urban capacity.

8. The 2018 SHELAA document purports to review 600 sites. 102 of the sites are positively assessed for housing and 39 are positively assessed for employment. The whole of the SC2 area (which includes my clients' site) is dismissed as a housing option on the basis that it contains playing fields, woodland and TPOs, has a public open space/recreational value and is proposed for designation under SC2. The last point is self-evidently self-serving and at no point is there any analysis of whether forward planning is best served by the site - or at least part of it - being allocated for housing or by it being Local Green Space. Much of the rest of the aforesaid analysis has only a very limited relevance to my client's objection site which was, for many years, used for industrial storage and is fenced off. The SHELAA analysis is very brief. It is unclear who carried it out or whether it was informed by a site visit. As will appear, it is clearly in error in respect of the New Quay Road objection site. The point is a simple one: if the SHELAA can be so wrong in respect of my client's site, how many other errors might there be? The SHELAA is in principle a very important part of a suite of documents justifying a massive undersupply of land to meet locally arising needs and supporting the exception circumstances cited by the council to release green belt land. It must be robust and transparent. It is not. It is my view that the Inspector should require that the Council:

- (a) Revisits its potential pool of sites as identified in the call for sites with a view to producing a clear site by site analysis that can objectively be said to be robust (a positive ranking for housing and employment of 141 sites out of 600 is low);
- (b) Carries out a more detailed review of strategic site options (it is far from clear, for example, why further green belt releases cannot be made and it is far from clear why safeguarded land has not been identified so as to avoid the need for additional green belt release in the run-up to 2031 - if green belt release is necessary now then additional green belt release looks likely to be necessary

around 2031 and ad hoc green belt release every ten years or so is contrary to national policy and simply represents bad forward planning).

SC2

9. Local Greenspace is a special designation to be used sparingly and imposes policy obligations akin to green belt policy. It requires very clear justification. Current NPPF (February 2019) policy is as follows:

“99. The designation of land as Local Green Space through local and neighbourhood plans allows communities to identify and protect green areas of particular importance to them. Designating land as Local Green Space should be consistent with the local planning of sustainable development and complement investment in sufficient homes, jobs and other essential services. Local Green Spaces should only be designated when a plan is prepared or updated, and be capable of enduring beyond the end of the plan period.

100. The Local Green Space designation should only be used where the green space is:

- a) in reasonably close proximity to the community it serves;
- b) demonstrably special to a local community and holds a particular local significance, for example because of its beauty, historic significance, recreational value (including as a playing field), tranquillity or richness of its wildlife; and
- c) local in character and is not an extensive tract of land.

101. Policies for managing development within a Local Green Space should be consistent with those for Green Belts.”

10. The SC2 ibid list is surprisingly long. It may be that there has been a political desire to readily accommodate nomination. In no case is there a shred of evidence that the merits of SC2 ibid designation has been weighed against any meaningful consideration of the role any of the sites could play in helping to meet unmet development needs. That in itself is a major flaw in the Plan-making process and one the Inspector should be encouraged to remedy (the Inspector will be fully alive to the fact that Local Plan

Inspectors tend to take a rigorous approach to examining prepared Local Green Space designations).

11. PPG advice in this context merits consideration:

“Local Green Space designation

What is Local Green Space designation?

Local Green Space designation is a way to provide special protection against development for green areas of particular importance to local communities.

Paragraph: 005 Reference ID: 37-005-20140306

How does Local Green Space designation relate to development?

Designating any Local Green Space will need to be consistent with local planning for sustainable development in the area. In particular, plans must identify sufficient land in suitable locations to meet identified development needs and the Local Green Space designation should not be used in any way that undermines this aim of plan making.

Paragraph: 007 Reference ID: 37-007-20140306”

As will appear, the use of SC2 in respect of my client’s site is undermining what should be an aim of the Plan: to meet housing need so far as is reasonably practicable by reference to other competing planning objectives.

“What about public access?

Some areas that may be considered for designation as Local Green Space may already have largely unrestricted public access, though even in places like parks there may be some restrictions. However, other land could be considered for designation even if there is no public access (eg green areas which are valued because of their wildlife, historic significance and/or beauty).

Designation does not in itself confer any rights of public access over what exists at present. Any additional access would be a matter for separate negotiation with land owners, whose legal rights must be respected.

Paragraph: 017 Reference ID: 37-017-20140306”

There is no right of public access to my client's land. It is fenced (albeit the fencing is regularly broken down by third parties). It has no particular value but is historic industrial land (see the objection evidence submitted by Appletons).

“Does land need to be in public ownership?”

A Local Green Space does not need to be in public ownership. However, the local planning authority (in the case of local plan making) or the qualifying body (in the case of neighbourhood plan making) should contact landowners at an early stage about proposals to designate any part of their land as Local Green Space. Landowners will have opportunities to make representations in respect of proposals in a draft plan.

Paragraph: 019 Reference ID: 37-019-20140306

Revision date: 06 03 2014”

My client (and the landowners) were only engaged with on this issue two years after nomination.

“Who will manage Local Green Space?”

Management of land designated as Local Green Space will remain the responsibility of its owner. If the features that make a green area and locally significant are to be conserved, how it will be managed in the future is likely to be an important consideration. Local communities can consider how, with the landowner's agreement, they might be able to get involved, perhaps with interested organisations that can provide advice or resources.

Paragraph: 021 Reference ID: 37-021-20140306

Revision date: 06 03 2014”

The most obvious use of the objection land is by trespassers for trail-bike riding. There are no intentions to formalise this.

12. The objection site's background is complex. On 23rd October 2012 a local resident, Mr Jon Barry, applied to register the wider SC2 site as a Town Green pursuant to Section 15 of the Commons Registration Act 2006. Lancashire County Council, as the relevant Commons Registration Authority, failed to formally validate the application until 6th February 2018. The objection site landowner, Lune Industrial Estate Limited, were notified of the application for the first time on 7th February 2018

(Lancashire suggest that notification must have been given earlier but cannot produce any letter or e-mail to Lune Industrial Estate ahead of 7th February 2018). It would appear that the TVG application was prompted by fears of potential development on the objection site land. The TVG application has been objected to by Satnam Investments Limited and the application itself is also the subject of Judicial Review proceedings (leave having been granted). Mr Barry is part of an Action Group and that same Group promoted the nomination of the SC2 site. In short, there is a concerted local campaign to prevent development of the Local Plan objection site (see the action groups web site). The EiP Inspector needs to be alive to this - not because it proves that the proposed SC2 designation is in error but because the highly charged context in which it came about cannot simply be ignored and dismissed as irrelevant.

13. The Council devised a draft Local Green Space methodology in 2015 and in the same year conducted a call for sites. The SC2 site was nominated by the Friends of Freemans Wood and Coronation Field although, as noted, the landowner was not told until almost two years after the nomination. The Local Green Space Phase 1 Summary Sheets are to be found at EU-GS-03 (May 2018). It is, however, unclear as to when the surveys were carried out or how and by whom they were carried out in any given case. The SC2 site is dealt with under LGS49 (p.91 *ibid*).
14. The difficulty with LGS49 is simply stated. The SC2 designation is 16.6 ha - arguably an extensive tract of land of the very sort that the NPPF says should not be subject to a Local Green Space designation. Of the 16.6 ha, some 10.43 ha in the north is the objection site belonging to Lune Industrial Estates and promoted for development by my client. The balance of the land is owned by Lancaster City Council and contains woodland and sports pitches. The SC2 objection land contains scrub, grassland, trees and hardstanding. At one stage a football pitch for the use of workers was laid out on part of the site but this was long ago abandoned. It has been fenced off since the 1980s, albeit third parties have repeatedly broken down barriers which have periodically been required.
15. The objection document from Appletons is clear, namely that the objection site has none of the attributes required for Local Green Space designation. The Council owned land, which is publicly accessed, does. The problem with LGS49 is that it treats the

two areas, which are distinctly separate and different on the ground, as one. The EiP Inspector will see this on his site visit.

16. I do not know whether LGS49 was at some point available to the author of the SHELAA (2013) but it seems to be an odd coincidence that two documents contain the same basic error, namely characterising the whole of SC2 on the basis of the character of only a part of it, ie the Council owned area.
17. A final point is that Local Green Space, like green belt, is meant to endure beyond the Plan period (in green belt cases the expectation is 20 – 30 years at least). There is no evidence at all that the Council has considered this in making any SC2 designation. Again, in my opinion, the Council will have to be required to properly review the SC2 list as a whole in the light of this omission.

I so advise.

KINGS CHAMBERS

36 Young Street
MANCHESTER
M3 3FT
DX 718188 (MCH 3)

5 Park Square East
LEEDS
LS1 2NE
DX 713113 (LEEDS PK SQ)

Embassy House
60 Church Street
BIRMINGHAM
B3 2DJ
DX 13023 BIRMINGHAM

D E MANLEY QC

30th March 2019

RE:

**SUBMISSION VERSION
LANCASTER LOCAL PLAN
(2011 - 2031)**

A D V I C E
