

**Public Session**

**Report Reference Number (C/12/8)**

**Agenda Item No: 4**

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**To: Extraordinary Council**  
**Date: 6 November 2012**  
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**Lead Officer: Keith Dawson, Director of Community Services**  
**Executive Member: Councillor Mark Crane, Leader of the Council**

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**Title: Local Development Framework: Core Strategy Examination in Public.**

**Summary:**

This report updates the Council on the progress of the Core Strategy through the Examination in Public (EIP) at the reconvened sessions that took place on 5 and 6 September 2012.

The report sets out the key issues and next steps and provides a schedule of the 7<sup>th</sup> Set of Proposed Changes for approval for consultation, these are the further proposed changes required in order to ensure consistency with the new National Planning Policy Framework (NPPF) published during the Core Strategy process (in March 2012).

The Proposed Changes respond to the June/July 2012 public consultation on compliance between the Core Strategy and the NPPF, which were debated at the September 2012 EIP and take into account the Inspector's Note (23 October).

The remaining few changes require a further consultation exercise (between 12 November and 28 December 2012) and the soundness issues will be examined at a reconvened EIP in February 2013.

**Recommendations:**

- I. To agree the 7<sup>th</sup> Set of Proposed Changes for consultation.**
- II. To authorise the Director of Community Services, Access Selby, after consultation with the Leader of the Council, to agree any necessary further detailed wording of Main Modifications relating to the Core Strategy Policies prior to consultation.**
- III. To authorise the officers representing the Council at the reconvened EIP to make any necessary Additional Modifications to the Core Strategy Policies before and during the reconvened EIP.**
- IV. To authorise Officers to make the necessary arrangements for (a) the**

**public consultation between 12 November and 28 December 2012 and (b) other procedural issues not covered by existing delegations to enable effective conduct of the remaining Examination and Reporting procedure.**

**Reasons for recommendations:**

A formally adopted Core Strategy is an essential part of the Council's Local Development Framework (now referred to as the Local Plan) and is needed for the proper planning of the District of Selby.

The recommendations seek to assist the progress of the Core Strategy towards adoption and will contribute towards the implementation of the statutory development plan within the timescale agreed with the Government Inspector.

**1. Introduction**

- 1.1 The Core Strategy remains subject to the examination process following formal Submission in May 2011. The previous report to Extraordinary Council on 29 May 2012 (reference C/12/ 2) provides further background to the process. In summary, following the enactment of the Localism Act 2011 and new National Planning Policy Framework (NPPF, March 2012) the process has been delayed whilst the Inspector examines the Core Strategy in the light of new Government policy and Regulations.
- 1.2 The April 2012 EIP considered three key topics and the NPPF, whilst the reconvened EIP hearing sessions which took place on 5 and 6 September 2012 were required in order for the Inspector to re-examine the Core Strategy in relation to the policies and soundness tests in the new NPPF. The Agendas for the 2 separate sessions are available on the Core Strategy EIP web pages of the Council's website.
- 1.3 The Council finds itself in new territory both in terms of exploring the subtleties of new national policy framework, and in exploring legal issues in the context of recently published Regulations. Whilst some level of debate over the policies in the Strategy was anticipated, the Council is in a hybrid LDF/Local Plan system and there is no clear guidance from the Government or Planning Inspectorate how that should operate. Consequently, the EIP process has been extended again to an unprecedented 4<sup>th</sup> session.

**2. Background and Update on September 2012 EIP**

- 2.1 The reconvened EIP in September 2012 was for the purpose of considering the Core Strategy in the light of the National Planning Policy Framework (NPPF). The Council published a Position Statement (31 August 2012) prior to the EIP to assist the Inspector and to use as a basis for discussion at the Hearing Sessions.
- 2.2 At the end of the 2 days, the Inspector highlighted that there remained a limited amount of issues that the Council need to reflect on. The Inspector agreed to provide a Position Statement on what his areas of

concern were by mid-October.

- 2.3 Officers provided the Inspector with a copy of the Draft 7<sup>th</sup> Set of Proposed Changes. Subsequently the Council received the Inspector's Note which is effectively the Inspector's Position Statement which he said he would provide by Mid October - he has structured the note to respond to the draft Proposed Changes. The Inspector's Note was published on the Core Strategy EIP Webpage on 23 October alongside the Draft 7<sup>th</sup> Set of Proposed Changes to which they relate (as presented to Executive meeting on 1 November) for information.
- 2.4 Officers have now considered the Inspector's Note in detail and a response to each of the Inspector's points is attached at Appendix 1 for information. However, Section 5 below sets out the main points and highlights where the Core Strategy is recommended to be further changed.
- 2.5 Appendix 2 (with associated Annexes) provides a Schedule of the full details of the Proposed Changes. The Schedule is presented to Extraordinary Council for approval for consultation purposes. The schedule of Proposed Changes comprises both 'Main Modifications' and 'Additional Modifications'.
- 2.6 Any Main Modifications will require further consultation, and for consistency this consultation exercise will also include all Additional Modifications, any new evidence and any new Sustainability Appraisals.
- 2.7 "Main Modifications" are those which the Council must ask the Inspector to consider. The Inspector may then recommend Main Modifications as part of his report in order to make the Core Strategy sound. His ability to recommend Main Modifications is limited to those changes which are necessary to remedy unsoundness or legal compliance. "Additional Modifications" are those which do not materially affect the policies of the Core Strategy. These may be made without the need to be examined in public.
- 2.8 Although both the Main and Additional Modifications are open for consultation, the Inspector will only consider the Main Modifications to the Plan and not the lesser Additional Modifications. It is for the Council, to make those Additional Modifications prior to adoption.

### **3. Legal Issues**

- 3.1 One participant raised legal issues related to Section 20(7) of the Planning and Compulsory Purchase Act 2004 (PCPA) (as amended by Section 112 of the Localism Act 2011) which provides the Independent Inspector with powers to make Main Modifications to the Core Strategy where it is reasonable to conclude that the Local Authority complied with any duty imposed on the authority by section 33A (of the PCPA 2004, as inserted by Section 110 of the Localism Act 2011).
- 3.2 The Inspector has previously ruled that the legal duty to meet the Duty to Cooperate (DTC) (under s33A) does not apply to the Submission

Draft Core Strategy (SDCS) because it was submitted prior to the commencement date of 15 November.

- 3.3 The participant opined that the wording of the Act was such that because the Local Planning Authority has not met the duty imposed then this does not allow the Inspector to make Main Modifications.
- 3.4 This is a legal issue which relates to the drafting of the Government's primary legislation and how the section applies to those authorities with Core Strategies where the Duty to Cooperate does not apply. This would not just affect the Selby Core Strategy.
- 3.5 There is no Government guidance either from the Planning Inspectorate or the Department of Communities and Local Government; although the Inspector indicated that this might be forthcoming (no timings are available). We await the Inspector's legal view on the interpretation of the Act. In the meantime the Inspector has requested both the participant and Council to provide legal submissions on this point of law – but not until January 2013.
- 3.6 This represents a risk to the Council. Officers have instructed Counsel to provide a legal opinion and have requested an early view from the Inspector.
- 3.7 The Inspector's Note sets out that he gave his ruling on the legal aspect of the duty to cooperate in April 2012, concluding that it does not apply in this case (INSP/12). The argument that this finding does not allow him to recommend main modifications seems, on the face of it, to have little merit because s20(7) of the 2004 Act consistently refers to *any* duty imposed by s33A – the Inspector interprets this as allowing for situations in which (for whatever reason) the duty to cooperate does not bite. He states that he cannot reach a firm conclusion on this point until he has considered the full legal submissions to be put to him early next year, but his initial view is that s20(7C) does apply and that he has the power to recommend main modifications.

#### **4. Next Steps**

- 4.1 In order to respond to the Inspector's remaining concerns in the light of debate at the EIP it is necessary for the Council to agree further changes to the Core Strategy to ensure the Core Strategy can be found sound by the Inspector. This 7<sup>th</sup> Set of Proposed Changes must be agreed and then subject to further consultation.
- 4.2 It has been agreed with the Inspector that the Proposed Changes will be made available for consultation for 6 weeks. Officers have proposed more than 6 weeks to take account of the Christmas period.
- 4.3 The following timetable has been agreed with the Inspector (and it has been published on the Council's website):
- Consultation 12 November – 28 December 2012
  - Legal Submissions in January/February 2013
  - Final EIP hearing sessions on 27 February 2013 (and 28 February reserve / over-run)

- 4.4 The documents which will be subject to consultation are the 7<sup>th</sup> Set of Proposed Changes and the SEA/SA Addendum (October 2012) (see Section 6 below). This Council report will be added to the EIP 'library' as a Core Document.
- 4.5 The purpose of the February 2013 EIP is for the Inspector to re-examine the Core Strategy only in light of the 7<sup>th</sup> Set of Proposed Changes which relate to changes arising out of the debate at the September 2012 EIP and in order to ensure consistency with the new National Planning Policy Framework (NPPF). It is not another opportunity to reopen debates on the other aspects of the Core Strategy that have already been heard at the EIP sessions. The Inspector will publish his Agenda nearer to the time.

## 5. Key Issues and Main Changes

### General Matters

- 5.1 It is worth highlighting that, in his Note, the Inspector states that, as a result of the Council's positive response to, initially, the reasons for the Examination being suspended and, subsequently, to the representations and discussions concerning the National Planning Policy Framework (NPPF), the areas where there remains a risk of him having to recommend main modifications to achieve a sound plan are relatively few.
- 5.2 Other than the one topic below, on Fairburn, the Inspector says that the various concerns he has expressed on a range of other matters throughout the Examination, have largely been addressed, at least to the extent that (on current thinking) they are unlikely to be the subject of recommendations by the Inspector of main modifications which have not been suggested by the Council.

### Main Topics

- 5.3 Appendix 2 provides a full schedule of the 7<sup>th</sup> Set of Proposed Changes to the SDCS for approval for consultation. It highlights which are the Main Modifications and Additional Modifications (see paragraphs 2.7 – 2.8 above for definitions). The key issues are summarised below with reference to the Inspector's Note where relevant.

#### *(a) Green Belt Policy CPXX*

- 5.4 The Green Belt policy was introduced and consulted upon in January 2012 following the September 2011 EIP. The principle and wording has already been debated at the previous hearing sessions and in response, the 7<sup>th</sup> Set of Proposed Changes simply provides some clarity of wording in the supporting text and proposes a rewording of the main policy to improve readability to reflect the policy intentions. The changes do not alter the Council's decision to review Green Belt and to allocate some sites for development where appropriate. It is merely a restructuring and simplification of the wording to emphasise

that development of some Green Belt land in some settlements (for example Tadcaster) may be more appropriate than non-Green Belt land in other locations (such as transferring Tadcaster's growth to another settlement).

- 5.5 Rewording has already been debated at the EIP and, at the request of the Inspector, already been circulated to and subject to comments by other participants prior to publication for consultation (and being reported to Council) in order to streamline the process of consultation.
- 5.6 No comments from third parties have been received although the Inspector provided his views on the proposed wording and these have been incorporated into the revision. Subsequently, in his Note the Inspector suggests some re-phrasing in the Policy CPXX, given that there might potentially, in time, be more than one circumstance which triggers the need for a Green Belt review. The revised policy CPXX is provided in *Appendix 2, Annex A*.
- 5.7 It should also be noted that there is a consequential change concerning the revisions to the Green Belt policy. When adopted, the new Policy CPXX will supersede Selby District Local Plan (SDLP) Policies GB1, GB2, GB3 and GB4 (previous proposed change number PC6.19). Because new CPXX does not refer to Major Developed Sites in the Green Belt, those sites currently annotated on various Inset Maps in the SDLP will be deleted once the new Core Strategy policy is adopted. In such circumstances, where the adoption of the local plan would result in changes to the adopted policies map, there is also the requirement to submit a submissions policies map. Therefore, although not part of the 7<sup>th</sup> Set of Proposed Changes the Council will also publish a list of Inset Maps which are to be deleted from the SDLP in their entirety as well as two replacement Inset Maps – one for Church Fenton West (Map 20) and one for Sherburn in Elmet (Map 54). The only change to the Inset maps is the deletion of the 'Major Developed Site' notation and updating the Key. These Maps are not part of the consultation but will be submitted to the Secretary of State (to the Inspector) and be added to the Core Documents list (Proposals Map, CS/CD3) as part of the submissions policies map. When the Core Strategy is adopted, these Inset maps will replace the existing ones in the SDLP.

*(b) Review of Development Limits*

- 5.8 The Submission Draft Core Strategy already refers to the intention that the Site Allocation DPD will review the Development Limits of the three main towns and Designated Service Villages. In the light of changes to the development plan system and for completeness/consistency, it is now proposed to extend the review of Development Limits to also now include Secondary Villages (i.e. all Developments Limits around all settlements) – see schedule in Appendix 1 for text change to the Core Strategy.

*(c) Policy CP1A Garden Land*

- 5.9 Respondents to the 6<sup>th</sup> set of changes and NPPF consultation in June/July considered that the approach in Policy CP1A which resisted development on garden land in Secondary Villages was overly restrictive and contrary to policies in the NPPF seeking to promote the rural economy.
- 5.10 Officers considered that it might be necessary to remove the differentiation between the Designated Service Villages (where development in garden land is acceptable) and Secondary Villages (where it is not) because of the inability to evidence the impacts of the effects of garden land development in one part of the settlement hierarchy compared to another. As such the Council's Position Statement (31 August 2012), which was published to assist debate at the EIP suggested that it may be necessary to amend Policy CP1A to remove the differentiation between the treatment of garden land in Designated Service Villages and Secondary Villages.
- 5.11 However in the light of debate and the views of the Inspector at the September 2012 EIP, it is now considered that the differentiation is justified by the existing strategy in the Core Strategy to treat the levels of the settlement hierarchy differently in order to focus development in the towns and Designated Service Villages, whilst only allowing limited amount of development in the smaller rural Secondary Villages. Several third parties remain of the view that restrictions in Secondary Villages should be lifted to make them equal to Designated Service Villages.
- 5.12 On reflection it is not considered necessary to change the policy in this respect and it is sound, and consistent with NPPF to retain the Policy as that submitted: that there remains differentiation between the Designated Service Villages (where development on garden land is acceptable in principle) and Secondary Villages (where it is not). There are however some minor word changes to the policy which are proposed to improve clarity – *see Appendix 2, Annex C*

*(d) Policy CP2 (Housing numbers) and Treatment of Windfalls*

- 5.13 Several objectors (house builders and their agents) continue to push for a higher annual housing requirement of 500-550 dwellings per annum (dpa), although the Council continues to promote 450 dwellings per annum (dpa) as a realistic and achievable minimum target based on sound evidence. The Inspector has yet to form a final view on this.
- 5.14 The issue of windfalls has been debated at great length at each of the hearing sessions. The Council has provided further information to the Inspector about past trends and provided amendments to text to clarify the definitions used and how supply of housing from non-allocated sites will contribute to the overall delivery of housing in the District over the Plan period.
- 5.15 The Council has been working on the basis that windfalls are additional to identified housing requirement set out in the Plan – i.e.

are over and above the amount that will come forward on planned sites.

- 5.16 The Council's position (see Position Statement, 7 June 2012) was that the NPPF did not change that approach and only allowed for Local Planning Authorities to make an allowance for windfalls in the 5 year housing land supply (not in the planned for development in the Local Plan policy). As such in response to the NPPF, the Council proposed amended text to the Core Strategy to clarify that windfalls would continue to come forward and would be in addition to the 450 dpa on planned-for sites. However, because of the difficulty in quantifying the actual amount of windfalls likely to occur (by their nature unidentifiable sites) then the Council has not included an allowance for them.
- 5.17 However the Inspector made it clear at the September 2012 EIP that the new NPPF *does* allow windfalls to form part of the District's housing land supply over the Plan period, and considered it was possible to make an estimation of future likely contribution based on available evidence. He asked the Council to reflect on the evidence available to enable a projection to be made by quantifying the likely number of windfall completions per annum. This may demonstrate a more accurate picture of all housing delivery expected throughout the Plan period.
- 5.18 Officers have undertaken some further research using existing evidence in the light of paragraph 48 of the NPPF which states that:
- “Local planning authorities may make an allowance for windfall sites in the five-year supply if they have compelling evidence that such sites have consistently become available in the local area and will continue to provide a reliable source of supply. Any allowance should be realistic having regard to the Strategic Housing Land Availability Assessment, historic windfall delivery rates and expected future trends, and should not include residential gardens.”*
- 5.19 The Council's Position Statement produced for the previous changes/EIP (7 June 2012) set out the position that past trends are not necessarily an accurate prediction of future performance because of different planning contexts (the Selby District Local Plan control on development versus the new Core Strategy and positively planned allocations through the Site Allocations Development Plan Document) so that the opportunity for windfalls on non-allocated sites is likely to be fewer than in the past. However, the SDLP policies are more restrictive in terms of allowing development on previously developed sites only, whereas Core Strategy Policy CP1A provides the framework for managing residential development in settlements which allows for development on non-allocated sites including Greenfield, which may provide some balance.
- 5.20 The Council consider therefore that the previous delivery of windfalls may not necessarily continue at the same high levels in the future. However, in the light of the Inspector's request to identify a realistic allowance, the following approach has been taken (in line with NPPF paragraph 48):

- 5.21 Any allowance should be realistic (not include residential gardens) having regard to:
- (i) historic windfall delivery rates
  - (ii) the Strategic Housing Land Availability Assessment
  - (iii) expected future trends
- 5.22 The best available evidence indicates that windfalls might be expected to contribute between 105 and 170 dwellings per year on top of the 450 dpa housing requirement. Further information on windfalls is provided in Appendix 3 of this Council Report.
- 5.23 It is not proposed that future, unknown windfalls are relied upon to deliver the 450 dpa housing requirement which is based on objectively assessed needs. Instead it is sensible to set out that on top of the 450 dpa - flexibility is provided (to meet the NPPF requirement to significantly boost housing supply) by referring in the Core Strategy to 450 dpa being provided on 'planned-for' sites (i.e. those existing commitments and net allocations in Policy CP2) and that a minimum of about 105 dwellings per year are expected to be provided in addition on unknown windfall sites. This does not change the Council's view on the Core Strategy Housing numbers; instead it simply quantifies the windfall element that is already anticipated.
- 5.24 In order to be clear on the approach to windfalls it is proposed to add a footnote to Policy CP2 which sets out the 105 dpa windfalls per annum is on top of the 450 dpa. Also it is already proposed to amend the housing trajectory (a previous published change) to include affordable housing and it is now considered appropriate to include the windfall element in the same graph. Additional modifications to the reasoned justification are also proposed to provide further explanation.
- 5.25 In his Note, the Inspector welcomes the recognition now given to the contribution from windfalls, for it makes clear that the Core Strategy is expected to result in more houses being delivered than the 450 dpa minimum of Policy CP2, thereby satisfying the NPPF requirement to significantly boost housing supply. It also allays any residual concern about overall housing numbers.
- 5.26 However, the Inspector requires some further clarification regarding how the housing target is to be met (from allocations and existing permissions) and that the contribution from windfalls would be counted as an addition to the 450 dpa target figure. See Appendix 1 for further details.
- 5.27 Appendix 2 Annex D sets out the amended Policy CP2 wording, amended text / reasoned justification in relation to windfalls and the revised trajectory graph.
- 5.28 It should also be noted that the amendments to Policy CP2 also include the specific reference to the 450 dpa being a minimum amount which meets the NPPF pro-growth agenda. In addition, there is a consequential amendment to Policy CP2 - the previous set of changes only changed the text regarding the removal of phasing and not the policy.

*(e) Policy CP5 Affordable Housing*

- 5.29 No further issues were raised at the EIP hearing session on Policy CP5. However, to clarify that the small sites commuted sum off-site contribution to affordable housing is negotiable (consistent with the 40% target), the Council (in the Position Statement and raised at the EIP with the Inspector) suggested inserting “up to” before 10%. This forms one of the Proposed Changes in the attached Schedule.

*(f) Policy CP6 Rural Affordable Housing*

- 5.30 Objectors highlighted that the proposed change (PC6.55) regarding the Core Strategy approach to market housing on rural exceptions sites is better placed in the policy rather than being introduced as text.
- 5.31 The Council concur and now propose to add to the policy what the 6<sup>th</sup> Set of Proposed Changes already changed in the text to reflect the NPPF. It also incorporates additional amendments to improve readability.
- 5.32 In his note, the Inspector raises some queries regarding:
- the consistency between revised Policy CP6 and Policy CP1 Part A, Section (b)
  - whether it is appropriate that the Rural Exceptions Policy applies to all settlements rather than just villages
  - the suggested deletion of a previous propose change at CP6 Part (i), which clarifies where the policy would apply within the settlement hierarchy
- 5.33 These points are covered in more detail at Appendix 1, whilst Appendix 2 sets out the proposed changes (see Annex E for Policy CP6).

*(g) Policy CP9 Scale and Distribution of Economic Growth*

- 5.34 Objectors to the 6<sup>th</sup> Set of Proposed Changes and the NPPF consultation in June/July have raised issues regarding development in open countryside and whilst NPPF allows for well-designed new buildings the Core Strategy currently only allows for re-use.
- 5.35 The SDC Position Statement published to assist discussion at the EIP (31 August 2012) accepted that Policy CP9 which allowed for re-use but did not allow for well-designed new buildings was overly-restrictive in the light of NPPF.
- 5.36 In addition, with particular reference to former mine sites, it was noted that to retain criteria 1 and 2 in Part C would mean that restrictions on these sites would be more restrictive than that applied to the open countryside and was considered would represent an inappropriate anomaly and be contrary to the NPPF.
- 5.37 These points were debated at the EIP and there was general

consensus that the policy should be re-worded in a different way to capture the re-use and new-buildings elements as they affect ALL former commercial sites in the countryside equally, without the necessity to specifically refer to the mine sites as special cases.

- 5.38 Alternative revised wording is therefore proposed in the 7<sup>th</sup> Set for consultation. This comprises changes to the policy to ensure consistency with the NPPF whilst retaining the local strategy for supporting jobs growth which utilises existing infrastructure as well as some minor amendments of the reasoned justification.
- 5.39 In his note, the Inspector requires some clarification on the particular areas to which the rural economy, Part C applies. He also considers that the NPPF qualification that all rural development should be sustainable is an important one. In addition he raises some presentational points.
- 5.40 The revised wording for both the text and the Policy CP9 is provided in Appendix 2, Annex F.

*(h) Policy CP14 Low Carbon and Renewable Energy*

- 5.41 Objectors to the 6<sup>th</sup> Set of changes and NPPF consultation considered that the introduction of text which stated that renewable energy projects would only be supported if they fall within identified suitable areas which may be identified in future local plan documents, is unjustified, unnecessary and not compliant with NPPF. The Council accept that this was not the intention of the proposed re-wording and as written, the policy is unduly restrictive and now propose a further change to the first part of Policy CP14.
- 5.42 Further, objectors state that NPPF Paragraph 91 wording of special circumstances is different to that proposed in the Core Strategy. The Council agree and consider that it would be helpful to ensure that the Core Strategy more closely aligns with the wording in the NPPF. As such the Council now proposes to amend Policy CP14 (previous proposed change PC6.86), last paragraph.
- 5.43 In addition, in his note, the Inspector suggests some improvements to the wording of the revised policy. See Appendix 2, Annex G for amended wording to Policy CP14.

*(i) Identification of Designated Service Villages ( DSVs) (Policy CP1)  
Fairburn*

- 5.44 In his note, the Inspector is clear that the objective analysis in the Core Strategy Background Paper (No. 6 Village Growth Potential) as updated by evidence during the Examination, does not support Fairburn's designation as a DSV. He considers that nothing in NPPF changes this – there is no compelling evidence that additional housing would lead to a more sustainable rural community or enhance its vitality. Unlike Appleton Roebuck (the other settlement where the objective analysis calls DSV designation into question), no case is advanced that Fairburn is part of a recognised group of villages where

development would support services in other villages nearby (indeed the reverse is true, for the nearest villages to Fairburn are already identified as DSVs). On the evidence thus far, the Inspector has stated that he is likely to recommend deletion of Fairburn as a Designated Service Village.

- 5.45 As such it is officers' recommendation that Councillors agree a further proposed change to delete Fairburn as a Designated Service Village and instead designate it as a Secondary Village (as set out in the 7<sup>th</sup> Set of Proposed Changes attached at Appendix 2).

### *Escrick*

- 5.46 In his note, the Inspector considers that the recent identification of Escrick as a Designated Service Village is soundly based on the objective evidence and, for that reason, appears justified. However, the Inspector suggests that Policy CP1A (a) be annotated to clarify that Escrick is largely surrounded by Green Belt and any development on Green Belt land would have to accord with policy GBXX and the results of any Green Belt review.
- 5.47 The SDC response at Appendix 1 sets out further clarification on this point, because the Green Belt also affects a number of other settlements. The proposed change is set out in Appendix 2, Annex B.

## **6. Evidence base and Sustainability Appraisal (SA)**

- 6.1 Evidence that underpins the 7<sup>th</sup> Set of Proposed Changes has not changed since the EIP in September 2012. Additional work has been undertaken to set out more clearly the windfall contribution (see Appendix 3) and how this may be included in the Core Strategy.
- 6.2 The Council set out in its previous Position Statement (31 August 2012) for the EIP and the Extraordinary Council report of 29 May 2012, that it does not consider it necessary to undertake additional Strategic Environmental Assessment and Sustainability Appraisal (SEA/SA) work for the 6<sup>th</sup> Set of Proposed Changes which were published and consulted upon in June 2012.
- 6.3 For completeness, the 7<sup>th</sup> Set of Proposed Changes to individual policies has been assessed within the SEA/SA framework alongside the 6<sup>th</sup> Set of Proposed Changes. The appraisal also considers the cumulative effects of all the proposed changes and any national and regional context policy changes.
- 6.4 The full Further Sustainability Appraisal Addendum Report (October 2012) will be made available alongside the 7<sup>th</sup> Set of Proposed Changes for consultation. An extract comprising the Non-Technical Summary is attached at Appendix 4 to this report.
- 6.5 In summary, the sustainability appraisal of the sixth and seventh set of proposed changes to the Submission Draft Core Strategy found that the changes either had neutral or beneficial sustainability effects. None of the changes were considered to result in any additional potentially negative effects than those identified previously as part of

the 2010 SA Report or the 2011 SA Addendum Report. Whilst the majority of the sustainability effects were positive or neutral it is not considered that they change the assessment of cumulative impacts presented within the 2010 SA Report or 2011 SA Addendum.

## **7. Conclusions**

- 7.1 A number of further changes as discussed at the September 2012 EIP are proposed to the Core Strategy in order to ensure it meets the Soundness test of consistency with national policy. However, they do not cumulatively alter the overall strategy and do not represent a significant change to the Core Strategy which was submitted for examination.
- 7.2 The schedule of proposed changes and the new Addendum to the SA will be subject to consultation for (more than) six weeks prior to being examined at the February 2013 EIP. The Council will also publish this Council report as part of the EIP library as a background document for information.
- 7.3 The Inspector will then provide his report and this will be considered by the Council in due course.

### **Appendix 1 SDC Response to Inspector's Note**

### **Appendix 2 Draft 7<sup>th</sup> Set of Proposed Changes** (separate)

### **Appendix 3 Windfall information**

### **Appendix 4 Non-Technical Summary to SA Addendum, October 2012** (separate)

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### **Background Documents**

- Core Strategy, Submission Draft, May 2011 (and associated Core Documents including Composite Set of Proposed Changes)
- Inspector's Notes dated 10 October 2011, 14 October 2011, 4 April 2012 and 10 April 2012.
- Extraordinary Council report, 29 May 2012 (reference C/12/ 2)
- SDC Position Statement 7 June 2012 (EIP Core Document CS/CD66)
- SDC Windfall Response 31 May 2012 (EIP Core Document, CS/CD67)
- SDC Position Statement 31 August 2012 (EIP Core Document CS/CD69)
- Further Sustainability Appraisal Addendum Report, October 2012
- Inspector's Note, 23 October 2012

*All available on the Council's website*

## Appendix 1 SDC Response to the Inspector's Note

<b>NOTE TO COUNCIL ON DRAFT 7<sup>TH</sup> SET OF PROPOSED CHANGES</b>	<b>SDC RESPONSE</b>
<p>1. At the September 2012 Examination hearings I sought (and obtained) agreement from participants to give a “steer” to the Council on my current thinking on the latest version of the CS before it published its final set of Proposed Changes (PCs) for consultation later this year. The Council subsequently sent me its draft 7<sup>th</sup> set of PCs and draft report for comment.</p> <p>2. As a result of the Council’s positive response to, initially, the reasons for the Examination being suspended and, subsequently, to the representations and discussions concerning the National Planning Policy Framework (NPPF), the areas where there remains a risk of my having to recommend main modifications to achieve a sound plan are relatively few. The comments below are primarily directed to the draft 7<sup>th</sup> set of PCs, though I also address other matters which potentially go to soundness. I also respond to the Council’s request for my current thinking on the ‘duty to cooperate’ legal issue.</p> <p>3. It is important to appreciate that the views expressed below should not be taken as definitive of the final conclusion I may reach in my report. Whilst they represent my current thinking, the decisions I come to in my report can only be made after all the representations have been considered, the hearings have finished and the complete body of evidence has been taken into account.</p>	<p>Noted.</p>

<p><u>Green Belt</u></p> <p>4. One of the reasons for the Examination being suspended was my concern that the CS failed to give guidance on the important ‘exceptional circumstances’ test which has to be met if Green Belt releases are to be justified. At the discussion during subsequent hearings I repeated my view that a policy which facilitated a Green Belt review should set out the reasoning which, in Selby, could result in exceptional circumstances being found. To further assist the Council, I also provided my thoughts on its first re-draft of policy GBXX following the September 2012 hearings.</p> <p>5. The Council has broadly incorporated my latest comments into the 7<sup>th</sup> set of PCs. That being so, I have just one point in relation to the first line of paragraph 4.39j. Given that there might potentially, in time, be other circumstances which trigger the need for a Green Belt review, it could be argued that there is an over-emphasis on the word “only”. It might be better to re-phrase the first line as follows:  “Thus the need for a Green Belt review is most likely to arise if sufficient deliverable/ .....”.</p>	<p>AGREED</p> <p>Amend first line of 4.39j as suggested.</p>
<p><u>Scale of housing and windfall development</u></p> <p>6. The recognition now given to the contribution from windfalls is welcomed, for it makes clear that the CS is expected to result in more houses being delivered than the 450 dpa minimum of policy CP2, thereby satisfying the NPPF requirement to significantly boost housing supply. It also allays any residual concern of mine about overall housing numbers. However, despite the intention to allocate the full housing target (paragraph 5.28c), I am not at all certain that, as currently written, the contribution from windfalls <u>would</u> be counted as an addition to the 450 dpa target figure.</p>	<p>6. The contribution from unknown windfalls would be as an addition to the 450 dpa target figure. The text at para 5.28c is misleading and the Council propose to amend the paragraphs (see Annex D of the schedule of proposed changes).</p> <p>The site allocations Local Plan will allocate enough to meet the 450 (i.e. the net amount once existing permissions discounted) - these are the ‘known windfalls’ – that is, the existing planning permissions as at the base date of the SADPD as previously discussed at EIPs. These are the ‘planned-for’ sites.</p> <p>The contributions from ‘unknown windfalls’ (at least 105) are not accounted for in the 450 (new planning permissions) and will therefore be in addition to the 450 dpa.</p> <p>Proposed new text seeks to clarify the approach.</p>

7. In the 5 year supply calculation (excluding the buffer element), the contribution from completed windfall sites and those committed windfall sites regarded as deliverable is proposed to form part of the built/committed supply<sup>1</sup>. If the target remains at 450 dpa, the situation would be similar to that which applied in the past (paragraph 5.28a of the text) – the scale of need for additional sites would be reduced below the 450 dpa on allocated sites because of the contribution from built/committed windfalls. The same principle applies to the establishment of a new baseline date for the Site Allocations plan – the overall total to be allocated would be lower than the target of 450 dpa on non-windfall sites because of built/committed windfalls in the intervening period.

8. Is the above analysis correct, or have I misunderstood the process of calculating the 5 year supply and the overall scale of housing provision? If I am right, however, the final sentence of paragraph 5.28d is not consistent with the rest of paragraphs 5.28c and 5.28d and does not properly reflect the plan's stated intention to provide significantly more than 450 dpa, as illustrated in the trajectory.

7. Note that built dwellings do not form part of the 5 year supply calculation (although completions are monitored on a yearly basis). Built are not discounted from the housing land requirement.

Only existing outstanding planning permissions – i.e. committed to be built i.e. known, planned-for sites are part of the housing supply.

Therefore it is true that the overall total to be allocated would be lower than the target of 450 if there are planning permissions at the baseline date of the Site Allocations plan to be taken into account.

This principle is established and it is clear from Policy CP2 that, at the base date of March 2011, of the overall requirement of 7200 (16x 450), 1820 dw will be provided for through already planned-for existing permissions but the majority, the remaining 5340 dw requirement will be met through new allocations. The actual figures will be different at the new base-date for the Site Allocations plan.

8. Agree that there is an inconsistency but it is not the last sentence of 5.28d which is wrong....the inconsistency can be remedied by amendments referred to at point 6 above.

The trajectory is correct that we expect to deliver significantly more than the 450 through additional windfalls. The Council propose to clarify this further by including new text and adding the following in the new footnote to the trajectory graph:

<sup>6</sup> 450 dpa is the minimum to be provided on 'planned-for' sites. 'Planned-for' sites comprise existing planning permissions at the base date of the site allocations plan, and new allocations. A further contribution to housing land supply of a minimum of

<sup>1</sup> I appreciate that it was my suggestion that the text at the final sentence of paragraph 5.28d be changed from “may” to “will”, but that is the usual approach and no one from the Council argued otherwise. In addition, there was no indication of how “may” would be interpreted (ie which windfall sites would be included and which would not).

<p>9. It seems to me that there are two main ways in which this problem could be overcome. One is to specifically exclude windfalls (and other non-allocated development) from the 5 year supply calculation, the other is to increase the target figure to include some or all of the anticipated windfall supply.</p>	<p>105 dwellings per annum is expected to be delivered on other non-planned (windfall) sites in addition to the 450 dpa target.</p> <p>9. The Council consider that there is no problem as such, (the 5 year housing supply and the housing target are not the same) but that it can be made clearer by amending the text and annotating the trajectory as set out above.</p>
<p><u>Rural affordable housing</u></p> <p>10. The inclusion of the market homes provision in policy CP6 is consistent with NPPF. However, does the reference to “100%” affordable housing in policy CP1(A)(b) remain appropriate if some market homes are now possible?</p> <p>On a separate matter, as now drafted policy CP6 could arguably be applied to the District’s towns – is this appropriate? Would it be clearer to start the policy with “In villages.....” (criterion (iii) refers to the setting of <i>the village</i>, so presumably the intention is to limit the policy to villages)?</p>	<p>Agree it needs amending. Add the following to Policy CP1, Part A, Section (b):</p> <p>Limited amounts of residential development may be absorbed in secondary villages <i>where it will enhance or maintain the vitality of rural communities (PC6.26)</i> <del>(inside Development Limits)</del> through ‘exception sites’ <i>through small scale allocations (PC3.3)</i> for 100% affordable housing <i>or mixed market/affordable sites in line with Policy CP6</i> and through small scale <del>speculative (windfall) proposals</del> <i>development on non-allocated sites (PC5.8) inside development limits (PC3.3)</i> which conform to the provisions of Policy CP1A <i>and Policy CP6</i>.</p> <p>The policy was originally intended to apply to only those villages of 3000 or less. However because NPPF does not refer to this figure the Council have removed it (in the 6<sup>th</sup> Set of Proposed Changes) so that the policy now applies to all settlements in the District.</p> <p>The Council considered this would be not necessarily in-appropriate, to allow flexibility and all settlements would be treated the same.</p> <p>However it is also recognised that the aim of the Rural Exceptions sites policy is to assist in the supply of affordable housing in those areas where normal policy may not in fact be able to deliver such homes to meet needs.</p> <p>On reflection therefore the Council</p>

	<p>propose to incorporate additional text and amend Policy CP6 to clarify that the exceptions policy applies only to rural settlements, which are defined as DSVs and SVs. – see Annex E of the Proposed Changes.</p>
<p>11. It is not obvious to me why PC3.10 should be deleted, given that policy CP1A(a) makes a clear distinction between the types of development acceptable in DSVs compared with Secondary Villages. Deletion of PC3.10 raises the following question: on what types of site <u>within</u> DSVs would development be allowed for rural affordable housing which would not otherwise be permitted? On the face of it, PC3.10 seems to make an appropriate distinction - is there something I have missed?</p>	<p>Originally the extra text was added in by PC3.10 after debate at the September 2011 EIP.</p> <p>Then when the policy was reviewed against the new NPPF, it was considered that the additional text was superfluous, and as such was suggested to be deleted during the September 2012 EIP.</p> <p>However, on reflection it is necessary to retain it because it explains the exceptions to policy as it relates to the differential treatment of DSVs and SVs (as set out in Policy CP1 Part A (a)).</p> <p>No further change - retain PC3.10</p>
<p><u>Economic growth</u></p> <p>12. Whilst the general approach to the rural economy and the changes resulting from the September 2012 hearings are consistent with NPPF, the latest wording for part C of policy CP9 raises a number of issues. The first is definitional – it is not entirely clear to what areas the “Rural Economy” heading applies, and whether this is the same as “rural areas” in the first sentence of part C. I assume from Part A (3) that it relates to DSVs, SVs and the countryside – is that correct, and should it be specified?</p>	<p>Parts A and B of Policy CP9 apply to all areas as clarified by 6<sup>th</sup> Set of Proposed Changes.</p> <p>New Part C applies to ‘rural areas’. As such the Council propose to clarify the policy and the text to clarify to which areas the policy applies – that is outside the three towns – see Annex F of the Proposed Changes.</p>
<p>13. Secondly, the first sentence of part C seems not to apply the “sustainable” test of NPPF paragraph 28 to all development. Thus a small scale, well designed building for employment development on a greenfield site in open countryside in a remote part of the District would appear to gain support from the policy, even though it might be regarded as unsustainable because of its location and/or use of greenfield land. It seems to me that the NPPF qualification that <u>all</u> rural development should be sustainable is an important one.</p>	<p>Agreed. Amend the Policy – See revised Policy CP9 in 7<sup>th</sup> Set of Proposed Changes, Annex F.</p>

<p>14. On a matter of presentation, the inclusion of certain types of site (C.2) in a list which otherwise refers to categories of use and development appears somewhat out of place, especially as the policy starts with “Development proposals for.....”</p>	<p>See revised Policy CP9 in 7<sup>th</sup> Set of Proposed Changes, Annex F.</p>
<p><u>Renewable and low carbon energy</u></p> <p>15. The addition of the first new paragraph to policy CP14 closely follows NPPF paragraph 97 and is fine (though it might be easier to comprehend if the two main elements were better separated).</p> <p>The second new sentence is poorly phrased as drafted, for it could be taken to imply that Council support might <i>not</i> be given for schemes within ‘identified suitable areas’; I suggest the “if” after ‘neighbourhood plans’ is replaced by “including those”, or similar.</p>	<p>First Para - Agree to separate two elements.</p> <p>Second Para – Agree.</p> <p>The policy is further redrafted by moving the 2<sup>nd</sup> para into the second part of the policy with some further minor amendments for presentational purposes.</p> <p>See revised Policy CP14 in 7<sup>th</sup> Set of Proposed Changes, Annex G.</p>
<p>16. The assessment criteria then follow. The first set deletes the previous reference to ‘identified suitable areas’ (deleting PC6.85) and is appropriate. There then follows a repeat of the criteria with the ‘identified suitable areas’ clause of PC6.85 retained – I assume this is an error, for if not the policy does not make sense.</p>	<p>Noted.</p> <p>The entire section is repeated due to a drafting error – simply delete – See revised Policy CP14 in 7<sup>th</sup> Set of Proposed Changes, Annex G.</p>
<p><u>Other matters</u></p> <p>17. I have no specific comment on the other PCs now proposed in the 7<sup>th</sup> set. Of course, it is not possible to say that this will remain the position following receipt of representations on these PCs and the consideration of them at the final hearing session in February 2013.</p> <p>18. Other than the one topic below, the various concerns I have expressed on a range of other matters throughout the Examination have largely been addressed, at least to the extent that (on current thinking) they are unlikely to be the subject of recommendations by me of main modifications which have not been suggested by the Council.</p>	<p>Noted</p>

<p><u>Identification of DSVs</u></p> <p>19. I do remain concerned about the inclusion of Fairburn as a DSV. The objective analysis in CS/CD22e, as updated by evidence during the Examination, does not support such designation. Nothing in NPPF changes this – there is no compelling evidence that additional housing would lead to a more sustainable rural community or enhance its vitality. Unlike Appleton Roebuck (the other settlement where the objective analysis calls DSV designation into question), no case is advanced that Fairburn is part of a recognised group of villages where development would support services in other villages nearby (indeed the reverse is true, for the nearest villages to Fairburn are already identified as DSVs). On the evidence thus far, I am likely to recommend deletion of Fairburn as a DSV.</p>	<p>Officers concur with the Inspector’s analysis and Council is recommended to delete Fairburn as a Designated Service Village and instead define it as a Secondary Village within the settlement hierarchy.</p> <p>As such Fairburn will be removed from the List in Policy CP1 and there are consequential updates throughout the Submission Draft Core Strategy (covered by PC6.3).</p> <p>See 7<sup>th</sup> Set of Proposed Changes.</p>
<p>20. The recent identification of Escrick as a DSV is soundly based on the objective evidence and, for that reason, appears justified. However, I appreciate the argument that, as it is almost completely surrounded by Green Belt, its inclusion as a DSV might imply that some development on Green Belt land is inevitable. In my view that is not the case – the tests of policy GBXX would have to be applied to any potential Green Belt releases at Escrick and the outcome should not be predetermined by designation as a DSV. I believe that such a qualification should be made explicit in policy CP1A (a) – perhaps by a notation (similar to the linked villages asterisk) which states that Escrick is largely surrounded by Green Belt and any development on Green Belt land would have to accord with policy GBXX and the results of any Green Belt review.</p>	<p>Noted.</p> <p>Although it would be helpful to flag up Green Belt issues here, it would be misleading to only refer to Escrick as other settlements are also affected by Green Belt.</p> <p>Also, with respect, the wording suggested by the Inspector refers to development on Green Belt land - but if reviewed and removed from Green Belt for development purposes then the land would no longer be in Green Belt.</p> <p>The Council therefore agree in principle and propose that Policy CP1 Part A, Part (a) is annotated - See revised Policy CP1 in 7<sup>th</sup> Set of Proposed Changes, Annex A.</p>

<p><u>Duty to cooperate</u></p> <p>21. I gave my ruling on the legal aspect of the duty to cooperate in April 2012, concluding that it does not apply in this case (INSP/12). The argument that this finding does not allow me to recommend main modifications seems, on the face of it, to have little merit because s20(7) of the 2004 Act consistently refers to <i>any</i> duty imposed by s33A – I interpret this as allowing for situations in which (for whatever reason) the duty to cooperate does not bite. Clearly I cannot reach a firm conclusion on this point until I have considered the full legal submissions to be put to me early next year, but my initial view is that s20(7C) does apply and that I have the power to recommend main modifications.</p>	<p>Noted.</p>
<p><i>Martin Pike</i></p>	<p>SDC</p>
<p>INSPECTOR</p>	<p>October 2012</p>
<p>October 2012</p>	

## **Appendix 2 Draft 7<sup>th</sup> Set of Proposed Changes**

## Appendix 3 Windfall Information

### Introduction

In line with Para 48 of NPPF, any allowance should be realistic (not include residential gardens) having regard to:

- (i) historic windfall delivery rates
- (ii) the Strategic Housing Land Availability Assessment
- (iii) expected future trends

(i) historic windfall delivery rates

A1 The Council already provided windfall data for the past 7 years to the EIP (see Core Strategy/CD67) and the table is reproduced below.

A2 This shows that historically the annual windfall delivery rates have contributed significantly to the overall housing delivery but have fluctuated year on year.

**Table 1 District Wide**

					Figures for all non-allocated sites (includes GF and PDL)				Figures for only those non-allocated sites which are also PDL	
	1	2	3	4	5	6	7	8	9	
Period	Completions total	Completions on allocated sites	% of completions On allocated sites	Completions on all other sites (windfall)	% of Completions on all other sites (windfall)	All completions on PDL	% of all completions on PDL	Of windfalls, how many on PDL*	% of windfall completions on PDL	
2010-11	366	155	42.3	211	57.7	181	49.5	174	82.5	
2009-10	270	107	39.6	163	60.4	125	46.3	117	71.8	
2008-09	222	59	26.6	163	73.1	154	69.4	146	89.6	
2007-08	583	240	41.2	343	58.8	299	51.3	271	79.0	
2006-07	874	187	21.4	687	78.6	585	66.9	585	85.2	
2005-06	633	53	8.4	580	91.6	473	74.7	473	81.6	
2004-05	469	167	35.6	302	64.4	242	51.6	242	80.1	
<b>TOTAL 2005-2010</b>	<b>3417</b>	<b>968</b>	<b>-</b>	<b>2449</b>	<b>-</b>	<b>2059</b>	<b>-</b>	<b>2008</b>	<b>-</b>	
<b>Average 2005-2010</b>	<b>488</b>	<b>138</b>	<b>30.7%</b>	<b>350</b>	<b>69.2%</b>	<b>294</b>	<b>58.5</b>	<b>286.9</b>	<b>81.4%</b>	

\*column 8 includes garden land. Prior to 2010 was defined as PDL but should now be excluded as classed as Greenfield.

- A3 Column 8 shows the windfalls - built dwellings on non-allocated, Previously Developed Land. The highest level was at the height of the economic boom in 2006/07, at 585 dwellings and the lowest during the recession in 2009/10 was 117 dwellings. The average over the past 7 years is a higher figure of 287 dwellings which takes into account two very high years 2006/07 and 2007/08. The average of the 5 years not including these two peaks is 190 dpa.
- A4 The distribution of windfall development (all non-allocated sites i.e. on Greenfield and PDL) from the various elements of the settlement hierarchy was debated orally at the April 2012 EIP. Further interrogation of the data (a breakdown of the historic data for completions for the years 2004 – 2011) to identify patterns across the settlement hierarchy reveals the following (in Table 2):

**Table 2 Settlement Hierarchy**

(Rounded)	Total over 7 years	Proportion %	3 main towns combined %	3 towns and DSVs combined %	7 year average DWELLINGS PER YEAR	dpa
Selby	670	27	37	78	98	132
Sherburn	122	5				
Tadcaster	122	5				
DSVs	1015	41	41		145	145
SVs	545	22	22	22	78	78
Total	2474 <sup>2</sup>				355 <sup>3</sup>	

- A5 Note that these are for the 7 year average, which is different to the approach used District wide because it is not appropriate to use the lowest figures in this context as some are zero.
- A6 The table shows that the main towns and Designated Service Villages (DSVs) made the biggest contribution to windfalls 277 dw although Secondary Villages (SVs) have made an annual contribution of more than 70 dw. The ratio between the 3 main towns and DSVs compared to SVs is approximately 80:20.
- (ii) the Strategic Housing Land Availability Assessment (SHLAA)
- A7 A SHLAA does not provide a list of future sites for development. It is a database of a pool of sites identified which may be suitable, available and deliverable for housing development without any indication of whether it is acceptable in policy terms (i.e. what *could* be developed not *should* be

<sup>2</sup> The 2474 dw in Table 2 approximates to the 2449 dw in Column 4 of Table 1. The difference is due to a slight variation in the way the figures have been extracted.

<sup>3</sup> The 355 dw in Table 2 approximates to the 350 dw in Column 4 of Table 1 i.e. both GF and PDL

developed).

- A8 The Selby District SHLAA 2011 has a site size threshold and therefore does not include sites of less than 0.4 hectares. As such, it would not identify small windfall sites. Further, the SHLAA cannot be used to identify larger sites (of 0.4 ha or more) which might come forward as windfalls because such sites in the SHLAA, identified as appropriate for development would be allocated as part of the Site Allocations Development Plan Document. In addition, the SHLAA does not necessarily capture potential redevelopment opportunities on current operational sites which may come forward during the Plan period.
- A9 This represents the limitations of the SHLAA in predicting the number of windfalls coming forward across the District. However the SHLAA does provide a cross-check on opportunities which might be available on windfall sites in Secondary Villages that have been submitted through the call-for-sites (but would not be allocated under Policy CP2).
- A10 The SHLAA data shows that for the 15 year period, the potential yield for all sites in Secondary Villages is about 4100 dwellings (273 dwellings per annum), which includes identified sites in or adjacent to the Development Limits and on green field and Previously Developed Land (this may include some garden land as this is not identified separately as yet in the database).
- A11 However this is not a realistic estimate (not a 'reliable source of supply') because land outside Development Limits would not accord with Policy CP1A (see also (iii) below). So that, of the 4100 dwelling capacity overall, only land for about 147 dwellings (approximately 10 dpa over the next 15 years) actually falls within Development Limits.
- A12 This SHLAA data provides a broad indication of the capacity/yield in Secondary Villages based on 35 dwellings per hectare. The actual amount that could come forward may be more than this if additional sites are identified although it should be noted that, because Policy CP1A only supports small scale development in Secondary Villages the actual contribution from this source (sites over 0.4 ha) might be limited (once subject to policy considerations).
- A13 Contributions from other small sites which are not captured by the SHLAA site size threshold, for example from the frontage infill and farmsteads source – see paragraph A18 below, would be likely to provide the main source of supply in Secondary Villages, alongside PDL redevelopment.
- (iii) expected future trends
- A14 To understand future trends this must be related what might be expected to come forward in the light of Local Plan policy and the economy.
- A15 Policies in the Core Strategy set the framework for promoting new development in the District over the Plan period. Policy CP2 provides that allocations will be made in the three main towns and the Designated Service Villages and that no allocations will be made in the Secondary Villages. However, growth and vitality in these smaller, rural villages will be supported through opportunities on non-allocated sites in appropriate circumstances.

- A16 The scope for new development in all settlements is set out in Policy CP1A. This provides a basis for estimating future opportunities for windfall (see SHLAA at (ii) above) across the District.
- A17 Further more detailed evidence has already been provided by the Council to the EIP (in Written Statement No. 6, September 2011) regarding the potential quantity of new dwellings on infill frontage development and redevelopment of farmsteads in Secondary Villages under Policy CP1A.
- A18 This indicates that the additional contribution from infill, frontage development in all Secondary Villages might be up to about 60 dwellings in total over the Plan period. A further contribution from the redevelopment of farmsteads could be about 500 dwellings over the Plan period (the maximum if all known farmsteads within these villages were redeveloped).

*Windfall Evidence Conclusion*

- A19 The NPPF suggests that the potential windfall contribution may be derived from the various elements outlined above in (i), (ii) and (iii). The evidence must be considered as a whole and balanced to provide a figure which is considered to be a reliable future source of supply.
- A20 Taken together therefore, based on the information available on past windfalls (quantity and distribution) and potential for future opportunities under the new policy framework, officers consider that it would be reasonable to predict that in the future windfalls will be delivered at an annual rate of between approximately 105 dpa and 170 dpa.
- A21 This is based on the lowest historic delivery of 117 dpa and the 5 year average of 190 dpa excluding the two high peaks and discounting 10% for garden land<sup>4</sup>. The Council considers that using 105 dpa as the minimum figure, is conservative but represents a level which is realistically what might be expected to be achieved and likely to be a reliable source of supply in the future. The reference to a range in the reasoned justification highlights the uncertainty in defining a precise figure.
- A22 Consideration was given to using the average over the past 7 years but officers consider that the resultant, much higher figure of 287 dwellings (or about 240 dw excluding 10% for garden land) over-states what is expected to realistically come forward on windfalls in the future within the context of the new positively planned framework for the District which aims to allocate land to meet needs and not rely (as in the past) on the windfalls propping up the housing land supply. This higher figure could not be reasonably quantified / evidence based to justify as a reliable source of supply
- A23 It is not proposed that windfalls are relied upon to deliver the 450 dpa housing requirement which is based on objectively assessed needs. Instead it is sensible to set out that on top of the 450 dpa - flexibility is provided (to meet the NPPF requirement to significantly boost housing supply) by referring in the Core Strategy to 450 dpa being provided on planned-for sites (already committed and new allocations in Policy CP2) and that a

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<sup>4</sup> Note: The data set covers the years 2004 to 2011. The definition of garden land changed from PDL to green field in 2010. Previous work (see Written Statement No.6, September 2011 EIP) shows that in the District garden land accounted for 10% of completions. As such this figure should be discounted by this proportion to reflect NPPF which says windfall estimates must exclude garden land.

minimum of about 105 dwellings per year are expected to be provided in addition on windfall sites. This does not change the Council's view on the Core Strategy Housing numbers; instead it simply quantifies the windfall element that is already anticipated.

A24

In order to be clear on the approach to windfalls it is proposed to add a footnote to Policy CP2 which sets out the 105 dpa windfalls per year on top of the 450 dpa. Also it is already proposed to amend the housing trajectory (previous published change) to include affordable housing and it is now considered appropriate to include the windfall element in the same graph. Additional modifications to the reasoned justification are also necessary.

## **Appendix 4 Non- Technical Summary of Sustainability Appraisal Addendum**

*See separate document*