



**Note to Inspectors setting out JLP Councils position regarding
objections made by Emery Planning on behalf of Wainhomes
16 March 2018**

Background

1. During the Hearing Sessions on Matter 3, a number of points were raised by Emery Planning on behalf of Wain Homes. These points related to Policy SPT3 of the JLP, paragraph 3.25, and particularly the amendment to Policy SPT3 proposed in the Councils' Matter 3 Hearing Statement. These points can be summarised as:
 - The JLP housing requirement as set out for the plan area should be the main consideration when considering 5 year land supply issues, and particularly whether paragraph 49 of the NPPF should apply.
 - The Policy Area requirements, although relevant for these considerations, should be secondary to the housing requirement for the plan area.
 - Therefore, in the event that a Policy Area could not demonstrate a 5 year land supply paragraph 49 of the NPPF should apply to that Policy Area and the tilted balance should be applied to decision making.
 - If the plan area cannot demonstrate a 5 year land supply, then paragraph 49 of the NPPF should apply to the whole HMA, and the tilted balance should be applied to decision making across the HMA, regardless of whether one of the Policy Areas could demonstrate a 5 year land supply.
2. The Councils have been in some discussion with Emery Planning since the Matter 3 Hearings. Emery Planning, in an email dated XXXX have since clarified their position to state that (email is attached as Annex 1):
3. "However if there is a 5 year supply overall then paragraph 49 should not apply even if one of the policy areas is not meeting its requirement. It would however be a material consideration."

4. In the light of this statement, the JLP Councils consider that Emery Planning are putting forward a position that the only level at which 5 year land supply can be assessed for the purposes of paragraph 49 of the NPPF is the whole plan area.
5. The Councils have been unable to reach an agreement with Emery Planning on these matters, and therefore have not been able to reach a position where a Statement of Common Ground can be reached. Nevertheless, the discussions that have occurred with Emery Planning have helpfully clarified the scope of the disagreement about how 5 year land supply considerations should be assessed for the purposes of the Joint Local Plan.
6. Emery Planning's position is as set out above.
7. The JLP Councils, as set out in the revisions to SPT3, is that the JLP has apportioned the housing requirement to the Policy Areas, and that the Policy Areas are the level that 5 year land supplies should be assessed for the purposes of paragraph 49 of the NPPF rather than the whole plan, and that this approach is compliant with the NPPF and is consistent with approaches that have been taken in other Joint Local Plans around the country.

The Councils Reasons Why They Do Not Accept the Position Put Forward by Emery Planning.

1. The Councils set out in Matter Statement 3 (response to questions 3.2 and 3.3 (v)) and at the hearings their view that the approach set out in the JLP is clear, is sound and complies with the NPPF. The following points are intended to clarify some points made during the discussions at the hearings.
2. It should also be noted that the Policy Area approach has been developed for a very specific reason to ensure that the distribution strategy as set out in the JLP is implemented. A key element of the Strategy is to concentrate development at Plymouth, for the reasons set out in the Distribution of Development Topic Paper (TP1) and the Strategy Topic Paper (TP5). The JLP authorities considered that without a Policy Area approach – ie by setting out the housing requirement only at the plan area – there was a risk that this strategy could be undermined in the event that a 5 year supply could not be demonstrated. The Policy Areas therefore represent the policy tool chosen to ensure that the strategy is implemented.
3. It follows that if the plan area is the level at which 5 year land supplies are assessed for the purposes of paragraph 49 of the NPPF, then there is a danger that the strategy set out in the JLP could be undermined.
4. We have set up the Policy Area approach with a strong and evolving set of governance principles around it to maintain a 5 YLS, including

actions to be taken in the event that a 5YLS could not be demonstrated. These arrangements are set out in detail in the revised Governance Topic Paper (TP6 (Rev)). Moreover, the principle that housing requirements can be considered at a policy area level was considered by the S Worcestershire inspector accepted this principle of 'separate and non-transferable' policy area targets in paragraph 78 of his report, stating that it was compliant with paragraph 17 of the NPPF.

5. The South Worcestershire Inspector also accepted (paras 80 – 82) that the SWDP:

“sets out a rolling 5 YLS throughout the plan period in all sub areas (no mention of the whole plan level), and a set of reasonable actions to be taken in the event that a 5YLS cannot be demonstrated are also set out. It is not for (him) to speculate on what might happen if currently unforeseen circumstances were to derail both the delivery of the plan’s site allocations and its own measures to deal with problems of delivery. It is for future decision makers to decide what is the status of the housing sub areas in the light of para 49 of the NPPF if a 5YLS cannot be demonstrated.”

Therefore, the Inspector sets a principle that if the Local Plan sets out an approach that delivers and maintains a rolling 5YLS of sites, with measures to be taken in the event that a deficiency is identified through monitoring, then that was enough for him to find that plan sound. He determined that he did not need to try to envisage all the scenarios that a future decision maker might need to consider. The JLP is identical to the SWDP in this regard, and therefore we consider that the same principles should be applied.

6. We don't feel that there is any conflict between our approach and paras 47 and 49 of the NPPF. Neither references the plan area as the relevant area for paragraph 49 to apply to in 5YLS considerations. Paragraph 49 refers to local planning authorities. However, the JLP sets out that the policy areas fulfil the role of an LPA in the context of calculating a 5YLS for the purposes of paragraph 49.
7. The revised Governance Topic Paper also sets out the situations when 5 year land supply considerations could lead to a review of the JLP. For example, in a scenario where the whole plan cannot demonstrate a 5YLS, and where the remedy cannot be found in the policy area where the deficiency arises, a review of the JLP would be triggered. Such a response would be appropriate because in effect we would be saying that the JLP strategy is not delivering housing at the required levels, so a full review of the strategy would be needed.
8. Finally, the JLP Councils have undertaken some analysis of how other adopted and advanced joint plans in England have addressed the issue raised by Emery Planning. This analysis has revealed the following:

- **Winchester District Local Plan Part 1 – Joint Core Strategy Development Plan Document (adopted 2013):** Housing requirement set for policy areas (Policy DS1). Housing trajectory set out for whole plan area. Monitoring framework sets out policy area targets and indicators. Unclear whether five year supply should be assessed at plan area or policy area level. AMR sets out 5 year supply at plan area level.
- **West Northamptonshire Joint Core Strategy Local Plan (Part 1) (Adopted 2014):** Policy S3 apports housing requirement by LPA. Monitoring undertaken on LPA level, trajectory based on LPA level requirements, five year supply assessed at LPA level not plan area level.
- **Black County Joint Core Strategy (adopted 2011):** Housing requirement set out and 5 year supply assessed at plan area level.
- **North Essex Authorities Strategic (Section 1) (submitted 2017):** Housing requirement apportioned by LPA. 5 year supply monitored at LPA level not whole plan.
- **Christchurch and East Dorset Local Plan Part 1 - Core Strategy (adopted 2014):** housing requirement for the two areas combined into a single plan area target. 5 year supply calculated at plan area level
- **East Hampshire Joint Core Strategy (Part 1 Local Plan) (adopted 2014):** Joint Core Strategy covering East Hampshire including parts of South Downs National Park. Housing requirement set at plan level and 5 year supply assessed at plan level.
- **West Dorset, Weymouth & Portland Local Plan (adopted 2015):** Housing requirement set at plan area level. 5 year supply assessed at whole plan level.
- **Wiltshire Core Strategy Development Plan Document (adopted 2015):** Not a Joint Plan, but apports housing requirement to sub areas against which housing land supply and 5 year supply is assessed, not at plan area level.
- **Central Lincolnshire Local Plan (adopted 2017):** Housing requirements set for Policy Areas. 5 year supply assessed at plan area level.
- **North Northamptonshire Joint Core Strategy (JCS) 2011-2031 (adopted 2016):** Housing requirements apportioned to LPAs. 5 year supply assessed at LPA level not at plan area level.

- **Gloucester, Cheltenham, Tewkesbury Joint Core Strategy (adopted 2017):** Housing requirements set at LPA level. 5 year supply assessed at LPA level not at plan area level.
 - **South Worcestershire Development Plan (adopted 2016):** The Councils have noted the observations on this joint plan made by Emery Planning. Nevertheless, in addition to the JLP Councils analysis of the Inspector's comments above, we have also contacted officers at South Worcestershire who have confirmed that housing requirements are set out for Policy Areas. 5 year land supplies are assessed at Policy Area level and monitored at LPA level. 5 year supply is not assessed at plan area level either in the plan or in the AMRs.
 - **Cornwall Local Plan (adopted 2016):** Housing requirement set at whole plan level. 5 year supply assessed at whole plan level. NB the plan sets out Community Network Areas with housing targets, which are intended to guide Neighbourhood Plans and the Cornwall Site Allocations DPD.
9. From this analysis, it is clear that of the 12 joint plans and one LPA plan which apportions housing requirements to sub areas, 7 plans set out housing requirements and assess 5 year land supply at the plan area level. 6 plans apportion their housing requirements to sub areas (either LPAs or policy areas) and assess 5 year supply at these sub areas. The analysis also shows that some plans which assess their 5 year supply at the plan area level also use a policy area approach to inform the distribution of housing across the plan area, but do not see a need to assess 5 year supply at this level.
 10. The only conclusion that can be drawn from this analysis is that both approaches have been found sound by Inspectors, and are being implemented by LPAs engaged in joint planning. The JLP Councils therefore believe that the approach set out in the PSWDJLP is justified as set out in evidence and material presented to the Examination, is consistent with the NPPF and NPPG, and that there is precedent for the approach taken in other adopted joint plans in England.

Further Proposed Amendments to clarify the JLP approach to these matters.

11. In order to ensure that the JLP sets out our approach clearly, the following amendments to the plan are suggested:
12. A further amendment to SPT3, to read:

The Policy Area housing requirements are separate and non-transferable. Only housing proposals within each Policy Area will be considered to contribute to meeting the housing requirement for that Policy Area. Any shortfall in the supply of housing sites in a policy area must be made up within that policy area, and cannot be remedied in

the other policy area.

13. A change to paragraph 3.25, to read:

Local Plans must demonstrate that a five year land supply of specific deliverable sites is available at the point of adoption of the plan, measured against their housing requirements. The JLP sets out a housing requirement figure for the Plan Area as a whole as well as for the Plymouth Policy Area and the Thriving Towns and Villages Policy Area. ~~It must therefore demonstrate a five year land supply against each of these targets.~~ **For the purposes of paragraph 49 of the NPPF, housing delivery will be monitored at the Policy Area level.** ~~Additionally, for monitoring purposes the five year land supply will be assessed at local planning authority level.~~

14. Amend paragraph 7.23 bullet point 3 to read:

The LPAs will monitor housing delivery along with policy area monitoring to ensure the requirements of paragraph 47 of the NPPF are being met, ~~and set out a 5 year land supply for their area. This is to ensure that the requirements of paragraph 47 of the NPPF are being met, and is also~~ to show how each LPA is contributing to delivering new homes as envisioned by the strategy and policies set out in the JLP, and chiefly to demonstrate that growth is taking place across the two policy areas as set out in the spatial strategy. LPA housing monitoring indicative requirements are set out as Indicator I1a in Annex 2 of the JLP.

15. Amend Indicator I1a of Annex 2 to read:

I1a Total homes consented and built (including brownfield and windfall) by Local Planning Authority area

PCC: 13,200

WDBC: 3,200

SHDC: ~~10,300~~ **5,800 in Plymouth PA; 4,500 in TTV PA**

Appendix 1 – Email from John Coxon to Richard Grant dated 23rd February 2018

Hi Richard

Thanks for your e-mail and sorry for not coming back to you sooner. We have reviewed the documents and relevant decisions, and I set out below a summary of our position for your consideration. Perhaps once you have had a chance to review we can discuss this further next week.

In summary, we maintain that there is a requirement to assess 5 year supply across the plan area. The Council referred to the South Worcestershire Development Plan (SWDP) and its 'separate and non-transferable' provisions. I have reviewed this and attach the Inspector's report from the SWDP examination, and refer to paragraphs 78-82. When read in conjunction with the plan, particularly paragraphs 37-43 and the table at paragraph 39 which identifies that the 5 year supply will be monitored at a plan area level, it is apparent that 5 year supply is being monitored across South Worcestershire, and furthermore if there is not a 5 year supply then paragraph 49 would apply. This would comply with my interpretation of paragraph 47 of the Framework. Either way there will need to be joint working between the 3 authorities.

To clarify, we actually do not consider that you are obligated by national policy to assess 5 year supply at the policy area level, but ultimately that is a decision for you as the local authority. It would seem prudent to monitor it to ensure that the requirements are being met. Our reading of the policy as originally drafted was that you would be doing both, similar to the SWDP. However if there is a 5 year supply overall then paragraph 49 should not apply even if one of the policy areas is not meeting its requirement. It would however be a material consideration.

At the hearing I referred to the example of Cornwall at the hearings where this issue was discussed, and their Local Plan reflects this approach. In particular paragraphs 1.73 & 1.74 of the adopted plan state:

1.73 To ensure an appropriate supply of housing land in the right place and at the right time, we will ensure there is at least a 5 year supply of deliverable sites in Cornwall. The adequacy of the 5 year supply will be assessed on a local authority, Cornwall-wide, basis. It will not be appropriate to assess 5 year supply below the local authority level for the purposes of determining whether paragraph 49 of the NPPF applies.

1.74 Where a five year supply can be demonstrated, the adequacy of supply in meeting the needs of a particular CNA or town over the whole Plan period will be a material consideration when making planning decisions. Any deficiency in supply should be accommodated within the CNA with a shortfall and not be compensated for by increasing

supply in other CNA's where existing supply is sufficient to meet its Local Plan target.

I am also aware that Inspector Burden is examining the North Devon and Torridge Local Plan where this issue has been debated, and I understand there that again the 5 year supply will be monitored at the HMA level across both authorities for the purposes of paragraph 49.

I hope that the above is clear. Let's catch up on Tuesday when you have had an opportunity to consider, and we can discuss the SoCG / note that the Inspectors have requested. Or if you want to discuss beforehand I am available on 07834 334 169.

Regards

John

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