



The Planning Inspectorate

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# Report to Durham County Council

**by William Fieldhouse BA (Hons) MA MRTPI**

**an Inspector appointed by the Secretary of State**

**Date: 17 September 2020**

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Planning and Compulsory Purchase Act 2004

(as amended)

Section 20

## **Report on the Examination of the County Durham Plan**

The Plan was submitted for examination on 28 June 2019

The examination hearings were held between 22 October 2019 and 6 February 2020

File Ref: PINS/X1355/429/4

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## Abbreviations used in this report

|                      |  |
|----------------------|--|
| The 2004 Act         | The Planning & Compulsory Purchase Act 2004 (as amended)   |
| The 2012 Regulations | The Town and Country Planning (Local Planning) (England) Regulations 2012 (as amended)                                   |
| AONB                 | Area of Outstanding Natural Beauty   |
| The Council          | Durham County Council  |
| HRA                  | Habitats Regulations Assessment carried out under the Conservation of Habitats and Species Regulations 2017 (as amended) |
| MHCLG                | Ministry of Housing, Communities and Local Government  |
| mph                  | Miles per hour   |
| NPPF                 | National Planning Policy Framework   |
| The Plan             | The County Durham Plan   |
| PPG                  | Planning Practice Guidance   |
| SHLAA                | Strategic Housing Land Availability Assessment   |
| SHMA                 | Strategic Housing Market Assessment  |
| sqm                  | Square metres  |

## Evidence and Examination Documents

All of the Council's supporting evidence submitted with the Plan along with documents that I issued, requested or accepted during the examination were published on the examination website. Each document has its own individual reference number such as C1, E7, INSP6, DCC2, etc. Where appropriate, I refer to documents by their reference numbers in footnotes in this report.

## Non-Technical Summary

This report concludes that the County Durham Plan provides an appropriate basis for the planning of the County, provided that a number of main modifications are made to it. Durham County Council has specifically requested that I recommend any main modifications necessary to enable the Plan to be adopted.

The main modifications all concern matters that were discussed at the examination hearings. Following the hearings, the Council prepared a schedule of proposed main modifications and carried out sustainability appraisal of them. The proposed main modifications were subject to public consultation over an eight week period, and I have taken account of the consultation responses in coming to my conclusions in this report and recommending the main modifications set out in the Appendix.

The main modifications that I recommend can be summarised as follows:

- Deletion of proposals for **northern and western relief roads** around the city of Durham from policy 23.
- Deletion of reference to a corridor of interest for a possible future **Barnard Castle relief road** from policy 24.
- Changes to policy 22 to set out principles that will be used to determine **cycle and car parking provision** in developments.
- Changes to policy 3 relating to the **strategic employment site at Aykley Heads** in terms of the range of uses; car parking; sustainable transport; playing field re-provision; and Green Belt boundaries.
- Changes to policy 4 relating to the **housing allocation at the former police skid pan, Aykley Heads** to ensure the provision of permanent Green Belt boundaries and compensatory improvements to remaining Green Belt.
- Changes to policy 5 relating to the **Sniperley Park urban extension** to ensure the provision of landscaped open space, playing fields, safe and suitable access, and compensatory improvements to remaining Green Belt.
- Changes to policy 5 relating to the **Sherburn Road urban extension** to protect the character and appearance of the area and the setting of the Castle and Cathedral World Heritage Site, and create a permanent Green Belt boundary.
- Changes to various elements of **housing land supply** and the housing trajectory to reflect up to date evidence and to ensure that assumptions about windfalls, lapse rates for commitments, and the timing of development on some sites are justified.
- Changes to policy 6 relating to the **development of unallocated sites** and an increase in the **windfall assumption** from 1,120 to 1,400 dwellings.
- Changes to the requirements for various **housing allocations** including with regard to protection of heritage assets; playing field re-provision; and Green Belt boundaries.
- Changes to policy 1 and associated indicators to ensure that they are effective in terms of **monitoring housing delivery** to achieve a net minimum of 24,852 new homes in the period 2016 to 2035 (1,308 homes per year).
- Changes to policy 26 relating to **planning conditions** and **planning obligations**.

- Changes to policy 15 in relation to the provision of **affordable housing** and **accessible and adaptable homes**.
- Changes to policy 11 relating to **rural exception sites** for affordable and specialist housing.
- Changes to part 3 of policy 16 so that it applies to **extensions to houses in multiple occupation**.
- Changes to policy 20 to ensure consistency with national policy relating to development in the **Green Belt**.
- Retention of land in the Green Belt at **Fernhill**, Durham and the former **Lumley boys school**, Great Lumley.
- Changes to various other **development management policies** to ensure that they are sound.

## Introduction

1. This report contains my assessment of the *County Durham Plan* ("the Plan") in terms of Section 20(5) of the *Planning & Compulsory Purchase Act 2004* (as amended) ("the 2004 Act"). It considers first whether the Plan's preparation has complied with the duty to co-operate and other legal requirements. It then considers whether the Plan is sound as defined in the *National Planning Policy Framework* published in February 2019 ("NPPF") i.e. positively prepared, justified, effective and consistent with national policy.
2. The starting point for the examination is the assumption that Durham County Council ("the Council") has submitted what it considers to be a sound plan. *The County Durham Plan Pre Submission Draft 2019*<sup>1</sup>, submitted in June 2019, is the basis for my examination. It is the same document that was published for consultation in January 2019 in accordance with regulation 19 of the *Town and Country Planning (Local Planning) (England) Regulations 2012* (as amended) ("the 2012 Regulations").

## Background

3. The Council started work several years ago to prepare the first local plan to cover the whole county and replace the various plans that had been adopted in the 1990s and early 2000s prior to the creation of the unitary authority in 2009. A different version of the County Durham Plan was submitted for examination in April 2014 but subsequently withdrawn following a legal challenge relating to an interim report by the Inspector sent to the Council in February 2015. The Inspector's report was quashed, it has not been submitted as evidence for the current examination, and it is not something that I have taken into account in assessing the Plan before me.
4. The current Plan is based on evidence most of which was prepared since 2015. It is intended to be a comprehensive local plan for the county, with the only other development plan document being a *Minerals and Waste Policies and Allocations Document* which the Council intends to submit for examination in 2021<sup>2</sup>.

## Coronavirus pandemic, and changes to the Use Classes Order

5. Following the close of the last hearing session, and after the Council had responded to all of my action points and post hearings advice, the country was hit by the coronavirus pandemic. The short, medium and long term social, economic and environmental impacts of the pandemic for the implementation of the Plan could be significant but are difficult if not impossible to predict at the present time.
6. On 21 July, the Government published *The Town and Country Planning (Use Classes) (Amendment) (England) Regulations 2020*. These came into force on 1 September 2020, and none of the policies in the Plan prevent the new regulations taking effect in the county. National policy remains unchanged, and whilst implementation of some of the policies in the Plan will be affected,

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<sup>1</sup> C1.

<sup>2</sup> Local Development Scheme 2019 [C5].

the full implications are not yet clear and will need to be thought through over time.

7. These changes in circumstances have come late in a process to prepare the first plan for the whole county that has lasted several years. The Government believes that the planning system has a vital role to play in enabling the delivery of housing and economic growth that will support the UK's economic recovery. It therefore wants local planning authorities and the Planning Inspectorate to drive the planning process forward and expects everyone involved to engage proactively<sup>3</sup>. The relative certainty that will be provided by finalising the Plan will be beneficial in terms of encouraging sustainable development and helping the county to recover. Once adopted, the Council is required to monitor the implementation of the Plan and review whether it needs updating. The Council consider that to be the most appropriate way forward<sup>4</sup>, and in the particular circumstances I agree that to be so.

### Main Modifications

8. In accordance with section 20(7C) of the 2004 Act the Council requested that I recommend any main modifications necessary to rectify matters that make the Plan unsound and / or not legally compliant and thus incapable of being adopted<sup>5</sup>. My report explains why the recommended main modifications, all of which relate to matters that were discussed at the examination hearings, are necessary. The main modifications are referenced in bold in the report in the form **MM1**, **MM2** etc, and are set out in full in the Appendix.
9. Following the hearings, the Council prepared a schedule of proposed main modifications and carried out sustainability appraisal and Habitats Regulations Assessment of them. The schedule of proposed main modifications was subject to public consultation for eight weeks between 26 May and 21 July 2020. The Council put a number of specific measures in place so that the consultation was carried out as fairly as possible during the coronavirus pandemic<sup>6</sup>.
10. I am satisfied that all reasonable steps were taken to ensure everyone had the opportunity to view the documents and respond if they wished. I have taken account of the consultation responses in coming to my conclusions in this report. In response, I have made some amendments to the detailed wording of the main modifications and added consequential modifications where these are necessary for consistency or clarity. None of the amendments significantly alters the content of the modifications as published for consultation or undermines the participatory processes and sustainability appraisal or Habitats Regulations Assessment that has been undertaken. Where necessary, I have highlighted these amendments in the relevant parts of this report.

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<sup>3</sup> Written ministerial statement 13 May 2020 <https://www.parliament.uk/business/publications/written-questions-answers-statements/written-statement/Commons/2020-05-13/HCWS235/>

<sup>4</sup> Letter from Durham County Council Head of Development and Housing to Inspector regarding County Durham Plan Examination and Amendments to the Use Class Order dated 7 August 2020 [DCC17].

<sup>5</sup> Letter from Durham County Council Head of Development and Housing to The Planning Inspectorate dated 28 June 2019.

<sup>6</sup> INSP23.

## **Policies Map**

11. The Council must maintain an adopted Policies Map which illustrates geographically the application of the policies in the adopted development plan. When submitting a local plan for examination, the Council is required to provide a submission Policies Map showing the changes to the adopted Policies Map that would result from the proposals in the submitted local plan. In this case, the submission Policies Map comprises the set of plans identified as the *County Durham Plan Pre-Submission Policies Map 2019*<sup>7</sup>.
12. The Policies Map is not defined in statute as a development plan document and so I do not have the power to recommend main modifications to it. However, a number of the published main modifications to the Plan's policies require further corresponding changes to be made to the Policies Map. In addition, there are some instances where the geographic illustration of policies on the submission Policies Map is not justified and changes to the Policies Map are needed to ensure that it is accurate and the relevant policies are effective.
13. These further changes to the Policies Map were published for consultation alongside the main modifications. When the Plan is adopted, in order to comply with the legislation and give effect to the Plan's policies, the Council will need to update the adopted Policies Map to include all the changes proposed in the *County Durham Plan Pre-Submission Policies Map 2019* and the further changes published alongside the main modifications.

## **Assessment of Duty to Co-operate and other Legal Requirements**

### **Duty to Cooperate**

14. Section 20(5)(c) of the 2004 Act requires that I consider whether the Council complied with any duty imposed on it by section 33A in respect of the Plan's preparation - the duty to cooperate in relation to the preparation of a local development document in so far as relating to a strategic matter<sup>8</sup>.
15. The Plan covers the extensive area of the county of Durham. To the south, west and north it is bordered by rural parts of North Yorkshire, Cumbria and Northumberland respectively and to the east by the North Sea. To the south east are the urban areas of Darlington, Stockton-on-Tees, Middlesbrough and Hartlepool and to the north east Sunderland, Gateshead and Newcastle. The A1(M), A19 and East Coast Main Line run north-south through the county whereas the main transport route to Cumbria over the North Pennines is the A66.
16. The Council's *Duty to Cooperate Statement* dated June 2019<sup>9</sup>, which includes various statements of common ground, describes in considerable detail how it worked with the relevant prescribed bodies<sup>10</sup>; the North East and Tees Valley Local Enterprise Partnerships; the more recently formed North East and Tees

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<sup>7</sup> C2.

<sup>8</sup> "Strategic matters" are defined in section 33A(4) of the Act and include sustainable development or use of land that has or would have a significant impact in at least two planning areas or, in a two-tier area, is, or would have a significant impact on, a county matter.

<sup>9</sup> C11.

<sup>10</sup> Regulation 4 of the 2012 Regulations.



Valley Combined Authorities; the Northern Upland Chain and North East Local Nature Partnerships; and other local authorities and regional organisations during the preparation of the Plan. This built on a long history of regional and sub-regional joint working on strategic planning and transport matters. Working arrangements involved numerous committees and groups with the involvement of elected politicians, local authority officers and representatives of many other organisations.

17. The main strategic matters addressed through joint working were population and housing; economic development; retail, leisure and tourism; transport and connectivity; conservation of the natural and built environment; minerals supply; waste management; wastewater treatment; and Green Belt.
18. The proposals in the Plan reflect the outcome of the joint-working on those strategic matters and none of the prescribed bodies or other relevant organisations have indicated that they are dissatisfied with their liaison with the Council. Thus, whilst there are a number of soundness issues related to cross boundary strategic matters that I consider in subsequent parts of this report, I am satisfied that the duty has been complied with.

#### *Conclusion on duty to cooperate*

19. I am satisfied that where necessary the Council engaged constructively, actively and on an on-going basis in the preparation of the Plan and that the duty to co-operate has been met.

#### **Other Legal Requirements**

20. Section 20(5)(a) of the Act requires me to consider whether the requirements of sections 19 and 24(1), and regulations under section 17(7) and any regulations under section 36 have been complied with. My findings in relation to these, and all other relevant legal requirements, are summarised in the paragraphs below.

#### *Local development scheme*

21. The content and timing of the Plan are as set out in the Council's *Local Development Scheme* that was published in 2017 and updated in 2019<sup>11</sup>.

#### *Public consultation and engagement*

22. Concerns have been expressed about the consultation carried out by the Council during the preparation of the Plan. These include doubts about whether the Council was genuinely interested in considering options at an early stage, whether views expressed actually influenced the content of the Plan, and about the nature of consultation documents and events and the availability and quality of evidence.
23. However, consultation on the Plan and the proposed main modifications was carried out in compliance with the *Council's Statement of Community Involvement* that was published in 2016 and updated in 2019<sup>12</sup> and involved a greater number of opportunities to make representations to the Council than

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<sup>11</sup> C5 and C6.

<sup>12</sup> C18 and C19.

required by the legislation. The Council's *Regulation 22 Statement of Consultation*<sup>13</sup> documents the various processes undertaken, the main issues raised in representations at various stages, and summarises the Council's responses to them. It is clear that some significant changes were made as a result of representations made as the Plan evolved through the process. The fact that some significant strategic proposals were not dropped from earlier versions of the Plan despite a high level of opposition does not in itself mean that the Council failed to listen.

24. Thus, whilst I appreciate the concerns raised and would encourage the Council to consider whether lessons could be learnt to feed into future iterations of the statement of community involvement, I am satisfied that consultation during preparation of the Plan was legally compliant and that reasonable steps were taken over several years to engage with the public and a wide range of organisations.

#### *Sustainability appraisal*

25. The Plan was subject to sustainability appraisal during its preparation and to inform the proposed main modifications<sup>14</sup> as required by relevant legislation<sup>15</sup>. The main report runs to around 700 pages plus appendices, and is accompanied by a non technical summary.
26. A number of distinct options were assessed for the broad spatial distribution of housing development across the county, although only limited consideration was given to alternative levels of household growth. All potential developable housing sites identified through the *Strategic Housing Land Availability Assessment* were appraised. Consideration was given to whether there were any reasonable alternatives to seeking to meet identified needs for economic development in each of the identified commercial property market areas. A number of options were appraised to address what the Council had identified as significant congestion problems in the city of Durham, although the focus was on variations around the two proposed relief roads that are included as proposals in the Plan. Potential alternative solutions, aimed at addressing the issues through a wider and more intensive range of sustainable transport interventions, were concluded to be unrealistic at an early stage.
27. No statutory consultees have raised any significant concerns about the sustainability process. There is criticism from others about the range of options that were considered in relation to some significant matters and the quality and depth of the analysis included in the report. However, the appraisal was a substantial piece of work that started early in the Plan making process. It adopted a systematic approach, in line with legal requirements and relevant guidance, that utilised the Council's evidence along with other available information. All policies and proposals were appraised against a common set of sustainability objectives. This provided a consistent guide that the Council used to help inform its choices about what to include in the Plan. The appraisal of the main modifications finds that they remove a number of previously identified adverse impacts and result in a greater proportion of

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<sup>13</sup> C22.

<sup>14</sup> C13 to C15 and update published 26 May 2020.

<sup>15</sup> Sections 19(5) and 39 of the 2004 Act and the *Environmental Assessment of Plans and Programmes Regulations 2004*.

positive impacts, and thereby improve the overall sustainability performance of the Plan.

28. Overall, I am satisfied that the appraisal was proportionate, underpinned by relevant and up to date evidence, and it identified positive and negative impacts, including cumulative impacts, on economic, social and environmental objectives which were used to inform the preparation of the Plan.

#### *Habitats Regulations Assessment*

29. The Plan was subject to a Habitats Regulations Assessment during its preparation and to inform the proposed main modifications<sup>16</sup> as required by the *Conservation of Habitats and Species Regulations 2017* (as amended). This concluded that the Plan would not affect the integrity of internationally designated sites along the Durham coast and in the North Pennines<sup>17</sup> provided that certain mitigation measures are carried out. The Plan includes effective policies to secure the necessary mitigation and I am therefore satisfied that relevant legal requirements have been met.

#### *Climate change*

30. The Plan includes policies designed to ensure that the development and use of land in the county contribute to the mitigation of, and adaptation to, climate change as required by the 2004 Act<sup>18</sup>. These include policies relating to the overall spatial development strategy which, amongst other things, seeks to limit the need to travel and offer a genuine choice of transport modes, as well as policies relating to green infrastructure, sustainable design, renewable and low carbon energy, water management, and the Durham coast.
31. Whilst some people consider that the Plan fails to respond appropriately to the climate emergency acknowledged by the Council, it has to meet the tests of soundness. For the reasons set out throughout this report, subject to the main modifications, I conclude that the Plan is sound and contains appropriate policies to help mitigate and adapt to climate change in the context of current national policy.

#### *Public Sector Equality Duty*

32. The Council carried out an Equalities Impact Assessment to inform the preparation of the Plan<sup>19</sup>. I have had due regard to the three aims expressed in section 149(1) of the *Equality Act 2010* and in particular considered how the Plan's policies and proposals are likely to affect people from groups with "protected characteristics"<sup>20</sup>. This has included my consideration of several matters during the examination including those relating to sustainable design; transport; and addressing housing need, including for children, the elderly and travellers. My findings in relation to those matters, including where relevant

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<sup>16</sup> C16 and update published 26 May 2020.

<sup>17</sup> The Northumbria Coast Special Protection Area ("SPA"/Ramsar site; the Teesmouth and Cleveland Coast SPA/Ramsar site and proposed SPA; the Durham Coast Special Area of Conservation, and North Pennines SPA.

<sup>18</sup> Section 19(1A) of the 2004 Act.

<sup>19</sup> CR9.

<sup>20</sup> Age; disability; gender reassignment; marriage and civil partnerships; pregnancy and maternity; race; religion or belief; sex; and sexual orientation (section 149 of the *Equality Act 2010*).

any significant impacts on equalities and groups with protected characteristics, are set out in subsequent sections of this report.

#### *Superseded policies*

33. Appendix B to the Plan contains a list of all of the extant development plan policies that will be superseded when the Plan is adopted as required by regulation 8(5) of the 2012 Regulations.

#### *Other legal requirements*

34. The Plan complies with all other relevant legal requirements, including in the 2004 Act (as amended) and the 2012 Regulations.

#### *Conclusion on other legal requirements*

35. I therefore conclude that all relevant legal requirements have been complied with during the preparation of the Plan.

## **Assessment of Soundness**

### **Main Issues**

36. Taking account of all the representations, the written evidence and the discussions that took place at the examination hearings, I have identified a number of main issues upon which the soundness of the Plan depends. This report deals with these main issues which are set out in bold throughout this report. It does not respond to every point or issue raised by representors. Nor does it refer to every policy or allocation in the Plan.

### **Is the Plan positively prepared and consistent with national policy with regard to the quantity of development that it aims to accommodate over the Plan period?**

#### *The need for economic development*

37. The Council's *Employment Land Review Update* published in June 2018<sup>21</sup> assessed the quantitative and qualitative need for economic development in the different commercial property market areas in the county based on the city of Durham; Bishop Auckland; Consett; the A1(M) corridor; the A19 corridor; and other rural areas. The analysis takes account of sectoral growth forecasts, labour supply, and past take up of land and property in accordance with relevant national guidance<sup>22</sup>. The evidence indicates a need for up to 287 hectares of additional land for B class use developments in the county between 2016 and 2035. It also identifies indicative needs for each of the property market areas.
38. Policy 1 proposes that 302 hectares of strategic and general employment land be made available for office, industrial and warehousing developments. Provided that the sites are suitable, available and appropriately distributed across the commercial property market areas (which I consider later in this report), this should ensure that identified needs for B class uses can be met.

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<sup>21</sup> E1.

<sup>22</sup> PPG ID: 2a-027-20190220.

However, to reflect main modifications set out later in this report and accurately reflect the amount of land shown on the Policies Map, the figure referred to in policy 1 and reasoned justification needs to be modified to 300 hectares [**MM3**, **MM5** and **MM6**].

39. The Council's *Retail and Town Centre Study* dated January 2017<sup>23</sup> assesses need for additional retail and leisure floorspace. This shows that there is no need to allocate sites in Bishop Auckland, Chester-le-Street, Consett, Durham, Newton Aycliffe, Seaham or Spennymoor. Some qualitative issues were identified in relation to Barnard Castle, Crook, Peterlee and Stanley town centres. However, development proposals since then mean that those have been addressed. There are, therefore, no identified retail and leisure development needs that require specific proposals in the Plan.

### *The need for housing development*

#### *Local housing need based on standard methodology*

40. National policy is clear that the minimum number of homes needed should be determined using the standard methodology unless exceptional circumstances justify an alternative approach which is set out in associated guidance<sup>24</sup>. Using inputs appropriate to the time that the Plan was submitted, the standard method indicates a need for **1,287** dwellings per year between 2016 and 2035. This has not been disputed. However, in accordance with national guidance, in preparing the Plan the Council considered whether it would be appropriate to plan for a higher housing need figure<sup>25</sup>.

#### *Uplift to take account of past completions*

41. Between 2013 and 2018, an average of **1,308** dwellings per year were built in the county and on that basis the Council chose to use that as the housing requirement figure to include in the Plan as it indicates demand somewhat higher than that calculated using the standard method. This is a reasonable approach that is consistent with national policy and justified by evidence relating to a relevant time period, five years being the period over which the NPPF expects housing delivery to be assessed and the effectiveness of plans to be reviewed. Whilst alternative approaches such as looking at completions over a shorter or longer period could also have been taken, this does not mean that the Council's approach is unsound.

#### *Economic circumstances*

42. The Plan's housing requirement does not attempt to predict the impact that changing economic circumstances might have on demographic behaviour<sup>26</sup>. One of the Plan's objectives is to improve the economic performance of the whole county by creating more and better jobs, increasing the employment rate and reducing unemployment. Whilst the 300 hectares of employment land allocated in the Plan may have the potential to accommodate over 32,000 jobs<sup>27</sup> when fully developed, these are not all expected to be realised during

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<sup>23</sup> R1.

<sup>24</sup> NPPF paragraph 60 and PPG ID: 2a-004-20190220.

<sup>25</sup> PPG ID: 2a-010-20190220.

<sup>26</sup> PPG ID: 2a-010-20190220.

<sup>27</sup> DCC5.

the Plan period<sup>28</sup>. Moreover, there will no doubt be significant changes in the numbers of people employed in town centres, existing employment sites and other existing buildings. The Plan contains no specific target for net job growth in the county, nor does it need to do so.

43. Furthermore, there are many other variables that are likely to affect whether there will be enough people available to meet future demand by employers. These include the size of the working age population; employment and unemployment rates (both of which the Council are aiming to improve); and the number of people commuting into and out of the county (at present there is a significant amount of net out commuting from the county: over 30,000 workers each day<sup>29</sup>). There is no evidence before me to indicate that there is currently a shortage of labour in the county, or that this is likely to be the case in the short to medium term. If such a situation were to materialise, it is no doubt a matter that could be addressed in a future review of the Plan.
44. The fact that several appeal decisions made over the last few years concluded that future housing needs should be better aligned with economic growth aspirations does not alter my conclusion on this issue. This is because most of those decisions were made before current national policy and guidance on local housing needs was finalised, and in any case were in the context of particular development proposals rather than the housing and economic evidence relevant to the Plan that is before me.

#### *Affordable housing*

45. For the reasons set out later in this report, the Plan is unlikely to ensure that identified needs for additional affordable homes (836 per year)<sup>30</sup> will be met, even allowing for the expectation that a significant number of such homes will continue to be funded by the public sector. In such circumstances, national guidance advises that consideration should be given to whether the total housing requirement in the Plan should be increased in order to help deliver more affordable home. The Council did consider this, and chose not to do so<sup>31</sup>. This is justified for a number of reasons.
46. Firstly, an increase has already been made to the local housing need figure to take account of past completions. Secondly, the percentage figures in policy 15 are relatively low, meaning that a large increase in the amount of market housing would be required in order to deliver significantly more affordable homes. Furthermore, the highest value areas, where the policy requirement for affordable homes is greatest, are largely within the Green Belt. Finally, as the Plan aims to accommodate all the households that are expected to require homes in the county, it is not clear that there would be market demand for additional dwellings or that such provision would contribute to sustainable development.

#### *Unmet need from neighbouring authorities*

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<sup>28</sup> Council oral evidence on 23 October 2019.

<sup>29</sup> 65,550 workers commuted out of the county in 2011 (mainly to Sunderland, Gateshead, Newcastle and Darlington) and 35,190 workers commuted in [E1 paragraphs 3.6 to 3.9].

<sup>30</sup> H1.

<sup>31</sup> C13 paragraphs 4.49-4.52.

47. For the purposes of plan-making, County Durham can be considered to be a single housing market area. This is because there are high levels of self-containment. For example, 82% of people who work in the county also live there, and 72% of people who moved to a house in the county previously lived there<sup>32</sup>. Adjoining authorities have taken consistent approaches in their adopted or emerging plans.
48. Based on the evidence that I have read about the duty to cooperate and how housing needs are being accommodated in the local plans of neighbouring authorities, it is clear that there is no unmet housing need from elsewhere to be accommodated in the Plan area.

*Empty homes and demolitions*

49. Table 2 in the Plan includes assumptions about how many existing dwellings will be demolished and how many empty homes will be brought back into use, and concludes that these two factors will cancel each other out. There are considerable uncertainties about both these variables, meaning that the assumptions are not justified. To be effective, the monitoring indicators for policy 1 need to be modified to make clear that changes in the number of empty homes, dwellings lost through demolitions, and other relevant factors will be monitored and fed into the calculation of net supply each year. This would represent a comparable figure to assess whether the net requirement for 1,308 dwellings per year is being met. I recommend modifications to table 2, reasoned justification and monitoring indicators for policy 1 accordingly [**MM9, MM10, MM11** and **MM14**].

*Environmental constraints and Green Belt*

50. National policy requires local plans, as a minimum, to ensure that objectively assessed housing needs are met other than in a limited number of specified circumstances<sup>33</sup>. It is clear from the evidence before me that none of the types of environmental constraint referred to in national policy prevent the identified need for housing being met. Furthermore, for the reasons set out in subsequent parts of this report, I am satisfied that there are exceptional circumstances to justify removing land from the Green Belt in order to meet housing needs in locations that achieve sustainable patterns of development in the county.

*Conclusion on housing need*

51. The Plan's housing requirement of **24,852** dwellings referred to in policy 1 is, therefore, justified. However, in order to be effective and consistent with national policy, policy 1 needs to be modified to make clear that the requirement for 24,852 new homes is a minimum; that it relates to the period **2016 to 2035**; that the expected rate of delivery is **1,308** new homes per year; and that it is for net additional dwellings [**MM4**].

*Conclusion*

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<sup>32</sup> H1.

<sup>33</sup> NPPF paragraph 11(b).

52. I therefore conclude that, subject to the main modifications described above, the Plan is positively prepared and consistent with national policy with regard to the quantity of development that it aims to accommodate over the Plan period.

**Is the strategic approach to accommodating development in the county justified and consistent with national policy, including that relating to Green Belt, and will it be effective in helping to achieve sustainable development?**

53. Having concluded that the amount of development assumed in the Plan to be needed is sound, I turn now to consider the strategic approach to how that development should be accommodated.

*Vision, objectives and sustainable development statement*

54. The Plan sets out a spatial vision, 21 associated strategic objectives, and a sustainable development statement that reflects the presumption set out in paragraph 11 of the NPPF along with six development principles. Collectively, these cover a justified range of economic, social and environmental issues that are relevant to the county and broadly consistent with national planning policy. These initial parts of the Plan are not presented as policies and, other than the first part of the sustainable development statement, it is clear that they are not intended to be used directly in decision making. Rather, they set the context for the proposed spatial distribution of development and detailed policies that follow, thereby providing part of the reasoned justification for the Plan as a whole.

*The existing settlement pattern in the county*

55. Durham is a large rural county extending from the north Pennines in the west across the extensive coalfield areas to the east coast. The urban areas of Tyne and Wear and Teesside lie to the north east and south east respectively, whereas adjoining parts of North Yorkshire to the south, Cumbria to the west and Northumberland to the north are rural in character.
56. The historic city of Durham, with its renowned university, Castle and Cathedral World Heritage Site, and historic market place, serves as a sub-regional centre, public transport hub, and destination for large numbers of visitors from elsewhere in the UK and abroad. Reflecting its significant economic role, yet limited size and compact nature, the city has a high net inflow of commuters<sup>34</sup>.
57. The historic towns of Barnard Castle and Bishop Auckland, along with Newton Aycliffe, serve rural areas in the west and south of the county. Consett and Chester-le-Street in the north, and Seaham and Peterlee in the east, are the key towns in those parts of the county. There are over 200 other towns, villages and smaller settlements.
58. The settlement pattern, transport network, and landscape of much of the county have been strongly influenced by the significant coal mining and other industrial activities that took place in the 19<sup>th</sup> and 20<sup>th</sup> centuries. The current

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<sup>34</sup> Around 36,000 people commute into the city each day and around 14,000 residents of the city travel to work elsewhere each day [S1 paragraph 5.11].



role of all settlements was comprehensively assessed during the preparation of the Plan in terms of the number and range of businesses, community facilities, and public transport services<sup>35</sup>.

59. Essentially reflecting the settlement pattern, existing households are spread across the county with around 20% in the city and central Durham; 26% in the north; 26% in the south; 21% in the east; and 7% in the sparsely populated west<sup>36</sup>. The distribution of existing employment follows a similar pattern, although there is a particular high concentration of jobs, relative to residents, in Durham city reflecting its key economic role.

*Spatial distribution of development proposed in the Plan*

60. Alternative options for the distribution of housing and economic development across the county were considered during the preparation of the Plan. This was in the context of the current distribution of homes and jobs; existing commitments and allocations; economic viability and market demand; and the aims of making efficient use of land and achieving sustainable patterns of development. Assessment of these factors led to the strategy set out in the Plan which is supported by the sustainability appraisal.
61. With regard to the proposed distribution of sites for B class employment developments, the starting point was a legacy of allocations in existing plans amounting to over 700 hectares. The Plan rationalises this supply, by allocating a total of 300 hectares on suitable sites that are distributed to ensure that expected demand can be met in each of the commercial property market areas referred to earlier. This is a justified approach, and likely to be effective in delivering sustainable economic development.
62. Sites with planning permission or with a Council resolution to grant permission for residential development in April 2019 had capacity for over 17,000 additional homes. I consider later whether the assumptions about how many of these are likely to be built in the Plan period are justified, but suffice to say at this stage that commitments represent a large proportion of the identified need for housing. The number and distribution of housing allocations clearly had to take this into account, along with the other key factors referred to above.
63. The distribution of housing development proposed in the Plan is described as the "sustainable communities" option. This is a dispersed pattern across the county with sites focussed on the main towns where the greatest opportunities for employment, services, facilities and public transport exist. Other spatial options considered during the preparation of the Plan included a greater focus on the main towns, wider dispersal across a greater range of settlements, and more development in the villages around Durham City.
64. The Plan's key diagram (map 1) illustrates the broad locations proposed for development by indicating the amount of housing proposed in different parts of the county along with key housing and employment sites. However, to be effective, the boundaries of the monitoring areas to which the quantities of

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<sup>35</sup> Settlement Study 2017 [S1].

<sup>36</sup> Council response to FPQ1 [DCC5], combining figures for city/central; north/north west; mid/south; and south east/east.

housing relate need to be shown, as do the main towns within each of those areas [**MM1** and **MM2**].

65. The proposed distribution of housing and economic development in the Plan is likely to lead to a reasonably balanced pattern of growth across the county with a clear focus on the main settlements. Whilst there are no job growth targets included in the Plan, the sites allocated for B class developments are expected to accommodate a significant number of new jobs, particularly in the city and central Durham and mid/south Durham. The distribution of new homes would be in broad alignment<sup>37</sup>.
66. However, the city of Durham has a relatively low number of housing commitments compared to other parts of the county. Even with the allocation of over 2,250 dwellings in or adjoining the city as proposed in the Plan, and taking account of the housing allocations and high number of commitments in the central area, this part of the county is expected to continue to accommodate a relatively high number of jobs compared to households meaning that net commuting into the city is likely to continue. In this regard the Plan strikes an appropriate balance that reflects the significant role that the city is expected to continue to play as the main centre for employment, services and public transport in the county, but also the environmental constraints that exist in and around the city.
67. Whilst, for the reasons set out above, there are sound strategic reasons for the distribution of development proposed in the Plan, these do not in themselves represent the exceptional circumstances that are required to remove land for 2,170 homes on three sites from the city of Durham Green Belt. Before I reach a conclusion about that I need to consider a number of other strategic and site specific issues.

*Green Belt: strategic considerations*

68. There are three areas of Green Belt in the county that were defined in plans adopted in the 1990s and early 2000s: around the city of Durham; around the town of Chester-le-Street; and to the north of Seaham on the county boundary with Sunderland. These areas of Green Belt are indicated on the key diagram and detailed boundaries are defined on the Policies Map.
69. The Plan proposes to remove land from the existing city of Durham Green Belt to facilitate the development of housing allocations at Sniperley Park (1,700 dwellings), Sherburn Road (420 dwellings), and the former skid police skid pan at Aykley Heads (50 dwellings). I have already concluded that there are sound strategic reasons for focussing this amount of housing development on the city in order to achieve sustainable development. However, I need to consider whether there are non Green Belt options in and around the city that could have been taken as an alternative to removing these three sites from the Green Belt in order to accommodate nearly 2,200 dwellings.
70. The inner boundary of the Green Belt around the city is tightly defined. All options for housing development on brownfield land and other potentially suitable land within the city were assessed during the preparation of the Plan. Three sites within the city are allocated for a total of 90 dwellings, and a

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<sup>37</sup> DCC5.

number of sites are allocated for purpose built student accommodation to help meet identified needs and reduce the pressure to convert family homes to houses in multiple occupation. There are no other suitable and available sites in the city.

71. There are a limited number of small villages not far from the city that are inset from the Green Belt. Other than a limited number of minor infill sites, no opportunities were identified by the Council or others during the preparation of the Plan.
72. Fifteen broad locations on the outer edge of the city of Durham Green Belt, all related to existing villages, were assessed<sup>38</sup>. However, there has been a considerable amount of housing development in these locations in recent years, and few suitable and viable sites for additional housing development were identified. Moreover, further housing development in such locations would be some distance from the city, with relatively limited local services available meaning that future residents would be likely to use private motor vehicles for most trips.
73. The capacity of all allocated sites assumed in the Plan is based on 30 dwellings per hectare of net developable area. This represents a somewhat cautious approach, as policy 30 requires development to achieve at least this density in locations with good access to facilities and frequent public transport services. I consider later in this report whether that particular policy requirement is justified. However, even if higher densities were achieved on all allocated sites, there would still be a need for a significant amount of development on sites that are currently in the city of Durham Green Belt if the sustainable pattern of development proposed in the Plan is to be achieved.
74. I deal with policy 6, which relates to development on unallocated sites, later in this report. Suffice to say at this stage that, subject to the main modifications that I recommend, policy 6 should be effective in encouraging sustainable development on unallocated sites in or well related to all of the 200 or so settlements in the county that are not restricted by Green Belt or policies in a neighbourhood plan.
75. I am, therefore, satisfied that the removal of land from the city of Durham Green Belt is, in principle, justified in order to provide market and affordable homes where they are needed and to minimise the number and length of commuting trips into the city in accordance with an appropriate strategy for accommodating development across the county in ways that achieve sustainable patterns of development.
76. Notwithstanding that conclusion, whether there are exceptional circumstances for releasing the three sites for housing development from the Green Belt as proposed in the Plan depends also on consideration of a number of specific issues in relation to each. I will consider that as part of the next main issue in this report.
77. Finally, national policy requires that, when defining Green Belt boundaries, it should be demonstrated that they will not need to be altered at the end of the

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<sup>38</sup> G4.

Plan period<sup>39</sup>. I will consider whether that is the case in my assessment of each of the sites being removed from the Green Belt. It is not possible to know at the current time whether changes will need to be made to other already defined Green Belt boundaries in future reviews of the Plan as that will depend on the amount of development needed at the time, the spatial strategy for accommodating it, and the availability of non Green Belt sites. It would be premature to attempt to make decisions about any of those factors now, and there are certainly not exceptional circumstances to justify modifying the Plan to take additional land out of the existing Green Belt to safeguard for potential longer term development.

### *Conclusion*

78. I am, therefore, satisfied that the strategic approach to accommodating development in the county is justified and consistent with national policy, including that relating to Green Belt, and will be effective in helping to achieve sustainable development.

### **Are there exceptional circumstances to justify removing the three housing allocations from the city of Durham Green Belt and would policies 4 and 5 be effective in ensuring that they are developed in an acceptable way?**

#### *Introduction*

79. I have already found that the broad spatial distribution of development proposed in the Plan is justified, and that there are sound reasons in principle for removing land from the city of Durham Green Belt in order to allow the development of around 2,200 dwellings in or well related to the city. I consider now specific issues related to the three housing allocations at Sniperley Park (1,700 dwellings), Sherburn Road (420 dwellings), and the former police skid pan at Aykley Heads (50 dwellings) that are proposed to be removed from the Green Belt.

#### *City of Durham*

80. The medieval core of the city, including the Castle and Cathedral World Heritage Site and market place, stands on a steep-sided peninsular in a bend of the River Wear. Development around this, mainly since the middle of the 20<sup>th</sup> century, has led to the current irregular shape of the city with its compact historic core separated from the surrounding suburbs by green wedges in the Wear Valley. The low lying "bowl" defined by the encircling ridges of higher ground two kilometres or so from the core forms the inner setting of the World Heritage Site. The Green Belt has played a significant role in maintaining the shape of the city over the last 20 years and preserving its setting and special character.

#### *Sniperley Park urban extension*

81. A triangular-shaped site of around 108 hectares is proposed to be removed from the Green Belt and allocated for an urban extension at Sniperley Park on the north west edge of the city. This would include 1,700 dwellings, a local

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<sup>39</sup> NPPF paragraph 139(e).

centre with shops and community facilities, a new primary school, a linear park, structural landscaping, and new roads, cycleways and footpaths.

82. The site is mainly gently rolling arable farmland crossed by the B6352 and a number of public footpaths. It also contains pockets of woodland, fragmented hedgerows and scattered trees; the site of a small 19<sup>th</sup> century colliery; former grounds of Sniperley Hall; disused Sniperley Farm buildings; and playing fields used by Durham College. The east boundary is defined by the A167 beyond which are the suburban areas of Framwellgate Moor and Pity Me, and to the west is a large hospital, a fire station, Sniperley Hall and the A691. The northern boundary is defined by Potterhouse Lane and Trout's Lane. At the southern tip of the allocation is one of the city's main park and ride sites close to the junction of the A691 and A167.
83. The considerable amount of development proposed on the site would clearly reduce the openness of the area. Furthermore, at present the site performs strongly in terms of the Green Belt purposes of safeguarding the countryside; checking the unrestricted sprawl of the large-built up area of the city; and preventing the merging of the city with Sacriston. I turn now to consider how the proposal would affect those and other Green Belt purposes, the other impacts that the development would have, and the mitigation measures included in policy 5.
84. The proposed development would represent an encroachment into the countryside. However, the site is well contained, and its scale, location and relationship to the city mean that the development would be in character with the existing 20<sup>th</sup> century suburbs. Over one kilometre of open countryside would be maintained between the development and Sacriston, and unrestricted sprawl would be prevented by the layout and landscaping of the site and the physical features around it. As all opportunities for development on brownfield land in the city have been taken, and there are sound strategic reasons for residential development in this part of the county, the development would not undermine urban regeneration.
85. The site is a considerable distance from the conservation area and outside the inner setting of the World Heritage Site. Intervening distances, topography and mature trees mean that development would be unlikely to harm the setting of those or any other designated heritage assets. However, to ensure that this is so, a modification is required so that special regard is given to the setting of the World Heritage Site when specific development proposals are assessed [**MM47**].
86. The detailed requirements of policy 5 relating to layout, design and landscaping should be effective in ensuring that impacts on non-designated heritage assets at Sniperley Hall and Sniperley Farm, biodiversity, and the wider rural landscape would be mitigated. However, a main modification is required to part (g) of policy 5 and the reasoned justification to ensure that it is effective in securing the creation of a linear park of an appropriate scale (25 hectares), layout and design [**MM48** and **MM56**].
87. Furthermore, a main modification is also required to policy 5 and the reasoned justification to ensure that it is consistent with national policy and effective in securing compensatory improvements to the environmental quality and

accessibility of remaining Green Belt on land to the north and south of the site which is in the control of the site promoters. This would include the planting of hedgerows, trees and woodland, the creation of new wildlife habitats, and new public rights of way linking to the existing footpath network in the surrounding area [**MM49** and **MM54**].

88. In order to be effective in securing the replacement of the existing playing fields on the site with improved pitches and new changing rooms, a main modification is required to part (b) of policy 5 and reasoned justification [**MM46** and **MM57**]. Subject to that, the Plan should be effective in ensuring that community facilities and social infrastructure are provided to meet additional needs arising as a result of more households living in the area.
89. The site is well served by buses to and from the city centre and elsewhere. Part (j) of policy 5 requires an expansion to the adjoining park and ride site, along with the provision of attractive and safe links from the proposed housing. Part (i) requires the provision of suitable, convenient, safe and attractive cycleways and footpaths to the existing development to the east of the A167. These proposals, along with other policies in the Plan relating to sustainable transport, should ensure that future residents are not dependent on the use of private motor vehicles.
90. However, the proposal will lead to increased traffic on the B6532 through the site and on the surrounding road network. For the reasons set out later in this report, I recommend main modifications to remove the proposals for northern and western relief roads from the Plan. Parts (k) and (l) of policy 5 and reasoned justification therefore need to be modified to delete reference to the relief roads and instead include other requirements that are necessary to ensure safe and suitable access to the Sniperley Park site and that the residual cumulative impacts on the wider road network are not severe. Having considered representations about the proposed main modifications, I have deleted reference to "full" details being agreed through the masterplan and planning application as this is unnecessary and unreasonable. I have also replaced reference to a "new roundabout" with "improvements" at the junctions of Trout's Lane, Potterhouse Lane and the B6532, as the detailed layout is still to be determined. Finally, I have deleted the requirement relating to the *Durham City Sustainable Transport Delivery Plan*<sup>40</sup> as that refers to the relief roads and is not part of the statutory development plan. Instead, I have included a requirement for a contribution towards delivering sustainable transport in accordance with policies 22 and 23. Subject to these amendments, the modified policy provides an appropriate level of clarity about transport improvements that are needed without being unduly specific and inflexible [**MM50, MM55, MM58 and MM60**].
91. The proposed Green Belt boundaries along the southern and most of the northern parts of the site are defined by existing roads. Improvements to the junctions of Trout's Lane, Potterhouse Lane and the B6532, may mean that sections of the Green Belt boundary no longer correspond to the new road alignment. As details of the road improvements are not yet known, this is unavoidable. However, landscaping alongside any realigned road could ensure that there is a clear distinction and physical boundary between the development and the open countryside to the north. The development would

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<sup>40</sup> DCC4, C22 and T17.

then be clearly contained between the A691, existing buildings and landscaping to its west; existing suburban areas to the east and south; and roads and new landscaping to the north. However, the Policies Map needs to be amended so that the boundary in the north east corner of the site follows physical features that are readily recognisable and likely to be permanent. Subject to this, the new Green Belt boundaries around the development would be defensible and capable of being permanent.

92. There is no justification for removing additional land from the Green Belt in the vicinity of the site. This is because the proposed boundaries are justified, there is no need to allocate more land to meet housing needs during the Plan period, and it would be premature to determine whether or how the city may need to grow further in the longer term.
93. The site is owned by the Council and two land promotion companies who agree that the proposed development is viable and could start in 2022/23 with 85 dwellings completed in the first year and 135 dwellings per annum thereafter based on three outlets<sup>41</sup>. Given the considerable amount of investigation and masterplanning work that has been undertaken, the strength of the market in this part of the county, and interest by a number of housebuilding companies this is a reasonable assumption. National research indicates that sites of this size tend to deliver between around 100 and 200 homes per year<sup>42</sup>.

#### *Sherburn Road urban extension*

94. Policy 5 proposes an urban extension comprising 420 dwellings on 19 hectares of gently sloping agricultural land to be removed from the Green Belt on the south east edge of Durham city. To the north is the A181 with industrial and retail uses on the other side; to the east is the A1(M); and to the west are existing houses, Bent House Farm and, around a kilometre away, Old Durham. Agricultural fields slope down from the southern boundary of the site to Old Durham Beck in the valley bottom.
95. The site can be seen in both short and long distance views from a number of roads and public rights of way, and the proposed development would represent an encroachment into the countryside. However, it would essentially continue the current pattern of residential development to the south of the A181 further to the east as far as the A1(M), mirroring the extent of the built up area to the north. The site is outside the inner setting, but lies in the backdrop of the World Heritage Site in some views from the west. The castle and cathedral can be seen from Bent House Lane, although at a point when the development would be unlikely to be visible in the same view. The site sits towards the top of the rural valley that forms part of the setting of the listed buildings and historic park and gardens at Old Durham.
96. Because of the site's location and relationship with heritage assets, development needs to be sensitively designed and landscaped. This can be ensured by the requirements of parts n, o, s and t of policy 5, although a number of modifications are required to the detailed wording and the reasoned justification to ensure that they are effective in preventing any harm to the

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<sup>41</sup> SOCG6.

<sup>42</sup> *Start to Finish* (Lichfields 2016) quoted in County Durham Land's response to SQ24 and SQ28 (19 November 2019).

setting of heritage assets and safeguarding the character and appearance of the area [**MM51, MM52, MM53** and **MM59**].

97. The motorway and its wooded embankment would represent a readily recognisable physical feature to provide a permanent Green Belt boundary to the east. The southern boundary is currently weakly defined by a fence and recent planting at the point where the land starts to fall more steeply. Part t of policy 5 (subject to **MM53**) refers to a 20 metre wide landscaped area which should be effective in creating a recognisable and permanent Green Belt boundary in this location. A hedge along the proposed Green Belt boundary and existing buildings at Bent House Farm would separate the development from the open countryside to the west, and part n of policy 5 should ensure that the character of the farm is protected.
98. Part s of policy 5 would ensure that the proposal delivers compensatory improvements to the environmental quality and accessibility of remaining Green Belt land in the Old Durham Beck valley.
99. Whilst the development would clearly reduce the openness of the area and encroach into the countryside, the requirements of policy 5 mean that it would have limited impacts on other Green Belt purposes for the reasons set out above and because over one kilometre of open land would remain between Durham City and Sherburn.
100. The site is within walking distance of bus stops, with regular services to and from the city centre; public rights of way; and various shops and community facilities. The development will generate more traffic, but this can be satisfactorily accommodated on the local road network.
101. The site is being promoted for development by a property company. Preparatory work has been undertaken and, if anything, the assumptions made by the Council about when development will start, the rate of delivery, and the total capacity of the site are all on the conservative side.

*Former police skid pan, Aykley Heads*

102. A 1.9 hectare site comprising a former skid pan, an area of grass, trees and hedgerows, and a disused hard surfaced car park adjoining land that is currently being redeveloped with new homes is proposed to be removed from the Green Belt to facilitate the development of 50 dwellings. The land is partially derelict and located within the city meaning that development would represent urban regeneration. Whilst there would be a loss of openness, development would not encroach into the countryside, represent urban sprawl, lead to the merging of settlements, or harm the setting and special character of the city.
103. Development offers the opportunity to create a durable, permanent Green Belt boundary through the reinforcement and extension of existing woodland and the planting of a native species hedgerow. However, additional criteria need to be included in the part of policy 4 relating to this site to ensure that this is achieved [**MM33**]. Subject to this, the proposed boundaries around the site are justified, and there is no soundness reason why further land should be removed from the Green Belt in the vicinity of the site. However, to be consistent with national policy, another requirement needs to be added to



policy 4 to ensure that compensatory improvements are made to remaining Green Belt land including through further woodland planting and improved footpaths outside, but in the vicinity of, the site [MM33].

### *Conclusion*

104. Overall, therefore, for the strategic reasons set out earlier in this report and the site specific reasons referred to above, I am satisfied that there are exceptional circumstances to justify removing the Sniperley Park, Sherburn Road and former police skid pan sites from the Green Belt to facilitate the development proposed in policies 4 and 5. Furthermore, subject to my recommended main modifications, the Plan would be effective in ensuring that each site is developed in an acceptable way.

### **Are the proposals to encourage a shift to more sustainable modes of transport in the city of Durham set out in policy 23 justified and consistent with national policy?**

105. Transport issues affecting the city of Durham were identified during the preparation of the Plan through consultation and evidence including the *Local Transport Plan 2011*, the sustainability appraisal scoping report, and the *Durham City Sustainable Transport Delivery Plan*<sup>43</sup>. In this context, policy 23 sets out a number of transport proposals for Durham city that are intended to reduce the dominance of car traffic, relieve existing highway network problems, facilitate growth, address air quality, and improve the historic environment.

106. The policy includes a number of demand management measures aimed at influencing travel behaviour through marketing and promotion programmes, and employer, school and residential travel plans. Improved cycling and walking links are proposed between the city centre and the university, and areas in the north and east of the city along with public transport improvements. These, along with the proposals in policy 22 which relate to the whole of the county (considered later in this report), are consistent with national policy aimed at promoting sustainable transport.

107. There is no substantive evidence to demonstrate that other demand management measures, such as road user charging and workplace parking charges, are necessary to achieve the Plan's objectives or ensure consistency with national policy. However, I recommend later in this report that policy 22 be modified to set out principles that will be used to determine cycle and parking provision in development in order to promote sustainable transport. This would entail limiting the provision of car parking at destinations, including at the Aykley Heads strategic employment site, which would complement the demand management measures for the city proposed in policy 23.

108. The second part of policy 23 needs to be modified as a consequence of the deletion of the proposed relief roads as recommended in the next section of this report [MM109]. Read together, the two parts of policy 22 (as modified) set an appropriate framework for encouraging sustainable transport in the city. Detailed schemes for improving infrastructure and services for sustainable travel in the city can be brought forward over the coming years in

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<sup>43</sup> DCC4, C22 and T17.

the context of strategic policies 22 and 23, and there is no need for the Plan to include more specific proposals in order for it to be sound.

### *Conclusion*

109. The proposals to encourage a shift to more sustainable modes of transport in the city of Durham set out in policy 23 are, therefore, justified and consistent with national policy.

## **Are the proposals for northern and western relief roads around the city of Durham set out in policy 23 justified and consistent with national policy?**

### *Introduction*

110. In addition to the proposals aimed at promoting sustainable transport in the city referred to above, policy 23 proposes a northern relief road and western relief road. These are also intended to help reduce the dominance of car traffic, relieve existing highway network problems, facilitate growth, address air quality, and improve the historic environment.

111. Detailed designs for the two roads have not been submitted to the examination. My assessment of this issue is informed by the content of the Plan, the routes shown on the Policies Map, the considerable amount of evidence submitted by the Council<sup>44</sup> and representors, the discussions at relevant hearing sessions, and my accompanied site visits<sup>45</sup>.

### *The northern relief road proposal*

112. The northern relief road would provide a new route for traffic travelling between the A1(M) and Consett and other areas to the north west of Durham city, thereby providing an alternative to crossing Milburngate Bridge in the city centre. It would run for around 3 kilometres between the A690 at Carrville close to its junction with the A1(M) and the eastern end of Rotary Way on the northern edge of the city. Rotary Way goes west to the A167 at the Pity Me roundabout, and from there Potterhouse Lane (which runs along the northern edge of the proposed Sniperley Park urban extension) and Trout's Lane link to the A691, the main road to Consett. Policy 5 requires the upgrade and realignment of those lanes as part of the proposed Sniperley Park development thereby completing the new strategic highway between the A690 and A691.

### *The western relief road proposal*

113. The western relief road would provide an alternative route to the A167 for traffic travelling past the western side of the city. The proposal would entail the construction of around 2.5 kilometres of new road through the open countryside from the A691 close to the A167 junction at Sniperley to the B6302 close to the junction with the A690 west of Neville's Cross. This would allow through traffic to avoid using the A167 between the Sniperley roundabout and Neville's Cross junction which is currently one of the most congested parts of the road network in the morning and afternoon peak

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<sup>44</sup> Relevant Council evidence includes T1 to T15.

<sup>45</sup> Itinerary and map of accompanied site visit on 13 September 2019 [INSP4a].

periods. As well as reducing congestion on the western edge of the city, the proposal would also potentially help to reduce the amount of traffic travelling through the city centre if delivered in combination with the northern relief road.

#### *Funding and delivery of the proposed relief roads*

114. Whilst funding for the two proposed relief roads is not secured, the Council anticipates that construction could start on both projects in 2022/23 with completion of the northern road in 2024 and the western road in 2025. The expectation is that the majority of the funding for the former would come via Transport for the North, with the Council committed to covering the remaining costs. A statement of common ground indicates that the Sniperley Park developers would contribute £15m towards the cost of the western relief road. This would represent nearly 50% of the anticipated cost. On that basis, the Council is confident of securing match funding from other sources and is, therefore, committed to forward funding the project.
115. Whilst the timescales for securing funding, finalising designs, and obtaining planning permission are optimistic, I am satisfied there would be a reasonable prospect that the roads could be delivered if they were included as proposals in the Plan.

#### *Benefits that the relief roads would deliver*

116. I consider now each of the main benefits that policy 23 states the proposed roads are intended to help to deliver.
117. The Council clarified during the examination that neither of the proposed relief roads are necessary to safeguard highway safety. Nor are they required to facilitate the demand management or sustainable transport proposals set out in policy 23, other than by potentially allowing greater priority to be given to non-car modes on Milburngate Bridge and the junctions at either end.

#### *Relieve existing highway network problems*

118. The city's road network generally operates within capacity other than in certain locations in peak periods during school terms. Four key junctions are over capacity at those times: the Gilesgate, Milburngate and Crossgate junctions on the A690 in or close to the city centre, and the County Hall roundabout. Some other junctions, including the New Elvet roundabout on the A690 and the Sniperley and Neville's Cross junctions on the A167, operate close to capacity at certain times<sup>46</sup>.
119. The average daily speed across the city is around 30mph on the A690 and 35mph on the A167. These averages fall to around 19mph and 25mph respectively at peak times. Speeds are lower on shorter sections of the A690 across the city centre and on the most congested parts of the A167 between Sniperley and Neville's Cross. At peak times, journeys across the city centre

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<sup>46</sup> Figure 3.1 and Table 4.1 in the *Durham Transport Model: County Durham Plan Appraisal Report* (Jacobs, January 2019) [T3].

take around six and a half minutes, rather than five minutes at other times of the day<sup>47</sup>.

120. The average speeds on the A690 and A167 across the city are relatively high compared to national averages for urban A roads, both in terms of daily averages and at peak times<sup>48</sup>.
121. More significant delays on the city's roads are caused by particular events such as breakdowns, road works and university open days. Disruption can occur on several days of the year, and affect buses as well as private vehicles. However, this is not unusual for urban areas, and the impact on average journey times is reflected in the figures referred to above. Furthermore, there is no evidence to indicate that the increase in traffic arising from development proposed in the Plan will make any significant difference to the frequency or severity of such events.
122. There are considerable uncertainties about how travel behaviour and car use will change over the coming decades. There are some indications that car ownership and use will decline. However, the Council's traffic forecasts based on current Department for Transport guidance indicate that journey times across the city will have increased by around 9% at the end of the Plan period if the relief roads are not built<sup>49</sup>, with average speeds falling to around 17mph on the A690 and 23mph on the A167. Despite that, those speeds still compare favourably with current national averages for urban A roads, and there is no evidence to indicate that there would be a significant impact on highway safety.
123. In combination, the two relief roads could reduce the amount of peak time traffic on the A690 across the city by 14% and on the A167 by 30% compared to what would otherwise be the case at the end of the Plan period. This would reduce journey times by 7% on the A690 and 14% on the A167 which would provide moderate benefits to those travelling in private vehicles and on buses. There would also be some improvements to journey times on routes crossing the A167 at junctions between Neville's Cross and Sniperley.

#### *Facilitate growth*

124. The northern relief road is not required to facilitate any of the development proposed in the Plan.
125. There is no substantive evidence to show that the relief roads would make a significant long term difference to the local economy, although no doubt jobs would be created during the construction periods.
126. Policy 5 states that the full build out of the Sniperley Park site is reliant on the delivery of the western relief road and limits the amount of development before it is operational to 350 dwellings. This is because the development would generate additional traffic on the local road network, including the Sniperley, Pity Me, Blackie Boy, Aykley Heads and County Hall roundabouts.

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<sup>47</sup> Statistics referred to in this paragraph are from Council, County Durham Land, and Durham Road Block matter 6 hearing statements and oral evidence at the hearing session on 13 November 2019.

<sup>48</sup> As above.

<sup>49</sup> Council hearing statement for matter 6.

127. However, the increase in traffic expected from the full development of Sniperley Park would represent a modest proportion of the total amount using these junctions at peak times. Furthermore, potential improvements to the road network have been identified in the Council's A167 study<sup>50</sup> and other evidence submitted to the examination, including that about possible improvements to the Sniperley roundabout and approaches to it<sup>51</sup>. Overall, I am satisfied that there is a reasonable prospect that improvements could be made to the local road network to ensure that the Sniperley Park development could be provided with safe and suitable access, and that severe impacts on the wider road network could be avoided, without the western relief road.
128. Longer term growth beyond 2035 will be considered in a future review of the Plan. This will be in the context of national policy and development needs, travel behaviour and transport modes looking ahead towards 2050. Given the climate emergency and other uncertainties, I attach very little weight to potential benefits that the relief roads may bring in terms of facilitating growth beyond the end of the Plan period.

*Reduce the dominance of car traffic*

129. Around 40,000 vehicles cross the city centre each day on the A690 over the Milburngate Bridge, around one third of which have no origin or destination in the city. The relief roads could reduce the number of vehicles crossing the bridge by 14% at peak times.
130. However, whilst Milburngate Bridge and the traffic junctions at either end are within the city centre, they are outside the primary shopping area and separate to the historic core on the peninsular. Furthermore, the layout and topography mean that the road has a limited impact on the ability of pedestrians and cyclists to access different parts of the city centre. The primary shopping area, including the historic market place, lies to the south of the road, and there are accessible pedestrian and cycle links over and under the A690 to the parts of the city centre on Claypath and Freeman's Place to the north. There are various cycle and pedestrian routes into the city centre from the surrounding area, including from the train station, that do not require use of the A690.
131. A 14% reduction in traffic on the A690 would, therefore, make only a modest difference to the experience of being in the city centre and approaching it from most directions. Whilst it may enable some alterations to be made to the layout and appearance of the highway, this would be unlikely to make a significant difference to the quality of the public realm in the city centre as a whole.
132. Providing an alternative route for vehicles to cross the city would potentially allow the layout of the A690 over Milburngate Bridge and the junctions at either end to be redesigned to give greater priority to buses, cyclists and pedestrians. However, there is no substantive evidence to indicate that a 14% reduction in private motor vehicles would make a significant difference in that respect. Furthermore, policy 23 includes various proposals for sustainable

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<sup>50</sup> A167 Corridor: Option Development and Transport Modelling Results (AECOM, March 2018) [T4].

<sup>51</sup> Including County Durham Land and City of Durham Trust hearing statements and oral evidence for matters 5 and 6.

transport in the city that are not dependent on the relief roads, and a variety of specific schemes could be brought forward within the context of the strategic policies in the Plan that could be effective in encouraging greater modal shift.

*Address air quality*

133. The city centre is an Air Quality Management Area due to high levels of nitrogen dioxide. A 14% reduction in traffic would result in some improvements to air quality. However, the benefits would be relatively modest in the context of other factors that are expected to continue to lead to improvements to air quality over the coming years.

*Improve the historic environment*

134. The A690 crosses the Durham City Centre Conservation Area and the inner setting of the Castle and Cathedral World Heritage Site. However, the road runs to the north of, and is physically and visually separate from, the historic market place which lies between it and the castle and cathedral. A 14% reduction in traffic on the road, and potential improvements to public realm along the highway, would not have any significant effect on the World Heritage Site itself, and only a marginal effect on the character and appearance of its setting and on the conservation area.

*Overall benefits that the relief roads would bring*

135. Overall, the two relief roads, individually and collectively, would deliver limited social, economic and environmental benefits through a 14% reduction in the amount of traffic crossing the city centre and improved journey times on some of the city's roads.

*Harm that the relief roads would cause*

136. The two roads would significantly increase highway capacity in this part of the county. There is conflicting evidence about the extent to which this would encourage additional journeys to be made by motor vehicles and therefore uncertainties about the impact the roads would have in terms of greenhouse gas emissions. As I recommend that the proposals be deleted from the Plan for other reasons, it is not necessary for me to attempt to quantify this impact.
137. My findings below about other harm that would be caused are based on the residual effects following mitigation. This would mainly be achieved through landscaping including the planting of trees and hedgerows, meaning that it would take at least ten years to be effective. Thus, the harm that would be caused until around the end of the Plan period, including during the construction phase, would be greater than that which I describe below.

*Harm that would be caused by the northern relief road*

138. The Plan safeguards routes between the A690 and Rotary Way that involve two options to cross the deep, steep-sided River Wear gorge (use of the historic Belmont railway viaduct, a grade II listed building, or construction of a new bridge) and two options to cross the East Coast Mainline (bridge or tunnel). Both routes would cross countryside in the Green Belt, much of which

is designated as an Area of Higher Landscape Value. Most of the land is in agricultural use, but the road would run along the edge of a local nature reserve and cross a local wildlife site and area of ancient woodland in the gorge. The route using the Belmont viaduct would cut through the Brasside Pond site of special scientific interest. The road would cross three public rights of way including Frankland Lane (Weardale Way), an ancient pilgrim route.

139. The impacts that the road would have depend in some respects on which options are chosen for crossing the River Wear gorge and railway. They would also be determined by the detailed design and engineering solutions, particularly in terms of the gorge crossing. Where relevant, I refer to the potentially different impacts.
140. There would be some harm to the setting of the Castle and Cathedral World Heritage Site due to parts of the road being visible when viewed from high ground to the south of the city centre. The extent of the harm would vary from low to high, depending on whether it involved a new bridge over the River Wear and, if so, its height and detailed design. I attach great weight to that harm, as the heritage asset is of the highest significance.
141. There would be significant harm to the rural landscape along the route through the introduction of physical infrastructure, engineered features and a significant amount of traffic into the area. Impacts on the character and appearance of the River Wear gorge, which is strongly representative of its landscape type and has high scenic and recreational qualities, would be particularly significant. This would be caused by engineering operations likely to be required to upgrade the Belmont viaduct or to build a new bridge, and by the presence of a new strategic highway across the gorge. A significant amount of ancient woodland would be lost along the river and on the steep slopes, and the historic and tranquil character of the gorge would be greatly affected. This would detract from the experience of walking along the ancient path which runs alongside the river. Overall, the harm that would be caused to the gorge in these respects is likely to be substantial if a new bridge were built, but still significant if the viaduct were used.
142. The proposal would also detract from the experience of using Frankland Lane, a long distance rural track used by walkers, cyclists and horse riders, that would be crossed by the road. Users of a public footpath to the east of the gorge, and of a path along the disused railway at Low Newton, would also be affected. Overall, the harm to the recreational value of the area would be high.
143. The road would run alongside the Low Newton local nature reserve and wildlife site causing some harm to biodiversity. The route that would utilise the Belmont viaduct would cross the Brasside Ponds site of special scientific interest. In addition to the loss of woodland in the gorge, other mature trees and hedgerows along the route would be affected. Overall, the impact on biodiversity would be significant.
144. Non-designated heritage assets at Low Newton, Red House Farm and Frankland Farm would be affected. The harm would be high if demolition of Low Newton cottages was required. Otherwise, there would be low to moderate harm to the settings of those historic buildings.

145. Living conditions in those properties, and others at Brasside, would be affected due to noise and/or the visual impact of the road. Residents of a significant number of properties along Potterhouse Lane and Trout's Lane (which would form the western end of the relief road) would also be likely to be adversely affected by additional traffic and potentially the realignment and upgrading of those lanes required by policy 5. Overall, the harm to living conditions in dwellings along the route would be significant.
146. There would be some effect on air quality along the route due to the introduction of a significant amount of vehicular traffic. However, due to dispersal, only a limited number of properties close to the road would be likely to be materially affected.
147. The proposal would lead to some loss of openness to the Green Belt, particularly with the options that involve new bridges over the River Wear and railway. If the proposal involved a tall bridge, there would be some harm to the Green Belt purpose of preserving the setting and special character of the city. Harm to other Green Belt purposes would be low.

*Harm that would be caused by the western relief road*

148. The road would cross undulating agricultural land in the Green Belt which is partly designated as an Area of Higher Landscape Value; the wooded valley of the River Browney; a country lane (Toll House Road); and five public rights of way. It would pass close to the site of the Neville's Cross registered battlefield, three local wildlife sites, and Aldin Grange Bridge scheduled monument and grade II listed building. The remains of Beaufort Manor House (also a scheduled monument) lie approximately one kilometre to the north west of the route. The northern part of the road would cross part of a former deer park associated with Beaufort which is locally designated for its historic and landscape value.
149. As with the northern relief road, the western relief road would cause significant harm to the rural landscape. The impact on the character and appearance of the narrow, incised Lower Browney Valley would be particularly significant. The construction of a substantial bridge over, and significant engineering works to either side of, the River Browney and Toll House Road would lead to the loss of mature woodland and detract from the rural character of the area. To the north of the river, the road would cross farmland which is part of the historic deer park. Overall, the harm to the rural landscape would be high.
150. The proposal would cause significant harm to the settings of Neville's Cross battlefield, Aldin Grange Bridge, Beaufort Manor, and a number of non-designated heritage assets due to the visual and aural intrusion it would represent in the historic and tranquil rural landscape. There could be loss and damage to undiscovered prehistoric, Roman, medieval, and post medieval archaeological remains. Overall, the harm to the significance of heritage assets would be high. I attach great weight to that harm as many of the designated heritage assets are of the highest significance.
151. The recreational value of the area that would be crossed by the road is high due to the number of public rights of way, the attractive landscape, and its considerable historical interest. The road would cross the Lanchester Valley



railway path, a long distance route well used by walkers and cyclists; an ancient green lane to Durham (Club Lane); an historic track to Beaurepaire; and two other paths. The crossings, along with the presence of the road and motor vehicles, would detract significantly from the experience of using those paths. Overall, the harm to the recreational value of the area would be considerable.

152. There would be some harm to biodiversity due to the loss of and damage to trees and hedgerows and peripheral effects on three local wildlife sites.
153. Living conditions in a number of properties in Bearpark, Aldin Grange and on the western edge of the city, and in Relley Farm and Aden Cottage, would be likely to be significantly affected due to noise and/or the visual impact of the road.
154. The proposal would lead to some loss of openness to the Green Belt, particularly due to the bridge over the River Browney. There would be moderate harm to the Green Belt purpose of preserving the setting and special character of the city due to the intrusion into the historic rural landscape.
155. There would be some effect on air quality, although it is unlikely that any residential properties would be close enough to the road to be materially affected.

*Overall harm that would be caused by the northern and western relief roads*

156. Overall, the northern and western relief roads, even assuming effective mitigation, would, individually and collectively, cause substantial long term harm for the environmental and social reasons set out above.

*Conclusion*

157. The substantial harm that would be caused by the roads, individually and collectively, would outweigh the limited benefits that they would bring. The roads are not required to facilitate development proposed in the Plan, or to safeguard or improve highway safety.
158. I therefore conclude on this main issue that the proposed northern and western relief roads around the Durham city are not justified or consistent with national policy. Policy 23, the reasoned justification, and other parts of the Plan should be modified to delete the two proposals and make consequential changes [**MM34, MM35, MM36, MM39, MM45, MM50, MM55, MM58, MM60, MM109, MM110** and **MM111**]. As explained elsewhere in this report, I have made some amendments to some of the detailed wording to take account of responses made to the main modifications consultation.

**Are policies 22, 24 and 25 relating to the delivery of sustainable transport, transport infrastructure, parking standards, and the allocation and safeguarding of transport routes and facilities justified, effective and consistent with national policy?**

*Policy 25: Provision of transport infrastructure*

159. Policy 25 includes six criteria intended to determine whether the provision of new or improved transport infrastructure is needed and justified. To be effective, it needs to address all significant forms of transport, including by bus, and therefore a modification is required to alter "rail network" to "public transport network" in part (a). Furthermore, to avoid ambiguity, the policy needs to be restructured to clarify which criteria or combinations of criteria would need to be met [MM115]. It is not necessary for the policy to explicitly require scheme promoters to consider alternative solutions, although that does not mean that would not be part of the process of preparing and assessing a proposal in line with national policy and guidance. Part (b) requires all schemes to minimise and mitigate any harmful environmental impacts, and it is not essential for greenhouse gas emissions to be explicitly referred to. Other policies in the Plan are also concerned with ensuring that development is accessible and served by sustainable transport, including policies 6, 22 and 30.

*Policy 22: Delivering sustainable transport*

160. Policy 22 sets out various requirements for all developments to ensure that they are served by sustainable transport. In the most part, these are sound. However, to be reasonably comprehensive and effective, an additional criterion (along with reasoned justification) is needed to ensure that developments in the vicinity of railway level crossings, of which there are several in the county, do not compromise safety [MM104 and MM107].

161. The penultimate part of policy 22 requires all development to have regard to the *County Durham Strategic Cycling and Walking Delivery Plan* and, where possible, contribute to the routes set out in *Local Cycling and Walking Infrastructure Plans*. Whilst those plans are not yet finalised, this approach is justified and consistent with national policy<sup>52</sup>. However, to avoid ambiguity and potential inconsistency with policies 39 to 47, the last sentence relating to impacts on environmental and heritage assets should be deleted [MM105].

162. The final part of policy 22 requires all development to comply with the Council's *Parking and Accessibility Standards*<sup>53</sup>. However, this is not justified as those standards do not form part of the development plan, and have not been adopted as a supplementary planning document. In order to be effective, the policy needs to set out principles that will be used to determine car and cycle parking and storage provision in order to promote sustainable transport. These principles should encourage and reflect the potential for increased cycle ownership and use; limit the provision of car parking at destinations to encourage the use of sustainable modes of transport having regard to accessibility by walking, cycling and public transport; and provide residential parking having regard to car ownership levels and the need to make efficient use of land, as well as avoiding on street parking that would

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<sup>52</sup> NPPF paragraph 104(d).

<sup>53</sup> T18.

have an unacceptable impact on highway safety or severe impact on the road network. Provision should be made for electric vehicle charging, powered two-wheelers, and parking for disabled persons. The policy should refer to the Council's intention to prepare a supplementary planning document to set out standards that are consistent with those principles and require developments to have regard to that document when it is adopted by the Council. The reasoned justification needs to be amended accordingly, and I have made some amendments to the detailed wording to take account of responses to the proposed main modifications consultation [**MM106** and **MM108**].

*Policy 24: Allocated and safeguarded transport routes and facilities*

163. Policy 24 identifies and safeguards four transport routes and facilities, each of which is justified by robust evidence.

164. The last part of policy 24 refers to a corridor of interest for a possible future Barnard Castle relief road which is shown on the Policies Map. However, the corridor runs through attractive countryside that is protected as an Area of Higher Landscape Value by policy 40, and there is insufficient evidence to demonstrate that a relief road will be needed in the future or that any benefits it would bring would outweigh adverse impacts. This part of the policy is not clearly written, and it is not evident how a decision maker should react to development proposals in the corridor of interest. It is not, therefore, consistent with national policy, justified, or effective and it should be deleted [**MM112**, **MM113** and **MM114**].

*Conclusion*

165. A number of main modifications are required to ensure that policies 22, 24 and 25 are justified, effective and consistent with national policy. Subject to those, the three policies are sound.

**Are the policy requirements in the Plan, and the proposed approach to the use of planning conditions and planning obligations, justified and consistent with national policy and guidance relating to viability?**

166. I consider later in this report whether the particular requirements of various policies are sound. Here I consider whether, collectively, the Plan requirements are justified in terms of the effect that they would have on the viability of development.

*Viability evidence*

167. The Plan was subject to viability assessments<sup>54</sup> during its preparation and, in response to representations made about it, following publication prior to submission. This was in the context of existing and emerging national policy and guidance relating to viability testing of local plans<sup>55</sup>.

168. The Council's assessments were based on a range of hypothetical residential development sites in four different value areas, as well as 43 actual sites that

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<sup>54</sup> *Local Plan Viability Testing* June 2018 [H8]; *Viability testing of Housing Allocations* October 2018 [H10]; and *Local Plan Viability Addendum* June 2019 [H9].

<sup>55</sup> National guidance, initially published in 2014, was updated in July 2018, May 2019 and September 2019 (PPG ID: 10). Draft revisions to NPPF and the PPG had been published for consultation in March 2018.

were identified in the strategic housing land availability assessment ("SHLAA")<sup>56</sup> as being suitable for residential development. Development costs and values were based on data referred to in national guidance utilising locally specific information where available. Different policy requirements were considered, and a series of sensitivity tests carried out. Residual land values were compared to benchmark land values intended to represent the minimum return to incentivise a willing landowner to sell their land.

169. The benchmark land values assumed by the Council are based on existing use values plus a significant uplift to provide a premium for the landowner. The uplifts vary from 13 times existing use value in low value areas to 60 times existing use value in the highest value areas<sup>57</sup>. Comparisons with transactional data show the benchmark land values to fall within the wide range of prices paid for land in the county<sup>58</sup>. The higher prices paid for land in the past may not be representative of the future as they are unlikely to have reflected all of the policy requirements in the Plan.
170. Abnormal costs can be high for some greenfield and brownfield sites in the county, and there is clear evidence of several real schemes where they are many times higher than assumed by the Council<sup>59</sup>. However, abnormal costs for allocations are based on site specific information where known, and benchmark land values adjusted accordingly<sup>60</sup>. Abnormal costs for proposals on unallocated land, which policy 6 (as modified) is supportive of provided they are within or well related to most of the 200 or so settlements in the county, will no doubt vary. If necessary, high abnormal costs can be taken into account in the price paid for land and the specific nature of the scheme that is brought forward.
171. The Council's assessments show that most hypothetical residential sites are viable with the policy requirements set in the Plan, including the different proportions of affordable housing in the different value areas defined on sheet F of the Policies Map. Generally, viability is shown to be strongest in the highest value areas around the city of Durham and to the north of Chester-le-Street, and more challenging in the lowest value areas in parts of the north west, central, mid, south and east of the county.
172. Based on the site specific viability assessments, 15 of the 43 potential allocations assessed were not allocated for development in the submitted Plan as it was considered they were unlikely to be viable. The viability assumptions made about all of the specific sites were consistent with those used for the hypothetical sites or amended to take account of specific information from site owners or promoters. No site specific evidence is before me to indicate that any of the allocations included in the Plan are likely to be unviable.
173. Overall, I am satisfied that the housing allocations in the Plan are informed by proportionate viability evidence about development costs and values that takes into account all relevant Plan policies and current national standards. Some allocations have been subject to further work by potential developers

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<sup>56</sup> H2, H3 and H4.

<sup>57</sup> Paragraph 2.2.19 in H9.

<sup>58</sup> Tables 6 and 7 in H8.

<sup>59</sup> Annex 2 to the Home Builders Federation statement for matter 1.

<sup>60</sup> PPG ID: 10-014-20190509.

since the Plan was prepared, and this provides additional evidence that they are likely to be viable. A significant number of the allocations are owned by the Council, and it was confirmed during the examination that these are all surplus to requirements and will be disposed of for "best consideration" in order to facilitate development, rather than be held on to in an attempt to maximise sales price<sup>61</sup>.

174. I consider elsewhere in this report whether the assumptions made about the committed sites, including lapse rates (which are likely to be affected by viability), are justified and conclude that they are provided that certain main modifications are made.

175. Development costs and values could well change in the future. For example, changes to the Building Regulations currently being considered by the Government could increase build costs significantly<sup>62</sup>. Thus, whilst it is important for the Plan to be based on current evidence, there needs to be sufficient flexibility to respond to changing circumstances. This brings me on to policy 26.

#### *Policy 26: Developer contributions*

176. Policy 26 requires planning applications to include mitigation where necessary to make the development acceptable in planning terms and makes clear that this will be secured through planning conditions and obligations. However, the second part of the policy needs to be modified so that the tests for imposing planning conditions are consistent with national policy<sup>63</sup> [**MM116**].

177. The final part of policy 26, which requires review mechanisms and/or overage payments to be included in certain planning obligations, is intended to apply to schemes that do not meet all of the Plan's policy requirements but could do so if market conditions or other circumstances change. However, the policy does not provide any framework for determining in what circumstances planning applications would be approved where they do not meet all relevant policy requirements. It would not, therefore, be effective, and the requirements for review mechanisms and/or overage payments are not justified.

178. This soundness issue can be addressed by a main modification to policy 26 and reasoned justification. This would ensure that the policy states that planning applications that do not propose policy compliant levels of affordable housing and/or obligations necessary to mitigate the impact of development will need to be supported by robust viability assessment. Furthermore, the policy should state that such an assessment would need to refer back to the assessment that informed the Plan and provide evidence of what has changed since then. The reasoned justification also needs to be modified. This would ensure that the policy is justified and effective by making clear that viability may be a legitimate reason for not meeting all policy requirements, and consistent with the plan-led approach set out in national guidance whilst also allowing for significant changes in circumstance to be taken into account<sup>64</sup>. I

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<sup>61</sup> Council oral evidence at the matter 8 hearing session.

<sup>62</sup> HBF oral evidence to matter 1 hearing session indicated that build costs could rise by around £15,000 per dwelling by 2028 as a result of future changes to Building Regulations.

<sup>63</sup> NPPF paragraph 55.

<sup>64</sup> PPG ID: 10-006, 007, and 008-20190509

have amended the detailed wording of some of the reasoned justification to take account of representations made about the proposed main modifications, including to refer to higher abnormal costs potentially being a factor to take into account in the application of policy 26 [**MM116, MM117, MM118, and MM119**].

179. It is not necessary to further modify policy 26 to refer to review mechanisms being included in planning obligations to deal with situations where market conditions deteriorate since the granting of planning permission. This is because national guidance refers to review mechanisms being a tool to strengthen local authorities' ability to seek full compliance with relevant policies<sup>65</sup>.

180. Paragraph 5.270 of the Plan refers to the Community Infrastructure Levy Regulations restricting the pooling of funds secured through planning obligations. The legislation has now changed, and therefore this part of the reasoned justification for policy 26 needs to be deleted [**MM120**].

### *Conclusion*

181. I therefore conclude that, subject to the main modifications that I have described above and elsewhere in this report, the policy requirements in the Plan, and the proposed approach to the use of planning conditions and planning obligations set out in policy 26, are justified and consistent with national policy and guidance relating to viability.

**Does the Plan identify sufficient and appropriate land to ensure that the identified need for housing during the Plan period can be met and that a five year supply can be maintained as required by national policy?**

### *Introduction*

182. I have already concluded that the proposal in policy 1 to meet a need for a minimum of 24,852 homes over the period 2016 to 2035 (1,308 dwellings per year) is sound. Table 2 in the Plan sets out the various components of supply that are intended to meet that level of need. Having taken account of completions between April 2016 and September 2018, commitments, and windfalls it states that there is a residual for allocation of 5,323. Policy 4 allocates sites with a total capacity estimated to be 5,380 meaning that there would be a surplus of 67 over the need for 24,852 dwellings for the Plan period.

183. However, during the examination the Council published its *Five Year Housing Land Supply Position Statement 2019*<sup>66</sup> along with subsequent information about some specific sites<sup>67</sup>. This provides comprehensive information about housing land supply at 1 April 2019, rather than 30 September 2018 as referred to in the submitted Plan. In order to reflect this up to date

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<sup>65</sup> PPG ID: 10-009-20190509.

<sup>66</sup> DCC2 published 22 August 2019.

<sup>67</sup> Appendix 2 to the Council's response to SQ28 (19 November 2019) and Appendices 2 and 3 to the Council's response to FSQ1 to FSQ6 (29 January 2020).

information, and thereby be justified and effective, certain modifications are required. These are referred to below.

### *Completions*

184. Between 1 April 2016 and 31 March 2019, **4,212** net additional dwellings were provided in the county. For the reasons set out above, I recommend that table 2 includes this figure, rather than 3,442 completions up to 30 September 2018 [**MM11**].

### *Commitments*

185. Table 2 includes a figure of 15,946 commitments<sup>68</sup> as at 30 September 2018, and then applies a 10% discount to the committed sites on which development had not started by that date (thereby reducing the supply by 979 dwellings). However, neither of those figures is justified in the context of the latest evidence.

186. On 1 April 2019, there was capacity for a total of 17,385 dwellings on committed sites. The Council assessed all large sites (12 or more dwellings) individually through the SHLAA process in conjunction with stakeholders<sup>69</sup> having regard to information from site owners, promoters and developers to determine whether they should be categorised as deliverable or developable as defined in national policy. That process, which was proportionate but thorough, indicates that 1,725 of those commitments may not be built during the Plan period.

187. The submitted Plan assumes that 560 dwellings will be completed by 2035 on a committed site with capacity for 1,500 dwellings at Seaham. However, the latest evidence indicates that, with support from Homes England, development is likely to start in 2021. Whilst the site promoter expects the development to be completed during the Plan period, a more robust assumption is for 60 dwellings to be completed on average per year from 2021. A main modification is therefore required to footnote 1 to table 2 to refer to 840 dwellings expected at Seaham Garden Village during the Plan period [**MM12**].

188. Evidence shows that 53% of the total number of dwellings granted planning permission on small sites (fewer than 12 dwellings) during the period 2011 to 2016 were not built before the permission expired. The corresponding figure for large sites is 12%. Applying these percentages to the number of dwellings on committed small and large sites where development had not started by 1 April 2019 would reduce the supply by a total of 1,634 dwellings<sup>70</sup>.

189. In order to ensure that the Plan is based on the most up to date evidence and does not make overly optimistic assumptions about the number of dwellings that will be built during the Plan period on committed sites, I recommend that table 2 be modified to reflect the figures I refer to above [**MM11**]. The overall effect is to reduce the assumed supply during the Plan period from

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<sup>68</sup> "Commitments" in the Plan refers to sites with planning permission or a resolution to grant permission subject to completion of a section 106 agreement. I use the term accordingly throughout this report.

<sup>69</sup> The SHLAA Partnership includes representatives from the private housebuilding industry, social housing sector, local land valuation sector, and planning consultants (DCC2 page 12).

<sup>70</sup> A reduction of 577 dwellings from small sites and a reduction of 1,057 dwellings from large sites (Council response to Action Point 20 published 14 January 2020).

commitments as at 1 April 2019 from 17,385 to **14,026**<sup>71</sup>. This represents a robust discount that takes account of specific information about all large sites and, in addition, applies lapse rates based on relevant evidence for all large and small sites where development has not started.

*Windfalls and development on unallocated sites*

190. National policy states that plans may make an allowance for windfall sites if there is compelling evidence that they will provide a reliable source of supply. It is, therefore, important that the Plan does not over estimate the number of homes that will be provided on unallocated sites. However, the consideration of whether there are exceptional circumstances to justify releasing land from the Green Belt requires all other reasonable options to meet development needs to be fully examined. Therefore, before dealing with the specific windfall allowance in the Plan, I will consider whether policy 6, which deals with development on unallocated sites, is positively prepared and justified.

*Policy 6: Development on unallocated sites*

191. Policy 6 allows the development of unallocated sites within the built up area provided that a number of criteria are met. Built up areas are not defined on the Policies Map. Boundaries may be defined in neighbourhood plans or otherwise a judgement would be made by the decision maker as to whether a site is "within the main body of existing built development"<sup>72</sup>. Proposals relating to all sites not meeting that locational requirement would be subject to policy 10 which restricts development in the countryside. However, such an approach is not positively prepared, justified or consistent with national policy, as there are likely to be sites well-related to settlements that do not meet the policy 6 definition, but which could be developed without causing any significant harm.

192. I therefore recommend that policy 6 be modified to allow development on non allocated sites which are either within the built up area or outside the built up area but well-related to a settlement. The reasoned justification should explain that a site's physical and visual relationship to the existing built up area will be key considerations in determining whether it is well-related. The criteria in policy 6 need to be modified to ensure that such proposals do not result in ribbon or inappropriate backland development, and that their scale reflects the size of, and level of service provision in, the settlement in order to create sustainable patterns of development consistent with the strategic objectives of the Plan and overall spatial strategy. Part (i) needs to be modified to ensure consistency with national policy relating to brownfield land, and an additional criterion is needed to ensure that the policy is effective in assisting, where appropriate, urban regeneration. Reference to heritage assets should be deleted from part (d) as it is unclear how it relates to policy 45. Part (g) along with the associated monitoring indicator need to be modified to ensure consistency with national policy relating to the protection of valued services and facilities.

193. Finally, policy 6 should allow for neighbourhood plans to designate settlement boundaries and also potentially adopt a more restrictive approach to

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<sup>71</sup> 17,385 - (1,725 + 1,634) = 14,026.

<sup>72</sup> Plan paragraph 4.111 and Glossary.



development beyond those boundaries. This would ensure that neighbourhoods retain the power to shape and direct development in their area in accordance with national policy, subject to testing through the neighbourhood plan process.

194. Subject to the modifications described above [**MM61**, **MM62** and **MM63**], policy 6 would provide a flexible and effective approach to development within or well-related to most of the 200 or so settlements in the county. Consequential modifications are required to paragraph 5.71 and footnote 55 so that they provide appropriate reasoned justification for policy 10 (development in the countryside) that is consistent with policy 6 as modified [**MM75**].
195. I turn now to consider whether the windfall assumption made in the Plan is justified in this context and having regard to the latest evidence about windfall developments in recent years.

*Windfall assumptions*

196. The submitted Plan makes a windfall allowance of 80 dwellings per year from 2021. This is based on an historic five year average of 117 windfalls on small sites and an expectation that this will reduce when the Plan is in place. No allowance is made for windfalls before 2021 to avoid double counting with commitments in 2018, or for sites of 12 or more dwellings.
197. The latest evidence shows that over the last 8 years, an average of 125 homes per year have been built on unallocated sites of 11 or fewer dwellings and over 1,000 per year have been on large sites. These figures are in the context of out of date adopted plans, and cannot therefore be regarded as a reliable guide for future supply from unallocated sites.
198. However, the main modifications to policy 6 mean that small site windfalls can continue to come forward within and well related to all of the 200 or so settlements in the county, other than the limited number that are subject to particular restraint policies such as Green Belt or development limits in neighbourhood plans. I therefore recommend that the small site windfall allowance from 2021 be increased to **100** dwellings per year [**MM8** and **MM11**]. This represents a cautious estimate having regard to past rates and policy 6 as modified. It can therefore be regarded as a reliable source of supply. The robust approach to assumptions about delivery of small site completions described above means that any potential overlap with the windfall assumption in 2021/22 is unlikely to be significant.
199. Policy 6 also allows for development on large unallocated sites, provided that the relevant criteria are complied with. Given the SHLAA process, and that all sites currently considered by the Council to be deliverable or developable have been allocated in the Plan, there is likely to be a significant reduction in large windfalls compared to the past. I therefore consider that the Plan is sound in not relying on this source of supply, despite the fact that some are almost certain to materialise. This approach helps to ensure that the Plan is positively prepared and flexible.
200. In order to ensure that implementation of the Plan is effectively monitored, indicators for policy 6 need to be added relating to the number of dwellings permitted and built on small and large windfalls each year [**MM63**].

### *Housing allocations*

201. Policy 4 table 7 lists 28 housing allocations in or adjoining settlements in each of the monitoring areas shown on map 2 in the Plan. Priority was given to brownfield sites, with greenfield sites allocated in certain locations if required to meet needs and achieve the overall spatial distribution of development that I have already concluded is justified. All potential sites were assessed on a consistent basis having regard to evidence about availability, viability, suitability, and relevant opportunities and constraints. The assessments were informed by advice from specialist teams in the Council, statutory consultees, and the SHLAA Partnership. As referred to earlier, 15 of 43 sites considered suitable as allocations were omitted from the Plan due to doubts about economic viability, whilst the evidence demonstrates that the other 28 sites are likely to be viable. The rigorous approach to selecting and assessing the allocations means that there is no need to apply lapse rates.
202. In that context, the housing sites allocated in the Plan are, in general terms, justified and it is not necessary for me to assess the merits of each one. However, there are a number of potential soundness issues associated with some of the sites, or the specific requirements relating to them set out in policy 4. I set out my findings for the three allocations proposed to be removed from the city of Durham Green Belt earlier in this report, and deal below with a number of the other sites.
203. The requirements set out in policy 4 should be effective in ensuring that development of the greenfield site south of Knitsley Lane on the edge of Consett (H19) safeguards the character, appearance and ecology of the area, and there is no substantive evidence to indicate that highway safety would be compromised. An alteration is required to the Policies Map to ensure that the Plan is effective in securing the connection of the substantial area of public open space proposed on the site with the Lanchester Valley Walk to the south.
204. Main modifications are required to ensure that the development of allocations at Gilesgate school, Durham (H1), Tudhoe Grange upper and lower schools, Spennymoor (H24 and H25), and land off Leazes Lane, Wolsingham (H43) make appropriate provision for the replacement of land previously used as playing fields unless evidence is available at the time to demonstrate that there is surplus capacity in the relevant area [**MM32, MM37, MM38 and MM43**]. Additional criteria need to be added in relation to the Wolsingham site to safeguard the character and appearance of the area and setting of heritage assets [**MM43**].
205. Up to date evidence, including about substantial infrastructure investment by Homes England, indicates that there is a realistic prospect that the first houses will be completed at Copelaw, Newton Aycliffe (H30) in 2022/23. An assumption that 55 homes per year will be built thereafter is realistic and, if anything, on the conservative side. I therefore recommend that the estimated yield for the site, which has total capacity for around 1,400 dwellings, be modified from 600 to 770 during the Plan period [**MM40 and MM41**].
206. The Council resolved in November 2018 to grant planning permission for residential development at Eldon Whins, Newton Aycliffe (H31) and a section 106 agreement was signed in May 2019. This site should therefore be treated

as a commitment, and to avoid double counting it needs to be deleted from the list of allocated sites in policy 4 table 7 [**MM42**].

207. The requirements set out in policy 4 should be effective in ensuring that development of greenfield land off High West Road on the edge of Crook (H22) safeguards the character and appearance of the area, that pedestrian and cycle links to the town centre are improved, and that safe vehicular access is provided. The inclusion of the allocation in the Plan is therefore justified and no modifications are required.

*Overall housing supply for plan period*

208. The modifications that I have described above would result in an overall supply of **25,108** dwellings in the period 2016 to 2035 comprising:

- Net completions 1 April 2016 to 31 March 2019      4,212
- Commitments as at 1 April 2019                              14,026
- Windfalls from 1 April 2021                                      1,400
- Allocations    5,470

209. This would provide a surplus of **256** dwellings over the requirement of **24,852** dwellings for the Plan period. Whilst this represents only 1% of the overall requirement, it is around 5% of the residual figure for allocations. Furthermore, there is no requirement in national policy or guidance for a buffer, other than in relation to the five year supply (which I consider below). I attach limited weight to comparisons with elsewhere in the north east as the circumstances differ in terms of the types of plan, the way in which the figures have been calculated, and the approach taken to different components of supply. Due to the rigorous approach to discounting commitments by applying lapse rates, and the cautious assumptions about windfalls and estimated yields on allocations, I am satisfied that the Plan will be effective in ensuring that housing needs can be met up to 2035. In any case, the Council is required to review the Plan within five years of it being adopted, and the housing trajectory will clearly demonstrate some years in advance whether the Plan needs to be updated before 2035.

*Housing trajectory and five year housing land supply*

210. Figure 3 in the Plan illustrates graphically the housing trajectory. However, to be effective and justified, this and various parts of the reasoned justification need to be updated to take account of the housing supply evidence provided during the examination that I have referred to above. I recommend main modifications accordingly [**MM7, MM13** and **MM44**].

211. The five year requirement on 1 April 2019 was **6,867** dwellings including a 5% buffer as required by national policy<sup>73</sup>. The updated trajectory shows a deliverable supply of **8,693** dwellings on that date. This represents a surplus of **1,826** over the requirement, or in other words there was around **6.3 years'** supply. The assumed supply is justified, as it is based on the rigorous

<sup>73</sup> 1,308 x 5 = 6,540. 5% of 6,540 = 327. 6,540 + 327 = 6,867. The 5% buffer is justified as completions between 2016 and 2019 exceeded the requirement by a total of 266 dwellings.

assessment of the deliverability of all large site commitments, a 53% discount for small site commitments that had not started, and a cautious assumption about windfalls as discussed above. Other than the Copelaw site at Newton Aycliffe (H30), none of the allocations are expected to contribute towards the five year supply of deliverable sites on 1 April 2019.

212. The trajectory shows that more than a five year supply of deliverable sites will be available when the Plan is adopted and maintained for the foreseeable future. From 2024 onward, completions will increasingly be on allocations and other commitments that do not yet have full planning permission. Whilst there can be no certainty that these sites will come forward as expected, I am satisfied that the assumptions made about them are based on thorough and proportionate evidence available at the present time. The Council will continue to monitor the deliverability of sites on an ongoing basis and set out the position in an annual statement. This will feed into the review of, and if necessary update to, the Plan that I referred to above.

### *Conclusion*

213. Subject to the main modifications recommended above, I am satisfied that the Plan identifies sufficient land to ensure that the identified need for housing during the Plan period can be met and that a five year supply can be maintained as required by national policy.

### **Does the Plan contain justified and effective policies to help ensure that the housing needs of different groups in the community can be met throughout the Plan period?**

214. I have already concluded that the Plan identifies sufficient land to meet identified housing needs in overall quantitative terms. This issue is concerned with whether the Plan would be effective in helping to ensure that the housing needs of different groups in the community can be met. The main evidence for the approach taken is set out in the *County Durham Strategic Housing Market Assessment 2018* ("SHMA")<sup>74</sup>.

### *Mix of dwelling types and sizes*

215. Policy 19 aims to ensure an appropriate mix of dwelling types and sizes in all new housing developments, and the reasoned justification refers to proposals taking account of the SHMA and other relevant information. This provides a positive and flexible framework which should be effective in helping to meet different types of housing need having regard to the nature of the existing housing stock in the area and any site specific factors.

216. Small site commitments and windfalls expected to come forward in accordance with policy 6 mean that around 15% of overall housing supply is likely to be on sites no larger than one hectare. This is consistent with national policy<sup>75</sup> and, along with the Council's statutory register<sup>76</sup>, should help to ensure a supply of sites suitable for custom and self-build.

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<sup>74</sup> H1.

<sup>75</sup> NPPF paragraph 68(a).

<sup>76</sup> Self Build and Custom House Building Act 2015 and associated regulations.

### *Affordable housing*

217. The SHMA identifies a need for 836 affordable homes per year during the plan period, based on analysis carried out in accordance with national guidance<sup>77</sup>. This represents around 64% of the overall housing need figure of 1,308 dwellings per year.
218. In order to help meet that need, policy 15 requires all developments comprising more than ten dwellings to provide a proportion as affordable homes. The requirements vary from 25% in the highest value areas to 10% in the low value areas, these figures being based on the Council's viability evidence<sup>78</sup> which I considered earlier in this report. Map F of the Policies Map defines the highest, high, medium and low value areas across the county. In order to be consistent with national policy, the requirements should relate to developments of ten or more dwellings [**MM82**]. Furthermore, in order to be effective, paragraph 5.100 needs to be modified to clarify that if a site straddles more than one value area defined on Map F, then affordable housing provision should be based on the requirement for the majority of the site [**MM86**].
219. In designated rural areas, financial contributions are required towards affordable housing provision from all residential developments comprising 6 to 9 dwellings. This is consistent with national policy which allows for affordable housing requirements related to developments of under ten dwellings in such areas. However, paragraph 5.101 in the Plan refers to map 3 which does not show the relevant designated rural areas<sup>79</sup>. A main modification is therefore required to remove that reference and refer to an additional map to be included as part of the Policies Map [**MM73, MM74 and MM87**].
220. Policy 11 allows for the provision of affordable housing on rural exception sites provided that a number of criteria are met. In most respects, these are consistent with national policy and justified. However, the policy refers only to the rural areas identified on map 3 in the Plan, whereas there are other parts of the county that are rural where it may be appropriate to apply the policy provided that the criteria are met. This anomaly needs to be rectified to make the Plan effective. Furthermore, to help ensure that the housing needs of the elderly, disabled and vulnerable adults identified in the SHMA can be met in rural areas, it is necessary for the policy to refer to specialist as well as affordable housing. Finally, to be positively prepared and consistent with policy 6 (as modified), part (a) should refer to development that is well-related to a settlement, rather than immediately adjacent. Consequential modifications are required to the reasoned justification [**MM76, MM77 and MM78**].
221. The requirements of policy 15 referred to above should be effective in securing the delivery of around 2,600 affordable homes between 2019 and 2035, or an average of 163 per year. In addition to this, it is likely that affordable housing will continue to be provided through public sector funding<sup>80</sup> and also on rural

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<sup>77</sup> SHMA section 3 [H1].

<sup>78</sup> H8-H10.

<sup>79</sup> Map 3 reproduces Defra's Rural Classification Map, whereas the policy should apply to rural areas designated under section 157(1) of the *Housing Act 1985* (PPG ID: 23b-023-20190901).

<sup>80</sup> Between 2014 and 2018, 891 affordable homes were funded by the public sector compared to 516 funded through planning obligations [Council hearing statement for matter 2].

exception sites in accordance with policy 11. However, even if this is so, it is unlikely that 836 affordable homes will be delivered each year. Thus, whilst affordable housing needs are unlikely to be met in full, policy 15 sets out a proportionate and balanced approach that is justified by the evidence relating to both housing need and economic viability.

222. In addition to setting requirements relating to the overall amount of affordable housing, policy 15 requires a tenure mix of 70% affordable housing for rent and 30% "intermediate products" which, according to the Plan's Glossary, would include starter homes, discounted market sales housing, and other affordable routes to home ownership. The proposed tenure split is based on the SHMA. However, in order to be consistent with national policy which requires at least 10% of homes on sites of ten or more dwellings to be available for affordable home ownership, main modifications are required to the policy and reasoned justification. This would ensure that the 10% national target is met, that any additional affordable homes are provided for rent, and that exceptions may be made where based on evidence including about local housing need in the particular part of the county at the time of the proposal. This strikes an appropriate balance in terms of achieving consistency with national policy and helping to deliver the types of homes that the SHMA shows are needed [**MM83** and **MM88**].

223. Parts (a) to (h) of policy 15 relate to circumstances when developments may make financial contributions towards the provision of affordable housing elsewhere rather than on the development site. In order to be consistent with national policy<sup>81</sup>, a main modification is required so that it is clear that off-site provision would have to be robustly justified and contribute to the objective of creating mixed and balanced communities. To ensure clarity and consistency with national policy, I have amended the detailed wording of the proposed main modification published for consultation. The policy also needs to be clear that the circumstances referred to in (a) to (c) are not an exhaustive list [**MM84**].

#### *Housing for older people and people with disabilities*

224. In order to help meet the needs of the county's ageing population, policy 15 requires that on sites of more than ten dwellings, 10% of private or intermediate housing should be of a design and type suitable for older people. Appropriate house types referred to include level access flats and bungalows. This is justified by the SHMA which shows that there is likely to be a significant increase in the number of elderly households over the plan period; a limited supply of specialist accommodation for the elderly; and a preference amongst many older people to stay in their own home. Furthermore, very few bungalows have been built in recent years.

225. Policy 15 also includes requirements for the provision of accessible and adaptable homes<sup>82</sup>. However, these would not be effective in meeting the significant need for such homes identified in the SHMA<sup>83</sup> and in the long term. National policy advises that plans should make use of the technical standards for accessible and adaptable housing where this would address an identified

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<sup>81</sup> NPPF paragraph 62.

<sup>82</sup> Building Regulations requirement M4(2).

<sup>83</sup> SHMA 4.50-4.83 [H1].

need for such properties, and associated guidance sets out the evidence needed<sup>84</sup>. In this context, and having regard to the Council's viability evidence, main modifications are required to policy 15 and reasoned justification to include a requirement for 66% of units on sites of 5 or more dwellings to be built to the accessible and adaptable homes standard, unless it can be demonstrated that site specific factors, such as vulnerability to flooding or topography; other circumstances that make the site less suitable for older people; or the provision of step-free access would make the development unviable [**MM85**, **MM89** and **MM90**].

### *Children's homes*

226. There are 33 registered children's homes in the county, the largest number in the north of England. Nearly two thirds of these are operated by private providers, and the Council anticipates that further developments for such uses will be proposed during the plan period. Policy 18 sets out a number of criteria intended to ensure that any such developments meet the needs of future child residents and help to promote sustainable, inclusive and mixed communities. A number of main modifications are required to ensure that the policy is effective in this regard and justified.

227. The reference in part (a) to applicants demonstrating "a local need" for their proposal lacks clarity and is not justified. Rather, the policy should refer to development addressing gaps in service provision, and additional text should be added to the reasoned justification to refer to relevant statutory guidance about the provision of accommodation for looked after children. The requirement in part (c) for homes to be for no more than three children is unduly prescriptive; this can be rectified by requiring the size of the home to be determined with reference to child welfare and individual circumstances. The reasoned justification should refer to the national and local average size of homes being 3-4 beds, and evidence of a significant gap in the market for solo provision and smaller homes. To avoid repetition and ambiguity, parts (d) and (e) should be rationalised and the unjustified references to "any" risk and "concentrations of similar establishments" be deleted. Finally, the last part of policy 18 should clarify the information that is needed to support a planning application, without requiring finalised documents that are subject to other regulatory regimes. I recommend modifications to policy 18 and the reasoned justification accordingly [**MM99** and **MM100**].

### *Gypsies and travellers*

228. A high number of gypsies and travellers live in the county. Most families live in houses, but a significant number live in caravans on six council owned sites and on several private sites. There are high vacancy and turnover rates on most sites. Of the 126 social pitches, 101 are double although most of these are occupied by a single caravan.

229. The Council also provides and manages six temporary stop-over sites which are made available for up to 28 days each year when needed, including around the time of the Appleby Fair.

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<sup>84</sup> NPPF paragraph 127(f) and footnote 46, and PPG ID: 56-007-20150327.

230. There are three travelling showpeople sites in the county, each of which is of significant size and occupied by a small community.
231. The need for additional accommodation for gypsies, travellers and travelling showpeople over the plan period was assessed in 2018<sup>85</sup>. No needs were identified for gypsies and travellers that meet the current national definition, and only 6 pitches were shown to be needed for families that do not meet that definition. No additional plots for travelling showpeople are expected to be needed.
232. In the context of the above, there is no need to identify sites for additional accommodation for gypsies and travellers as there is clearly sufficient capacity on existing sites to meet identified needs and provide flexibility to meet additional needs that were not identified in the 2018 study. Furthermore, policy 17 sets out a positive approach for any proposals that may come forward for new, or extensions to existing, sites provided that a number of criteria are met. This should ensure that any unanticipated needs can be met in a way that achieves sustainable development.

### *Conclusion*

233. Subject to the various main modifications that I have described, the Plan contains justified and effective policies that should help ensure that the housing needs of different groups in the community can be met throughout the Plan period.

### **Are the requirements in policies 27 and 30 relating to sustainable design, green infrastructure, open space provision, and other standards for housing development justified and consistent with national policy?**

#### *Supplementary planning documents and other local guidance*

234. Policy 30 requires all development to be well designed "in accordance with local guidance documents". However, the status of such documents is not specified, and they would not form part of the statutory development plan meaning that such a requirement is not justified. A main modification is therefore needed so that the policy refers to proposals having regard to supplementary planning documents and other local guidance where relevant [**MM126**].

#### *Zero carbon buildings*

235. Part (c) of policy 30 refers to development minimising greenhouse gas emissions, including through seeking to achieve zero carbon buildings. This is consistent with national guidance which states that any local requirements for a building's sustainability should be consistent with the government's zero carbon buildings policy<sup>86</sup>, without being unduly prescriptive or onerous.

#### *Minimum space standards*

236. Policy 30 requires all new residential development to comply with the *Nationally Described Space Standards*. The Council's evidence shows that a

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<sup>85</sup> H14.

<sup>86</sup> PPG ID: 6-009-20150327.



significant proportion of new dwellings built in recent years, particularly those with fewer than four bedrooms, do not meet those standards<sup>87</sup>. The Plan's vision and objectives refer to achieving high quality housing that meets the aspirations of residents. Thus, whilst over 90% of purchasers may have expressed satisfaction with the design and layout of their newly built home<sup>88</sup>, there is a need to apply the standards in the county if the minimum space requirements expected by the government and the strategic objectives of the Council are to be met. Additional costs associated with meeting the standards, which are likely to be around £2,000 per dwelling having regard to local market conditions, were factored into the Council's viability assessment which I considered earlier in this report.

237. The requirement to meet the standards is, therefore, justified and consistent with national policy<sup>89</sup>. However, in order to allow a reasonable transitional period to enable developers to factor the additional costs into future land acquisitions, main modifications are required to make it clear that this particular part of the policy will take effect one year after the Plan is adopted [**MM127** and **MM134**].

#### *Building for Life Supplementary Planning Document*

238. Part (n) of policy 30 refers to the Council's *Building for Life Supplementary Planning Document* and requires all major residential developments to secure as many green scores as possible and minimise the number of ambers. It goes on to state that schemes with one or more red will be refused planning permission unless there are significant overriding reasons.

239. The supplementary planning document is based on a government endorsed industry standard for well designed homes and neighbourhoods, and has been used in the county for a number of years to provide a consistent approach to reviewing the design of schemes and improving the quality of residential development. However, main modifications are required to clarify that the Council's design review process covers all schemes of 50 or more units as well as many smaller schemes in particularly sensitive locations, and to illustrate what is meant by "significant overriding reasons" [**MM128** and **MM133**].

#### *CO<sub>2</sub> Emissions*

240. Part (o) of policy 30 requires all residential developments of ten or more dwellings to achieve emissions of 10% below the Dwelling Emission Rate against the Target Emission Rate based on current Building Regulations. This is consistent with national guidance which allows local plan policies to require energy efficiency performance up to a level equivalent to level 4 of the former code for sustainable homes which is approximately 20% above current Building Regulations<sup>90</sup>.

241. However, to be justified and effective a main modification is required to part (o) to clarify that the 10% reduction in CO<sub>2</sub> emissions relates to the 2013 edition of the 2010 Building Regulations (as referred to in footnote 104 of the Plan), and that the policy would not apply in the event that the relevant

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<sup>87</sup> Paragraphs 3.2-3.17 of *Residential Internal Space Standards 2019* [H13].

<sup>88</sup> HBF survey results referred to in matter 12 statement.

<sup>89</sup> PPG ID: 56-020-20150327.

<sup>90</sup> PPG ID: 6-012-20190315.

Building Regulations were changed as that would not be justified. Consequential changes are required to the reasoned justification [**MM129** and **MM132**].

### *Densities*

242. Part (p) of policy 30 requires all residential developments of ten or more dwellings to be built to at least 30 dwellings per hectare in and around town centres and locations where there is good access to facilities and frequent public transport services. Lower densities may be acceptable in other locations or in certain circumstances. This is consistent with national policy<sup>91</sup> whilst allowing flexibility to reflect the different characteristics and viability issues that are likely to exist in different parts of the county and in relation to different sites. However, in order to be effective, a main modification is required to clarify that 30 dwellings per hectare refers to the net developable area of a site [**MM130**].

### *Green infrastructure and open space*

243. Policy 27 requires development to maintain and protect, and where appropriate improve, the county's green infrastructure network. In order to be consistent with national policy, a main modification is required to ensure that any loss of open space or harm to green infrastructure will only be allowed where an assessment has been undertaken which clearly shows that the open space is surplus to requirements and that, where replacement provision is required, it will be in a suitable location [**MM121**].

244. The Council's *Open Space Needs Assessment 2018*<sup>92</sup> sets out quantities of various types of open space that the Council considers to be needed per head of population, identifies shortages and surpluses in different parts of the county, and provides guidance on when it is appropriate for developers to make provision on and off site. However, as the document does not form part of the development plan, the requirement in policy 27 for all new residential development to meet the standards is not justified. A main modification is, therefore, required to clarify that residential development will be required to make provision for open space to meet the needs of future residents having regard to the standards set out in the *Open Space Needs Assessment* [**MM122**].

245. Finally, to ensure effectiveness and consistency with national policy, paragraph 5.273 should refer to blue, as well as green, spaces and corridors [**MM123**].

### *Conclusion*

246. Subject to the main modifications that I have described, the requirements in policies 27 and 30 relating to sustainable design, green infrastructure and open space provision, and other standards for housing development are justified and consistent with national policy.

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<sup>91</sup> NPPF paragraph 123.

<sup>92</sup> G11.

**Is policy 16 relating to Durham University development, purpose built student accommodation and houses in multiple occupation justified and would it be effective in ensuring that such developments are carried out in an acceptable way?**

*Introduction*

247. Durham University has a student population of around 18,000<sup>93</sup>, employs over 4,300 people, has a major impact on how the city functions economically and in other respects, and occupies a large number of designated and non-designated heritage assets and green spaces in the city. The institution aims to grow over the Plan period, with the student population expected to increase to 21,500 by 2027, all of whom would be based in the city.

248. The Plan aims to accommodate, rather than constrain, the growth of the university, but to manage development such that it is carried out in a sustainable manner in terms of design, layout and location. This is consistent with national policy and guidance which states that plans should help create the conditions in which businesses can invest, expand and adapt, and make provision for sufficient student accommodation<sup>94</sup>.

249. However, the number of students has already increased dramatically from around 8,000 in the 1990s, and the further growth expected during the plan period will mean that around a third of the city's population during term time will be students. This high proportion of students, along with the limited size of the city and its particular physical and historic character, mean that there are significant planning issues that need to be addressed. Policy 16, therefore, aims to set out a comprehensive approach for considering all forms of university-related development, including student accommodation proposals.

*Durham University development (policy 16 part 1)*

250. Development of university academic, sport and cultural facilities is expected to involve the refurbishment of, and extensions to, existing buildings, along with infill, small scale and major developments. Part 1 of policy 16 sets out various criteria which should be effective in ensuring that all such developments are carried out in an acceptable manner. However, to be justified and consistent with national policy, part (f) needs to be modified to refer to having regard to (rather than being in line with) the Council's parking and accessibility standards [**MM91**].

*Student residential accommodation*

251. The significant growth in student numbers in the last twenty years or so has resulted in an extremely high number of former family homes being converted to houses in multiple occupation in many parts of the city. There are particularly high concentrations in the Viaduct area and other central locations, parts of which have over 90% of properties occupied by students. The Council has sought to manage such development through the removal of permitted development rights in much of the city and the use of an interim policy

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<sup>93</sup> 15,500 in Durham city and 2,500 in Stockton (paragraph 5.132 of the Plan).

<sup>94</sup> NPPF paragraph 80 and PPG ID: 67-004-20190722.

published in 2016 which aims to prevent further houses in multiple occupation in areas where concentrations are high. In recent years, there have been a number of purpose built student accommodation developments which have taken some pressure off the mainstream housing stock.

*Purpose built student accommodation (policy 16 part 2)*

252. Of the 6,000 additional students expected in the city between 2017 and 2027, around 2,000 have already been housed and there are bedspaces for a further 2,000 in purpose built accommodation schemes that are either under construction or have planning permission. Part 2 of policy 16 allocates six sites for further purpose built student accommodation developments which, collectively, are expected to have capacity for at least 2,000 students. Table 9 in policy 16 sets out requirements for each site to ensure that they are developed in an acceptable way.

253. The Plan does, therefore, identify sufficient opportunities for residential accommodation to meet the expected increase in student numbers up to 2027. However, it is possible that purpose built student accommodation schemes will also be proposed on non-allocated sites during the plan period, and parts (a) to (i) set out criteria to manage such developments. Criteria (a) and (b) refer to there being a need for the type of accommodation being proposed and consultation with the relevant education provider. This is justified, as it will ensure that the right type of accommodation is provided and that scarce land in the city is not lost to speculative development that may ultimately be unsustainable. The other criteria should be effective in ensuring that such developments are suitably located, designed and managed such that the character of the area and living conditions of local residents are appropriately taken into account. However, to be justified and consistent with national policy, part (h) needs to be modified to refer to having regard to (rather than being in line with) the Council's parking and accessibility standards. Furthermore, paragraph 5.143 needs to be modified to be consistent with the approach to car and cycle parking set out in policy 22 (as modified) [**MM92**].

*Houses in multiple occupation (policy 16 part 3)*

254. Despite the increasing availability of purpose built accommodation, many students are likely to prefer to live in shared houses, and the Council expects to continue to receive a significant number of planning applications for houses in multiple occupation. Part 3 of policy 16 builds on the approach in the Council's interim policy and aims to promote, create and preserve inclusive, mixed and balanced communities and protect residential amenity.

255. To this end, the policy seeks to prevent further houses in multiple occupation in certain circumstances, including if more than 10% of the total number of residential units within 100 metres of the application site are or would be occupied by students. This would have the effect of ruling out additional houses in multiple occupation in many parts of the city, and ensuring that areas that currently have fewer than 10% do not go beyond that "tipping

point". The threshold is based on national research<sup>95</sup> and experience of implementing the Council's interim policy over the last couple of years.

256. The details of how the 10% threshold approach would be applied are set out in the reasoned justification and were discussed at an examination hearing session. I am satisfied that it is a proportionate approach which can be consistently and efficiently applied in response to how any area changes over time provided that one main modification is made to paragraph 5.153. This is to clarify how council tax data will be updated and used to inform the implementation of the policy [**MM98**].
257. Parts (h) and (i) of part 3 of policy 16 set out two exceptions to the 10% threshold. These are if an area already has such a high concentration of student properties that further conversions would not cause additional harm to residential amenity, or if a large number of commercial properties in a particular area means that a high proportion of a low number of residential properties are occupied by students. With regard to the former, a main modification is required to define "high concentration" as 90% in order to provide clarity and consistency such that the policy is effective [**MM96**].
258. The 10% threshold applies to new build and changes of use, but not to extensions to existing houses in multiple occupation. This is to allow extensions that are required to improve the quality of accommodation or to provide additional space that would not materially impact on the character of the area or residential amenity. However, as drafted, the policy would not only allow the provision of additional living space, kitchens and bathrooms but also additional bedspaces. Cumulatively over time, this could lead to a significant increase in the number of students living in an area, undermining the objective of the policy. Main modifications are therefore required to part 3 of policy 16 so that criteria (a), (h) and (i) apply to extensions that result in specified or potential additional bedspaces [**MM93** and **MM95**]. Consequential modifications are also required to the reasoned justification [**MM97**].
259. Finally, to be justified and consistent with national policy, part 3 criterion (d) needs to be modified to refer to having regard to (rather than being in line with) the Council's parking and accessibility standards [**MM94**].

### *Conclusion*

260. Subject to the modifications I have described, policy 16 provides a sound basis for considering university related development and would be effective in ensuring that such developments are carried out in an acceptable way over the coming years.
261. However, whilst the Plan should be effective in accommodating the currently identified growth in student numbers, the limited size of the city and its particular physical and historic character mean that there may be limited capacity for further growth in the city in the longer term.

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<sup>95</sup> *Balanced Communities and Studentification Problems and Solutions* (National HMO Lobby, 2008).

**Are the employment site allocations and policies relating to existing employment sites and various forms of economic development justified, effective and consistent with national policy?**

*Employment allocations and existing protected employment sites*

262. The Council's *Employment Land Review Update*<sup>96</sup> assessed all of the existing employment sites in the county along with undeveloped land within those sites, undeveloped allocations in existing development plan documents, and potential development sites put forward by representors. Assessments were carried out in different property market areas and sites were scored having regard to road access, accessibility to labour and services, market attractiveness, development constraints, and compatibility of adjoining land uses.
263. The employment allocations (Table 3) and existing employment sites (Table 4) proposed in policy 2 for B1, B2 and B8 development (unless specifically stated) are based on the assessments referred to above which provide proportionate and consistent justification for their selection. Collectively, the allocations provide around 300 hectares of land for new employment uses. This, along with opportunities on existing sites, should be sufficient to ensure that the need for up to 287 hectares of land for B class developments can be accommodated. Moreover, the sites are distributed across the county such that expected demand in different property market areas is likely to be met. Whilst provision in the A19 corridor is slightly below past take up rates, these were inflated by the area's past enterprise zone status and demand is expected to be lower in the future.
264. Parts (a) and (b) of policy 2 provide a framework to consider development proposals for non B class uses if part or all of an allocated or existing employment site becomes unviable or unsuitable for industrial uses during the plan period. However, main modifications are required to ensure that the policy is effective and justified in this regard.
265. The requirement in part (a) for active marketing for five years if non B class development is proposed on any plot on a protected or allocated employment site is unduly onerous. However, there is evidence that larger allocations can take many years to come forward for development, and therefore applying that requirement to allocated sites over 10 hectares is justified. For smaller allocations and protected sites, the requirement should be for 2 years marketing as this would strike an appropriate balance between safeguarding employment land from speculative proposals for higher value developments, and allowing alternative uses if sites become unsuitable and unviable [**MM17**].
266. The requirement in part (b) for any non B class developments on protected or allocated employment sites to be ancillary to and support the wider functioning of the site is not justified or positively prepared. A main modification is therefore required to policy 2 and the reasoned justification so that it allows other uses provided that they would not compromise the main use of the site for B class uses and that they comply with policy 9 relating to main town centre uses [**MM18** and **MM20**].

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<sup>96</sup> E1.

267. To ensure that policy 2 is effective, and consistent with policy 45 and national policy relating to the historic environment, paragraph 4.32 needs to be modified to refer to development proposals on allocated sites having regard to the findings of the heritage assessments that informed the Plan [**MM19**].
268. The specific case of Roman Way industrial estate, Bishop Auckland was discussed at a hearing session. Whilst circumstances have changed since the Council assessed the site, its inclusion in Table 4 is justified by its industrial character and location in relation to nearby uses. Redevelopment proposals for alternative uses could be effectively considered in the context of policy 2, modified as described above.
269. Whilst the allocations of all of the proposed employment sites are justified, main modifications are required in relation to four of them to ensure that they are sound. I deal with each of those in turn.

*Integra61, Bowburn*

270. The site area for Integra61 specified in policy 2 needs to be reduced from 44.25 hectares to 42.64 hectares to accurately reflect the extent of the site and therefore ensure that the Plan is effective and justified. Consequential changes are required to site area totals for the Central Durham monitoring area and the county referred to in policies 1 and 2 [**MM5, MM6 and MM15**].

*NETPark, Sedgfield*

271. The site areas for the NETPark allocation and future expansion land referred to in policy 2 and the reasoned justification need to be amended to accurately reflect an extant planning permission [**MM16 and MM22**].

*Project Genesis, Consett*

272. Policy 2 refers to the Council supporting mixed use development on the Project Genesis site as shown on the Policies Map including 10.8 hectares at Hownsgill Industrial Estate for general employment uses. In order to ensure that the Plan is effective and justified, policy 2 needs to be modified to clarify that all such development will need to accord with relevant policies, and paragraph 4.37 needs to refer accurately to the masterplan and key developments that have taken place on the site of the former steelworks since the 1990s [**MM21**]. The Policies Map needs to be amended to show the area to which the policy applies for it to be effective.

*Aykley Heads strategic employment site, city of Durham*

273. Policy 3 proposes a high quality strategic employment site on 9 hectares of land at Aykley Heads in Durham, not far from the city centre. The development would comprise around 49,000 square metres of offices (B1a) along with retail, food and drink, hotel and leisure uses, and an interconnected network of good quality, multi-functional green infrastructure. To be clear about which areas of land the policy applies to, and therefore effective, a main modification is required to paragraph 4.54. This would refer to the redevelopment of 6 hectares currently occupied by County Hall and its car parks, and a further 3 hectares of unused land. The text would also clarify

that as the former are already in employment use, they are excluded from the figures for new employment land referred to in policy 2 table 3 [**MM28**].

274. Part (c) of policy 3 would allow a wide range of main town centre uses without any effective control over their scale or nature. They are not necessary to support the development of the proposed high quality offices, and are not justified in this location outside the city centre. If genuinely ancillary uses, such as a small café, convenience store or creche were proposed, they could be effectively considered in the context of policy 9 relating to main town centre uses. Policy 3 part (c) should therefore be deleted [**MM24**].
275. The site is located close to the city's railway and bus stations and on key bus routes. At present there are nearly 1,300 car parking spaces on the site, and the local road network is congested at peak times. Main modifications are required to parts (m) and (n) of policy 3 and the reasoned justification so that they are effective in promoting walking, cycling and public transport use; reducing reliance on the private car; and ensuring that the proposal does not lead to an increase in traffic on the local road network. Reference should be made to limiting parking provision in accordance with policy 22 (as modified) [**MM27** and **MM30**].
276. Part of the now unused land included in the site was formerly used for sporting activities. A main modification is required to ensure that the Plan is effective in securing a proportionate financial contribution from the proposed development that would be used to help re-provide sports facilities in the event that the Council's forthcoming playing pitch strategy identifies a shortage in the area [**MM26**].
277. One hectare of the land occupied by one of the County Hall car parks is in the existing Green Belt, and the Plan proposes that this is removed. This would allow brownfield land on an integral part of the site to be redeveloped with a high quality "gateway" building. Whilst there would clearly be a loss of openness, this would provide an opportunity to enhance the setting of the World Heritage Site and Durham City conservation area. Main modifications are required to policy 3 and the reasoned justification to ensure that the Plan is effective in that regard [**MM25** and **MM29**].
278. Furthermore, parts (b) and (f) of policy 3 and associated reasoned justification need to be modified to ensure that the Plan is effective in securing the provision of readily recognisable and permanent Green Belt boundaries and compensatory improvements to nearby land Green Belt [**MM23**]. Subject to those modifications, the Plan should be effective in ensuring that development would not cause harm to Green Belt purposes or to the setting of heritage assets. Furthermore, I am satisfied that the above reasons, along with the important contribution that the proposal would make to the local economy, amount to exceptional circumstances that justify removing one hectare of land from the Green Belt.
279. Paragraph 4.59 refers to possible future opportunities for a further 19,000 sqm of office floorspace on land adjoining the site. However, that land is in the Green Belt. The paragraph does not provide reasoned justification for policy 3, and makes an unjustified suggestion about inappropriate



development in the Green Belt that is inconsistent with national policy. It should therefore be deleted [**MM31**].

#### *Visitor attractions and accommodation*

280. A significant number of visitors are attracted to urban and rural parts of the county, and this contributes over £800 million to the local economy each year and sustains nearly 12,000 jobs<sup>97</sup>. Policies 7 and 8 aim to raise the quality of the visitor experience and encourage the provision of new, and the expansion of existing, visitor attractions and accommodation subject to a number of criteria being met. Other policies in the Plan will also be relevant when considering development proposals, including those relating to Green Belt, heritage assets, landscape, coast and main town centre uses.

281. In general, this represents a positive approach towards this significant economic sector, whilst ensuring that development is sustainable including in terms of location, scale and design. However, a number of main modifications are required to the detailed wording of policies 7 and 8 and reasoned justification to ensure that the Plan is consistent with national policy, effective and justified. Part (c) of policy 7 and part (b) of policy 8 should both be deleted as they are not consistent with national policy or policy 45 with regard to heritage assets [**MM64** and **MM66**]. The requirement in part (i) of policy 7 for development to relate to an existing tourism asset that is based on a site specific heritage feature is not justified and should therefore be deleted. Policy 8 needs to refer to the character of the countryside being respected in order to be consistent with national policy and policy 7 [**MM65**]. To be effective and justified, paragraph 5.23 should refer to relevant evidence about visitor accommodation and paragraph 5.25 needs to clarify that it relates to the requirement in part 2(e) of policy 8 [**MM67** and **MM68**].

#### *Other economic development*

282. Various policies in the Plan are relevant to proposals for economic development on sites not specifically identified or for specific uses not referred to above. These include policies 6 (unallocated sites), 10 and 11 (development in the countryside), 9 (town centres) and 16 (Durham University). Provided that these policies are modified as recommended elsewhere in this report they will provide a sound basis for considering all forms of economic development and help to ensure the growth and diversification of the county's economy in a sustainable manner.

#### *Conclusion*

283. Subject to the main modifications that I have described, the employment site allocations and policies relating to existing employment sites and various forms of economic development are justified, effective and consistent with national policy.

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<sup>97</sup> Plan paragraph 5.13.

## **Is policy 9 relating to town centres and main town centre uses justified and consistent with national policy?**

### *Introduction*

284. Policy 9 identifies the county's hierarchy of sub-regional, large, small, district and local town centres and sets out various requirements intended to ensure that main town centre use developments are appropriately located and contribute to the vitality and viability of the centres. This is in the context of considerable change in the retail sector in recent years, and evidence that indicates there is unlikely to be a need for any significant amount of additional retail or leisure use floorspace during the Plan period<sup>98</sup>.

### *Town centre network*

285. The hierarchy of town centres identified in the Plan is based on proportionate evidence and reflects the variety of centres that exist in different parts of the county. However, to be effective and consistent with national policy, main modifications are required to policy 9 and the reasoned justification in relation to the district centres at Arnison and Sherburn Road/Dragonville which are located on the northern and eastern edges of the city of Durham respectively. This is to ensure that development in and related to those centres, which have the character and appearance of retail parks, protects the roles of the city centre and other centres in the hierarchy, and also encourages them to evolve and diversify over the Plan period such that they increasingly perform a town centre role [**MM70** and **MM71**].

286. Furthermore, in order for the policy relating to the two district centres to be effectively implemented, it is necessary for retail developments over a certain size to be assessed in terms of their potential impact on the city and other town centres. To be consistent with the evidence about the scale of the centres and shops within in them, the thresholds should be 1,500 sqm for convenience goods and 1,000 sqm for comparison goods (rather than 2,500 sqm for both) [**MM70** and **MM71**]. I have altered the detailed wording of that proposed in the main modifications consultation to take account of issues raised in representations. I have deleted reference to such proposals being "carefully" assessed as it is unnecessary and adds ambiguity, and clarified that the aim is to protect and enhance the vitality and viability of other defined centres, rather than only those higher up the hierarchy.

### *Policy requirements relating to main town centre uses*

287. Policy 9 supports town centre development in all of the county's centres. However, the caveats relating to the scale and accessibility of development set out in parts (a) and (b) are not consistent with national policy or justified. They should, therefore, be deleted [**MM69**].

288. To be effective, it needs to be made clear that for the purposes of applying the sequential test to retail developments related to sub-regional, large and small town centres, the primary shopping area defined on the Policies Map will be treated as in-centre [**MM70**]. References to primary and secondary shopping

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<sup>98</sup> R1.

frontages in the Glossary need to be deleted as such areas are not defined in the Plan or referred to in policies [MM177].

289. Policy 9 requires impact assessments for convenience shopping developments over 1,500 sqm and for comparison shopping developments over 1,000 sqm that could impact on sub-regional, large or district centres, and for any retail developments over 400 sqm that could impact on small town or local centres. These thresholds are based on evidence about the scale of those centres and the existing shops within them, as well as the vitality and viability of the centres. They represent proportionate thresholds that would allow the Council to assess the types of schemes that could come forward during the plan period and thereby help safeguard the vitality and viability of the existing town centres. However, to be effective, the policy wording needs to be clarified and the reasoned justification needs to state that where a scheme provides a mix of comparison and convenience retailing the 1,500 sqm threshold will apply. [MM70 and MM72].

#### *Conclusion*

290. I therefore conclude on this main issue that a number of main modifications are required to ensure that policy 9 relating to town centres and main town centre uses is justified and consistent with national policy.

#### **Is policy 31 relating to hot food takeaway developments justified and consistent with national policy?**

##### *Hot food takeaway developments in town centres*

291. The first part of policy 31 allows no more than 5% of the total number of premises in sub-regional, large town, small town and district centres to be hot food takeaways. This is based on the average proportion of such uses in all such centres. Seven centres currently have more than 5%, meaning that no further developments of that type would be allowed. In other centres, permission would be refused if it would lead to the 5% limit being exceeded.

292. Whilst a preponderance of such uses can harm vitality and viability, there is no analysis to indicate that 5% is a relevant tipping point. Therefore, to be justified and effective, this part of the policy needs to be modified to be explicit that the aim is to ensure that development does not lead to an over concentration of hot food takeaways and thereby detract from the vitality and viability of the relevant centre. Criteria relating to existing levels of vacancies in the centre, design of the frontage, nature of the proposed use, and opening hours need to be included to indicate how this will be assessed for proposals in centres where more than 5% of premises are or would be hot food takeaways [MM135]. The reasoned justification needs to be modified accordingly [MM137].

##### *Hot food takeaway developments within 400 metres of schools and colleges*

293. In order to promote healthy lifestyles in young people, the third part of policy 31 states that A5 uses outside of defined centres but within 400 metres of an existing or proposed school or college building will not be permitted.

294. Whilst food high in fat, sugar and salt is available from many different types of business, including restaurants, convenience stores and bakeries, A5 uses tend to sell a limited range of food primarily with those characteristics. Furthermore, many such uses involve low prices and quick service meaning that they are attractive to young people during lunch periods and on their way home from school. The county has higher than average levels of overweight and obese children of primary school leaving age<sup>99</sup>, and also relatively high numbers of A5 uses per head of population<sup>100</sup>.

295. The causes of obesity and poor health are complex and multi-faceted, and there is therefore limited evidence of a direct causal link between obesity and the number of A5 uses close to schools and colleges. However, national guidance is clear that planning policies can seek to limit the proliferation of particular uses having regard to proximity to locations where young people congregate such as schools, when justified by evidence including about high levels of obesity and over concentration of certain uses within a specified area<sup>101</sup>. In that context, for the reasons set out above, I am satisfied that the policy is justified and supported by proportionate evidence<sup>102</sup>. However, to be effective, modifications to policy 31 and the reasoned justification are required to clarify that 400 metres will be measured along a walking route from an entry point to a school or college, and that the latter refers to further education establishments (rather than university colleges) [**MM136** and **MM138**]

296. Finally, in order for the Plan to be effective, paragraph 5.334 needs to be modified to clarify that policy 31 applies to the development of A5 use class developments only [**MM139**].

### *Conclusion*

297. I therefore conclude that, subject to the main modifications described above, policy 31 relating to hot food takeaway developments is justified and consistent with national policy.

### **Are policies 38 to 44 relating to landscape, coast, trees, woodland, hedges, biodiversity and geodiversity justified and consistent with national policy?**

#### *Policy 38: Durham Heritage Coast and Wider Coastal Zone*

298. The Durham coast stretches 17 kilometres between the county's borders with Sunderland in the north and Hartlepool in the south. The majority of the area up to one kilometre in-land from the cliff is undeveloped other than the coastal town of Seaham and Crimdon caravan park. The Heritage Coast designation covers the undeveloped coastline north of Seaham; between Seaham and Peterlee; and from Peterlee to the border with Hartlepool. A main modification is required to policy 38 to ensure consistency and clarity in the use of the term "wider coastal zone", the extent of which is defined on the

<sup>99</sup> NHS statistics 2016/17 [section 6.3 of R3].

<sup>100</sup> 96.8 outlets per 100,000 population in County Durham compared to 88.2 per 100,000 in England in 2014 [Public Health England 2014 referred to in section 7.1 of R3].

<sup>101</sup> PPG ID: 53-004-20190722.

<sup>102</sup> *Fast Food and its Impact on Health* 2018 [R3].

Policies Map and reflects both natural coastal processes and human activities [MM144].

*Policy 39: North Pennines Area of Outstanding Natural Beauty*

299. In accordance with national policy, policy 39 attaches great weight to the conservation and enhancement of the *North Pennines Area of Outstanding Natural Beauty* ("AONB") which covers much of the western half of the county. In order to be comprehensive and therefore effective, reference should be made to the *Moorland Tracks and Access Roads Planning Guidance Note* in addition to the other two documents listed in the final part of the policy [MM145].

*Policy 40: Areas of Higher Landscape Value*

300. National policy requires planning policies to protect and enhance valued landscapes. In order to achieve this, policy 40 aims to give particular protection to Areas of Higher Landscape Value identified on the Policies Map. These cover the parts of the county that are outside the AONB but which are of particular value in terms of their condition, scenic quality, rarity, representativeness, conservation interest, recreational value, perceptual qualities, and/or historical associations.

301. The areas were defined based on a systematic study carried out to inform the Plan in accordance with relevant national guidance<sup>103</sup>. They are, therefore, justified. The fact that a particular development on a specific site may not cause unacceptable harm to the landscape does not invalidate the approach taken or mean that the inclusion of that land within the designation is not justified. Rather, the policy provides an appropriate and proportionate level of protection to the areas of the county with the highest landscape value outside the AONB and provides clarity on how development proposals in such areas should be assessed. However, to ensure clarity and therefore effectiveness, a main modification is required to delete reference in the third paragraph of policy 40 to "valued landscapes" and insert "Areas of Higher Landscape Value defined on map H" [MM146].

*Policies 41 to 44: Biodiversity, geodiversity, trees, woodland and hedges*

302. Policy 41 provides different levels of protection to trees, woodlands and hedges depending on their landscape, amenity and biodiversity value and sets out a proportionate and balanced approach to determining development proposals. This is broadly in line with national policy<sup>104</sup>, although a main modification is required to delete reference to taking the need for development into account as this is not justified [MM147].

303. Policies 42, 43 and 44 provide an effective and justified approach to assessing development proposals in terms of their potential impacts on biodiversity, geodiversity, internationally designated sites, nationally and locally protected sites, and protected species.

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<sup>103</sup> *Guidelines for Landscape and Visual Impact Assessment 2013*.

<sup>104</sup> NPPF paragraphs 170(b) and 175(c).

### *Conclusion*

304. Subject to the main modifications referred to above, policies 38 to 44 relating to landscape, coast, trees, woodland, hedges, biodiversity and geodiversity are justified and consistent with national policy.

### **Are policies 45 to 47 consistent with national policy and relevant legislation relating to the historic environment?**

305. There are numerous designated and non-designated heritage assets in the county, including many of the highest significance: Durham Castle and Cathedral World Heritage Site; Neville's Cross registered battlefield; over 200 scheduled monuments; around 250 grade I and II\* listed buildings; and 17 registered parks and gardens.

306. Site specific proposals in the Plan include, where relevant, requirements relating to the conservation and enhancement of the historic environment (some of which are subject to main modifications recommended elsewhere in this report). Policy 45 sets out various criteria to be taken into account when determining planning applications that may affect designated or non-designated heritage assets or their settings; policy 46 relates specifically to the World Heritage Site; and policy 47 relates to the historic Stockton and Darlington railway, part of which runs through the county.

307. In order to ensure that these three policies are consistent with national policy, justified and effective, a number of main modifications are required. Subject to these modifications, and those relating to site specific proposals, the Plan sets out a positive strategy for the conservation and enhancement of the historic environment.

#### *Policy 45: Historic Environment*

308. Modifications are required to policy 45 to ensure that great weight is given to conservation, and to the parts of the policy relating to revealing the significance of heritage assets; the weighing up of harm and benefits; and non-designated heritage assets of archaeological interest [**MM148**]. These will ensure consistency with national policy.

#### *Policy 46: Durham Castle and Cathedral World Heritage Site*

309. In order to ensure that policy 46 is effective in sustaining and enhancing the significance of the World Heritage Site, a modification is required to paragraph 5.483 to make clear that the policy will apply to the enlarged site if and when it is officially registered by UNESCO<sup>105</sup> [**MM149**].

#### *Policy 47: Stockton and Darlington Railway*

310. To be clear and effective, policy 47 needs to refer to walking and cycling access to and alongside the route of the historic railway, and its value as an education resource. Furthermore, the reasoned justification needs to clarify that the policy relates to designated and non-designated heritage assets, and that one of the aims is to open up the whole of the 26 mile route for leisure

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<sup>105</sup> UNESCO has agreed in principle to a new boundary along the rim of the outer bank between and including Elvet and Framwellgate Bridges.

and tourist visits. I recommend main modifications accordingly [**MM150** to **MM153**].

### *Conclusion*

311. Subject to the main modifications referred to above, policies 45 to 47 are consistent with national policy and relevant legislation relating to the historic environment.

### **Are policies 48 to 62, relating to minerals and waste justified and consistent with national policy?**

#### *Introduction*

312. County Durham plays an important role in providing minerals of various types for use locally, regionally and nationally. Significant amounts of waste are managed in the county, particularly local authority collected waste; commercial and industrial waste; and construction, demolition and excavation waste.

313. The Plan contains 15 policies relating to minerals and waste, all but one of which are categorised as strategic policies in Appendix A. The Council's *Local Development Scheme* indicates that a *Minerals and Waste Policies and Allocations Document* will be submitted for examination in 2021. The intention is that the document will complement the strategic policies in the Plan and contain detailed development management policies and non-strategic minerals and waste allocations.

314. This section of the Plan is informed by a considerable amount of up to date evidence<sup>106</sup> prepared in liaison with other relevant authorities and stakeholders including representatives from industry. The policies have a good deal of support and in most regards are clearly written and sound. I deal below with a limited number of matters which require main modifications.

#### *Safeguarding minerals and waste sites and infrastructure*

315. Policy 49 protects existing and allocated minerals sites, processing facilities and transport infrastructure and waste management sites that are listed in Appendix D and designated on the Policies Map. This is consistent with national policy by preventing non-minerals or non-waste related development that would result in the loss of or prejudice the minerals or waste use, other than in a limited number of defined circumstances. However, to be effective there should be a requirement for a minerals and/or waste infrastructure assessment for all non-exempt proposals, which are defined in the Plan, within the safeguarded zones that are designated on the Policies Map [**MM154**]. Further detailed advice on such infrastructure assessments needs to be included in Appendix C, and as a consequence the information about exempt development should be deleted from Appendix D [**M155** and **MM174** to **MM176**].

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<sup>106</sup> MW1 to MW11.

## *Minerals*

316. Policy 57 protects minerals resources in safeguarding areas and relic quarries as defined on sheet C of the Policies Map by preventing non-mineral development that would sterilise those resources, other than in a limited number of defined circumstances. Part (a) refers to where it can be demonstrated that the mineral is no longer of any value. Part (c) allows for non-minerals development which is of a temporary nature that would not inhibit extraction within the timescale the mineral is likely to be needed. These requirements are justified, but to be effective, additional information needs to be included in the reasoned justification to clarify how they will be assessed. This is with regard to the current and potential value of the mineral; situations where the benefits of the proposal outweigh the need to safeguard the mineral; and wind turbine and solar farm proposals that are categorised as temporary but nonetheless may exist for many years [**MM163**]. Furthermore, Appendix C needs to be modified to replace reference to outdated advice on minerals assessments with current practice advice [**MM174**].
317. Policies 50 to 52 deal specifically with aggregates. In most respects, they should be effective in ensuring a steady and adequate supply of primary aggregates based on the latest evidence<sup>107</sup>, setting out a locational approach for future supply, and criteria to assess proposals related to allocated and non-allocated aggregate workings. With regard to the latter, a modification is required to part 2(a) of policy 52 and reasoned justification to clarify that in assessing whether there is a need for the mineral in question, account will be taken of the most up to date published local aggregate assessment and other relevant information [**MM157** and **MM159**].
318. The last part of policy 52 states that planning conditions will be imposed on all new planning permissions requiring the annual submission of information detailing the extent of remaining permitted reserves and sales in order to improve the evidence base for future decision making. This is not justified or consistent with national policy as such conditions are unlikely to be necessary to make the development acceptable, relevant to the development, enforceable, or reasonable in other respects. It should therefore be deleted along with the associated reasoned justification [**MM158** and **MM160**]. A similar requirement relating to the use of planning conditions in policy 55 (natural building and roofing stone) is unsound for the same reasons and should also be deleted [**MM162**].
319. Part (d) of policy 51 sets out a sequential approach for the extraction of sand from magnesian limestone quarries: from beneath the quarry floor, then lateral extension to an existing quarry, and finally a new quarry outside environmentally sensitive areas. This is justified and will be effective, including for assessing proposals for lateral extension in cases where deepening a quarry is not practical or appropriate due to impacts on groundwater resources or other constraints. However, to provide clarity, there should be explicit reference to the policy applying to non-strategic allocations

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<sup>107</sup> *Joint Local Aggregates Assessment for County Durham, Northumberland and Tyne and Wear* (April 2018) [MW11].



in the forthcoming *Minerals and Waste Policies and Allocations Document* [**MM156**].

320. Policy 54 states that proposals for the extraction of coal and/or fireclay will not be permitted unless a number of stated criteria are met. These are consistent with national policy which does not rule out further extraction notwithstanding the climate emergency. However, paragraph 5.545 needs to be modified to provide appropriate reasoned justification including through the deletion of reference to past practice and former national guidance published in 1999 [**MM161**].

#### *Waste*

321. Policies 48, 61 and 62 seek to ensure that waste is managed in line with the waste hierarchy and in ways that assist in moving the management of waste in the county and north east region towards self-sufficiency by managing waste streams as near as possible to their production. Proposals for the provision of new or enhanced waste management capacity are supported where they meet those aims and a number of other criteria. In most respects the three policies are sound, although a number of changes are needed to the detailed policy wording and reasoned justification to ensure that they are effective and justified.
322. Policy 61 needs to be clear that all of the criteria have to be met, and recognise that new or enhanced facilities may be required to meet waste management needs in the county or north east that have not been identified in the Plan. This will ensure that the policy is effective [**MM164**].
323. The reasoned justification to policy 61 needs to be modified to define some of the technical terms referred to; explain why waste water treatment sludge and agricultural waste are not included in table 13; explain the forecasts for different waste streams included in the Plan and how identified capacity gaps will be dealt with including through the provision of new facilities; provide further detail on how implementation of the policy will be monitored; and clarify how proposals for the use of inert waste for mineral site restoration will be considered in the context of the waste hierarchy and that relevant policies for such uses will be included in the forthcoming *Minerals and Waste Policies and Allocations Document* [**MM165** to **MM169**].
324. Policy 62 needs to be modified to delete "small scale" in the first sentence of part (e)(2) relating to waste management facilities that genuinely require a rural location, and to delete "ancillary" in the penultimate paragraph relating to farm based waste management facilities [**MM170** to **MM172**]. This will ensure that the policy is consistent with national policy and effective in dealing with waste management facilities that are appropriate in a rural area.

#### *Conclusion*

325. Subject to the main modifications described above, policies 48 to 62, relating to minerals and waste, are justified, effective and consistent with national policy.

**Does the Plan set a justified and effective framework, and allow an appropriate role, for neighbourhood plans, having regard to current progress in their preparation in the county?**

326. National policy requires local plans to make explicit which policies are strategic and clearly distinguish those that are non-strategic, and provides guidance on how to decide which are which<sup>108</sup>. The distinction has implications for neighbourhood plans, as they must be in general conformity with the strategic policies in the development plan that covers the area.

327. There are over 100 local town or parish councils in the county. Fewer than a quarter have a neighbourhood area approved, and only a limited number have a neighbourhood plan in preparation or made<sup>109</sup>. There is, therefore, potential for a significant number of neighbourhood plans to be brought forward in the coming years meaning that the Plan has an important role to play in providing an effective strategic framework.

328. Appendix A in the Plan includes a list of strategic policies. However, due to an editorial error, the paper version of the Plan that was published under regulation 19 and submitted for examination, contained the wrong list. An addendum was issued; this reduced the number of policies categorized as strategic by 15 compared to the published Plan. Despite this, over two thirds of the 62 policies in the Plan are categorized as strategic which has the effect of limiting the amount of discretion there will be in plan-making at the neighbourhood level.

329. However the Council, as local planning authority, has responsibility for determining which policies in its Plan are strategic. It has given the matter careful consideration, having regard to national policy and guidance which allows a considerable amount of leeway in deciding which policies are necessary to address the strategic priorities of the county and meet the other relevant criteria. Whilst other approaches to this issue could also be justified, all of the policies on the Council's amended list in Appendix A can reasonably be considered strategic. I therefore recommend that the Plan be modified accordingly [**MM173**]<sup>110</sup>.

330. Subject to my recommended main modifications, the Plan should be effective in ensuring that identified housing needs in the county are met. There is, therefore, no requirement for neighbourhood plans to identify opportunities for additional housing development, although they could if they wish as this would be consistent with policy 1 (as modified) which makes clear that the housing requirement for the county is a minimum figure. In this context, there is no need for the Plan to set out a housing requirement figure for any of the designated neighbourhood areas as referred to in national policy<sup>111</sup>. Furthermore, it also justifies policy 6 (as modified) allowing neighbourhood plans to protect land outside development limits from development proposals on unallocated sites. Paragraph 1.19 in the Plan commits the Council to provide an indicative housing figure for a neighbourhood area if requested to

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<sup>108</sup> NPPF paragraphs 20-23 and 28, and PPG ID: 41-076-20190509.

<sup>109</sup> C21.

<sup>110</sup> A typographical error in the schedule of main modifications published for consultation meant that policy 55 (natural building and roofing stone), rather than policy 56 (reopening of relic building stone quarries), was removed from the list of strategic policies. This has been corrected in the appendix to this report.

<sup>111</sup> NPPF paragraphs 65 and 66.

do so and states that this would be based on latest evidence of local need and the Plan's spatial strategy and allocations. This is an effective and justified approach which gives neighbourhoods flexibility to decide whether they wish to promote additional housing development to that proposed in the Plan.

### *Conclusion*

331. Subject to the main modification referred to above and elsewhere in this report, the Plan sets a justified and effective framework, and allows an appropriate role, for neighbourhood plans in the county.

### **Other potential soundness issues**

#### *Green Belt issues not already considered*

##### *Policy 20: development in the Green Belt*

332. Policy 20 sets out criteria and requirements relating to development in the Green Belt as shown on the Policies Map. However, it includes additional and materially different tests to those in national policy<sup>112</sup>. These are not intended, or justified. I therefore recommend that policy 20 be deleted and replaced by an unambiguous statement that proposals for development in the Green Belt will be determined having regard to national planning policy [MM101].

##### *Policy 21: non-strategic Green Belt amendments*

333. The site of the former Lumley Boys School is in the countryside to the west of Great Lumley. It is physically separate from the village and whilst development may offer the opportunity to remove the last remnants of the former school, these are not visually prominent. On the other hand, new buildings on the site, even if well designed and landscaped, would represent a significant encroachment into the countryside and reduce the openness of the area.

334. Fernhill is a detached house standing within a large garden surrounded by mature vegetation. It is separate from the main built up area of Durham city which is largely on the other side of the A167, and is bordered by an historic green lane to the north and open countryside to the west and south. The site is mainly open, and appears as part of the attractive rural area forming the setting of the historic city in this particular location.

335. Neither of the above two sites are required to meet identified development needs, and I am not persuaded that there are exceptional circumstances to justify the removal of either of them from the Green Belt.

336. I concluded earlier in this report that there are exceptional circumstances to justify removing land at the former police skid pan at Aykley Heads from the Green Belt and that it is suitable for residential development. The allocation of the site and its exclusion from the Green Belt are clearly shown on the Policies

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<sup>112</sup> NPPF paragraphs 143-147.

Map, and development requirements are set out in policy 4. Policy 21 therefore serves no material purpose with regard to the site.

337. In light of the above I conclude that policy 21 and paragraphs 5.198 to 5.201 inclusive be deleted from the Plan [**MM102** and **MM103**]. The Policies Map should be amended to retain Fernhill and the former Lumley Boys School site in the Green Belt.

*Other sites in the Green Belt*

338. Outline planning permission was granted in 2016 for residential and commercial mixed use development at Lambton Park in the Green Belt to the east of Chester-le-Street. As with other commitments, the extent of the permitted site is shown clearly on the Policies Map. The fact that the site is retained in the Green Belt does not invalidate or prevent the implementation of the extant planning permission. Whilst implementation of the permission would no doubt have some effect on openness and Green Belt purposes, the site would remain within an area of open countryside physically and visually separate from Chester-le-Street. There are many other buildings, including a number of small settlements, "washed over" by Green Belt in the county. There is no requirement in national policy to remove land from the Green Belt to reflect planning permissions or the presence of new development. Exceptional circumstances do not exist to remove the land from the Green Belt. The retention of the site in the Green Belt, as proposed in the Plan, is therefore sound.

339. Relley Cottage is in the open countryside between Neville's Cross and Ushaw Moor, close to the southern end of the proposed western relief road. For reasons set out earlier in this report, I recommend that the relief road proposal be deleted from the Plan. There are no exceptional circumstances to justify removing land at Relley Cottage from the Green Belt to allow a high quality residential development.

*Renewable and low carbon energy*

340. Policy 34 is supportive of all forms of renewable and low carbon energy development in appropriate locations. Paragraph 5.366 describes the main types of development that are likely to come forward in the county. Whilst some consider that the Plan should be more ambitious in order to address the climate emergency, the approach is positive, flexible and consistent with national policy. There is no need to make the policy more detailed or prescriptive to ensure that it is sound.

341. Policy 35 states that wind energy development will only be permitted in the areas defined as suitable on the Policies Map and if a number of criteria are met. The areas defined vary for different sized turbines and take account of landscape character, environmental constraints, wind speeds and other relevant factors in line with national guidance<sup>113</sup>. The criteria are in the most part sound, although a number of changes are required. Part (d) and associated footnote need to refer to "priority habitats or species" to be unambiguous and consistent with national policy. References in the policy and reasoned justification to proposals to re-commission or re-power wind turbine

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<sup>113</sup> PPG ID: 5-005-20150618.

developments need to be modified to clarify how they relate to the replacement or extension to existing developments. The last part of the policy, which relates to wind turbine development affecting the North Pennines AONB, needs to refer to micro and small turbines to be effective and justified [**MM140** to **MM143**].

*Utilities and telecommunications*

342. Main modifications are required to policy 28 and associated reasoned justification to ensure that it is justified and effective in terms of the provision of infrastructure to enable high speed broadband connections serving residential and commercial developments, including in circumstances when it is not appropriate, practical or economically viable to make connection at the outset [**MM124** and **MM125**].

*Agricultural land and soil*

343. Changes are required to policy 14 and the reasoned justification to ensure consistency with national policy relating to best and most versatile agricultural land. This would ensure that the policy sets out a balanced approach to weighing the benefits of a development proposal against the harm it would cause taking account of the economic and other benefits of the agricultural land. Furthermore, the final part of the policy relating to soil resources should refer to previously undeveloped land in order to be clear and justified. I recommend main modifications accordingly [**MM79** to **MM81**].

*Advertisements*

344. A main modification is required to part (r) of policy 30 so that it is unambiguous and consistent with national policy and relevant regulations relating to the assessment of proposed advertisements having regard to amenity and safety [**MM131**].

*Conclusion*

345. The main modifications relating to the other issues that I have set out above are required to ensure that the Plan is sound.

## Overall Conclusion and Recommendation

346. The Plan has a number of deficiencies in respect of soundness for the reasons set out above, which mean that I recommend non-adoption of it as submitted, in accordance with Section 20(7A) of the 2004 Act. These deficiencies have been explored in the main issues assessed throughout this report.

347. The Council has requested that I recommend main modifications to make the Plan sound and/or legally compliant and capable of adoption. I conclude that with the recommended main modifications set out in the Appendix the County Durham Plan satisfies the requirements of Section 20(5) of the 2004 Act and meets the criteria for soundness in the NPPF.

*William Fieldhouse*

Inspector

This report is accompanied by an Appendix containing the Main Modifications.