

Independent Examination of the Cheshire West and Chester Council Local Plan Part Two: Land Allocations and Detailed Policies

The Darnhall Estate's Response to Matter 4:

Approach to housing allocations

August 2018

Contents

1. Introduction 1

2. Response to Matter 4.....2

3. SummaryError! Bookmark not defined.

Appendices

- Appendix I Site Location Plan
- Appendix II SHLAA 2018 Extract

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For and on behalf of HOW Planning LLP

1. Introduction

- 1.1 This hearing statement has been prepared by GVA HOW Planning ("GVA HOW") on behalf of the Darnhall Estate in relation to **Matter 4: Approach to housing allocations**. This hearing statement has been prepared in the context of the Darnhall Estate's interest in land at Darnhall School Lane, Winsford.

Matter 4 of the Inspector's Matters, Issues and Questions ("MIQs") Discussion Note dated 20th July 2018 concerns 'Approach to housing allocations (Northwich, Tattenhall)' and the remainder of this hearing statement sets out the Darnhall Estate's response to the following issues contained therein.

2. Response to Matter 4

- 2.1 Policy STRAT2 of the Local Plan Part One ("LPP1") identifies a requirement for Cheshire West and Chester of 22,000 dwellings over the plan period to 2030 and that *"the majority of new development will be located within or on the edge of the city of Chester and towns of Ellesmere Port, Northwich and Winsford"* with an appropriate level of development in key service centres and smaller rural settlements. Policy STRAT2 specifies that this requirement will be delivered through a number of key sites in LPP1 and further sites will be identified through LPP2 and Detailed Policies Plan and/or neighbourhood plans.
- 2.2 LPP1 Policies (STRAT3-8) identify the numbers of dwellings to be delivered in each settlement including Policy STRAT6 which identifies a requirement for Winsford of **at least 3,500**, of which 775 dwellings are to be delivered at the Station Quarter Allocation in Winsford.
- 2.3 The Darnhall Estate has no particular comments on the overall quantum or spatial distribution of development, other than acknowledging that the LPP2 is broadly consistent with the policy context provided by LPP1.
- 2.4 In relation to Winsford, Paragraph 5.1 of LPP2 states that:

"Winsford is one of the borough's four main towns, located in the eastern part of the district. The Local Plan (Part One) policy STRAT 6 sets out a requirement for at least 3,500 new dwellings and 35 hectares of additional land for business and employment development in the town."

- 2.5 The text of LPP2 Policy W1 (Winsford Settlement Area) states that it is *"aimed at delivering the Local Plan (Part One) policy STRAT 6"*. In addition, at paragraph 5.6 of the LPP2, the explanation of Policy W1 states that *"Policy W1 supports the delivery of the Local Plan (Part One) policy STRAT 6 and the Winsford Neighbourhood Plan."*
- 2.6 However, the LPP2 seeks to make no residential allocations in Winsford but simply redefines the Winsford settlement area boundary to reflect the allocations of the Winsford Neighbourhood Plan ("WNP") which allocates 3,362 homes across 24 sites on page 44, Table 5.1.
- 2.7 The Justification for this approach appears to be provided in the Land Allocations Background Paper which states:
- "the housing requirement for Winsford will be met and exceeded through the delivery of developable extant planning permissions including the strategic site at the Station Quarter Urban Extension; sites allocated for residential development in the Winsford Neighbourhood Plan; and the additional supply brought forward on sites identified on the Brownfield Land Register"¹*
- 2.8 The Council's response to the Darnhall Estate's September 2016 representations refers to this statement in the Land Allocations Background Paper and elaborates further by stating:

¹ Land Allocations Background Paper, 2017, Page 15, Paragraph 2.46

“There is therefore no need to identify additional land for residential development in Winsford in the Local Plan (Part Two)”²

2.9 The Darnhall Estate considers that this approach of simply relying on allocations in the WNP, extant planning permissions and sites on the Brownfield Land Register (“BLR”) to deliver the housing requirement for Winsford over the Local Plan period (2010-2030), is fundamentally flawed.

2.10 The WNP, and sites allocated in it, were not based on the same evidence (but on now out-of-date evidence in the 2013 SHLAA) and were not subjected to the same level of scrutiny regarding delivery, as the site allocations contained in LPP2. Neighbourhood Plans do not need to meet the tests of soundness in the NPPF that Local Plans must. The National Planning Practice Guidance (“NPPG”) states:

“When considering the content of a neighbourhood plan or Order proposal, an independent examiner’s role is limited to testing whether or not a draft neighbourhood plan or Order meets the basic conditions, and other matters set out in paragraph 8 of Schedule 4B to the Town and Country Planning Act 1990 (as amended). The independent examiner is not testing the soundness of a neighbourhood plan or examining other material considerations.”³

2.11 The Inspector who examined the WNP and the proposed allocations within it, stated in his report that:

“I do not have sufficient evidence to judge in detail as between all of the sites that might have been or could be allocated. My role is simply to consider the plan as it has been brought forward for examination, including the allocation of sites for particular categories of development, and to see whether it meets the basic conditions and the other statutory requirements.”⁴

2.12 It is clear therefore that the allocations in the WNP were not made based on a detailed assessment of all sites suitability and deliverability. Furthermore, whilst the Inspector found that the WNP and allocated sites within it met the basic conditions and other statutory requirements for their inclusion in the neighbourhood plan, they were not subject to the soundness tests in the NPPF, which is a much higher policy test to meet and one which the LPP2, and the allocations it is seeking to make in other settlements, must meet.

2.13 In summary, the limited levels of scrutiny that sites were subjected to at the preparation stage of the WNP is not sufficient for the allocation of housing in LPP2 and to provide the necessary flexibility over the plan period to ensure that the required housing is delivered. It is therefore not appropriate for the LPP2 to rely on the WNP to deliver the vast majority of Winsford’s housing requirement, particularly when the preparation of the LPP2 has provided a suitable opportunity to robustly assess the deliverability of allocations in the WNP and evidence this.

2.14 The Darnhall Estate has received a legal opinion from Leading Counsel which confirms that the Council’s approach to housing allocations in Winsford is fundamentally flawed. This opinion accompanies this hearing statement.

² CWaC Local Plan (Part Two) - Preferred Approach, Council’s Response, Comment ID: Part2PA_2686.

³ Reference ID: 41-055-20140306

⁴ Winsford Neighbourhood Plan: Report by Independent Examiner, Page 27, Paragraph 3.26.

The Deliverability of Sites in the Winsford Neighbourhood Plan

- 2.15 Not only is the general approach flawed and unsound, there is serious doubt over whether the WNP sites will deliver the number of dwellings anticipated towards meeting the minimum requirement of 3,500 dwellings.
- 2.16 Whilst the WNP only allocates 3,362 dwellings, the Independent Examiner's Report on the Winsford Neighbourhood Plan, the Examiner addressed the shortfall between the LPP1 Policy STRAT6 and the WNP allocation at Paragraph 3.8, stating:

“at the time the ‘Basic Conditions’ statement was prepared – some 265 houses built or permitted since 2010. The balance is thus 3,235 units. The Winsford plan allocates for 3,362 (in Table H1); and also envisages further dwellings to be provided in the town centre (under existing Policy H3)”⁵.

- 2.17 Before even turning to any evidence regarding deliverability, the reliability of the figures in the WNP is immediately brought into question by the fact that page 67 of the WNP states that Allocation S4 will deliver just 34 dwellings, whilst Table 5.5 claims 62 dwellings which are then included in the total of 3,362.
- 2.18 The Darnhall Estate has carried out a review of the LPP2 evidence base, the WNP, extant planning permissions, Brownfield Register, and the council's online planning register and there are several factors which raise serious doubt over the deliverability of sites in the WNP on which the Council is relying.
- 2.19 In comparison to the LPP2 evidence base, the evidence on which the WNP is based (2013 SHLAA) is now out-of-date. Whilst the preparation of the LPP2 has provided an opportunity for the Council to fully review the delivery of all allocations within the WNP, and make its local plan more flexible to respond to any change in circumstances since the LPP1 was adopted or the WNP was made, there is no evidence within the LPP2 that either this review was carried out or that the Council's own most up-to-date evidence has been fully considered.

Delivery Issues indicated by the HELAA

- 2.20 The Housing and Employment Land Availability Assessment ("HELAA") was published in February 2017 with a base date of 1st April 2016. The period of both the Local Plan and the WNP to 31st March 2030 is covered by the first 14 years of the HELAA's delivery projections. Therefore, any delivery of dwellings on sites after year 14 in the HELAA would fall beyond the plan period and not contribute to meeting the housing need identified in the LPP1. Appendix C (Table 4) of the HELAA details all sites that are assessed as being able to deliver dwellings over the period covered by the HELAA. Whilst the HELAA does not break down the delivery from sites by single years within the range 10-15, it is reasonable to conclude that where delivery from the site is expected in years 10-15, and years 16+ one year's worth of the delivery in years 10-15 (i.e. on fifth) will occur beyond the plan period of the WNP and LPP2. This is the case for 2 of the WNP allocations as set out in Table 1.

⁵ Winsford Neighbourhood Plan: Report by Independent Examiner, page 24, paragraph 3.8.

Table 1: WNP Site Allocations in the HELAA 2017 (base date of 1st April 2016) estimated to deliver beyond the plan period.

Site Reference	NP Site Reference	HELAA Estimated development potential	1-5 YRS	6-10 YRS	11-15 YRS	16+ YRS
WIW/0047	S1	544	0	216	240	88
WOV/0069	NTC2	171	0	0	144	27

2.21 The HELAA demonstrates that the delivery of at least **192⁶ dwellings** across these two WNP allocations will occur beyond the plan period.

2.22 The HELAA also includes an estimated development potential (effectively a total dwelling yield) for sites and in many instances, this yield is far lower than the capacity of the site indicated in the WNP. Table 2 sets out those sites assessed by the HELAA where the site area shown on the HELAA plans is the same as that shown in the WNP and a direct comparison can be made. The HELAA indicates a lower yield for 8 WNP allocations and a higher yield for just 1 WNP allocation.

Table 2: Difference between WNP Site Allocations and HELAA 2017 (base date of 1st April 2016) estimated delivery potential.

HELAA Site Reference	WNP Site Reference	WNP Site Allocation	HELAA Estimated development potential	Difference between WNP Site Allocation and HELAA
WIW/0048	W4	161	114	-47
WOV/0067	NTC4	14	11	-3
WIW/0044	S4	62	39	-23
WIW/0045	S5	27	17	-10
WIW/0047	S1	665	544	-121
WOV/0068	NTC1	94	87	-7
WOV/0069	NTC2	174	171	-3
WIW/0040	NTC6	50	124	+74
WOV/0073	NTC7	20	8	-12
Total		1,267	1,115	- 152

2.23 The HELAA demonstrates that across the 9 sites included in Table 2, the total yield from those WNP allocations will be **152 dwellings less than anticipated in the WNP**.

⁶ 115 in years 16+ across both sites; 48 in year 15 from S1 (1/5 of 240); and 29 in year 15 from NTC2 (1/5 of 144).

- 2.24 Therefore based on the Council's latest evidence in the HELAA, the actual delivery will be **at least 344 dwellings fewer than anticipated in the WNP**, 115 beyond the plan period and 192 because of reduced yield.

General Delivery Issues in Winsford

- 2.25 Sites with planning permission often experience non-delivery for a multitude of reasons such as lapsed permissions, individual landowners with no immediate desire or need to see a site delivered, issues in overcoming site constraints and/or meeting s106 agreement provisions.
- 2.26 As a case in point, WNP Allocation W3 was allocated for 150 dwellings based on outline planning permission⁷ which was supported at Planning Committee in July 2011 subject to a s106 Agreement. A decision notice was not issued until 24th October 2014, over 3 years later. On 16th October 2017, a new outline application⁸ was submitted for the site. This has still not been approved and it is now over 7 years since the original application was submitted.
- 2.27 The WNP anticipates that Allocation S2 will deliver 224 dwellings. However, the outline planning permission⁹ and associated reserved matters approval¹⁰ for 215 dwellings across Allocation S2 and part of Allocation S3 include just 162 dwellings on S2 with the remaining areas of the site undevelopable or used for open space. Furthermore, the HELAA anticipates that just 15 dwellings would be deliverable on the remaining area of the S3 (HELAA ref. WIW/0071). WNP Allocation S2 and S3 will therefore deliver **95 dwellings less than the WNP anticipates**.
- 2.28 Along with the deficit of 344 dwellings set out at 2.24 above, this further deficit of 95 dwellings result in a clearly evidenced **deficit of at least 439 dwellings from the levels anticipated in the WNP**.
- 2.29 The only remaining source of delivery claimed by the Council in the Land Allocations Background Paper is sites on the BLR¹¹. The Council has produced no evidence that the sites in Winsford on the BLR will deliver the necessary number of dwellings to make up for this deficit over the plan period.
- 2.30 It is also worth noting that Winsford is not constrained by the Green Belt and prior to the LPP1 being adopted, planning permissions were secured which resulted in many sites in Winsford benefitting from planning permission early in the plan period. However, despite sites being allocated in the WNP, and many having planning permission, Winsford is not delivering the housing that is needed.
- 2.31 The Council's latest Annual Monitoring Report 2018 confirms that in the first 8 years of the plan period, only 973 dwellings were completed in Winsford, none at the Station Quarter. The 973 completions (annual average of just 122) equate to just 28% of the minimum requirement for Winsford over the plan period. As shown in Table 4, this is the lowest percentage of all settlements in Cheshire West and Chester.

⁷ LPA Ref: 11/00558/OUT

⁸ LPA Ref: 17/04449/OUT

⁹ 14/01266/OUT [appeal reference APP/A0665/A/14/2229269]

¹⁰ 17/04426/REM

¹¹ Land Allocations Background Paper, 2017, Page 15, Paragraph 2.46

Table 4: Completions in Winsford 2010 to 2018 compared to other settlements in CWAC

Policy	Settlement	Minimum requirement 2010-30	No. of completions 2010-18	% of housing requirement achieved
STRAT 3	Chester	5,200	3,043	58%
STRAT 4	Ellesmere Port	4,800	1,536	32%
STRAT 5	Northwich	4,300	2,185	51%
STRAT 6	Winsford	3,500	973	28%
STRAT 8	Rural Areas	4,200	3,255	77%

2.32 Therefore, over the remaining 12 years of the plan period, 2,527 dwellings need to be delivered (annual average of 212) to meet the requirement set out in LPP1 Policy STRAT 6.

2.33 The Council's latest Housing Land Monitor 2017-18 ("HLM") identifies 63 sites in Winsford, but only considers that 27 of these are deliverable in the five year period from 1st April 2018 to 31st March 2023. These 27 sites, (of which 11 are large sites of 10 dwellings or more) are set out in Table 5.

Table 5: Breakdown of the Council's deliverable supply in Winsford 2018-23

CWAC Ref:	Address	Status	CWAC 5YHLS	Developer	Comments
Large sites (over 10 dwellings)					
WOV/0064	Woodford Lodge	Under construction	298	Keepmoat	The site is under construction with completions in 2017/18
WIW/0018	Station Quarter	Detailed consent	215	Trafford Housing Trust	Development has not commenced
WOV/0016	Rear of Littler Lane	Detailed consent	132	Taylor Wimpey	Reserved Matters were approved in June 2017 but development has not yet commenced – second phase to WOY/0086
WSD/0026	Ways Green	Full pp	83	Bellway	Full planning permission was granted in July 2016, but the development has not commenced

CWAC Ref:	Address	Status	CWAC 5YHLS	Developer	Comments
WSD/0045	Charlotte Place, Gladstone Street	Under construction	78	David Wilson Homes	The site is under construction with completions in 2017/18
WOV/0086	Spring Croft, Chester Road	Under construction	52	Taylor Wimpey	The site is under construction with completions in 2017/18
WSD/0038	Swanlow Fields, Welsh Lane	Under construction	50	Bellway	The site is under construction with completions in 2017/18
WOV/0112	Land at Grange Yard	No planning permission	40	None	An outline planning application was approved at committee in May 2018 subject to a S106 agreement which has not yet been signed. It does not meet the definition of deliverable and should be removed from the Council's 5YHLS.
WSD/0052	Former Drill Hall	Full pp	31	Over Estates	Full planning permission was granted in April 2017, but the development has not commenced
WOV/0056	Land at Oakmere Road / Chester Road	Outline pp	24	None	Outline planning permission was granted in April 2017. A reserved matters application has not been submitted. It does not meet the definition of deliverable and should be removed from the Council's 5YHLS.
WSD/0017	Land at Springbank Crescent	Full pp	16	HB Village Developments	Full planning permission was granted in December 2016, but the development has not commenced
Small sites (under 10 dwellings)					
-	16 no. sites	mixed	27	-	These (16) are small sites (i.e. sites with a capacity of 9 dwellings or less) and account for 27 dwellings in the 5YHLS
Total			1,046		

- 2.34 It is noted that the Council considers that 1,046 dwellings are deliverable over the 5 year period, the majority (1,019) from the 11 large sites. This is despite only 4 of these 11 large sites currently being under construction.
- 2.35 In summary, even if the 1,046 dwellings are delivered in the five year period, along with the 973 completions between 1st April 2010 to 31st March 2018, this means that 2,019 dwellings would be completed by 31st March 2023 and it would mean that for the minimum housing requirement for Winsford to be met, a further 1,481 dwellings need to be completed over the remaining 7 years of the plan period (212 per year).
- 2.36 Furthermore, the Council only considers one site¹² is deliverable at the Station Quarter within the plan period. Even if all 215 dwellings on this site were delivered in the 5 year period, this would mean that despite the WNP claiming that the Station Quarter would deliver over 1,000 dwellings within the plan period, at least 685 would still need to be delivered over the remaining 7 years (98 per year).
- 2.37 There are 36 sites in Winsford in the HLM which the Council considers are not deliverable within the five year period to 2023. Of these 36, 30 are large sites with an estimated capacity above 9 dwellings (as shown in Table 6 below). Just one of these has full planning permission¹³ and two have outline planning permission¹⁴. The remaining 27 do not have any extant planning permissions. Therefore there is absolutely no reason to believe, let alone any certainty, that the WNP and its allocations will deliver an average of 212 dwellings per year (including 98 per year at the Station Quarter) over the remaining 7 years of the plan period beyond 2023.

Table 6: Large sites identified in the HLM in Winsford which are not deliverable

Ref:	Address	Planning Status	CWAC Supply	Developer	Comments
WIW/0047	Winsford Station Quarter	None	665	None	No planning application. No developer.
WOV/0069	Winsford Gateway off Roehurst	None	174	None	No planning application. No developer.
WIW/0030	S Cooper and Sons, Nat Lane	Outline planning permission	161	None	Site is in use. The reserved matters application does not need to be submitted until 2021.

¹² WIW/0018

¹³ WSD/0044

¹⁴ WIW/0030 and WIW/0004

Ref:	Address	Planning Status	CWAC Supply	Developer	Comments
WIW/0034	Reposessions, Wharton Road	Outline planning application	150	None	Site is in use. The site had outline planning permission, which expired in October 2017. A new outline planning application was submitted in October 2017 but has not been determined.
WIW/0048(a)	Land at Wharton Green	None	115	None	No planning application. No developer.
WSD/0014	Winsford Shopping Centre, Dene's Drive	None	113	None	No planning application. No developer.
WIW/0071	Winsford Station Quarter urban extension	None	101	None	No planning application. No developer.
WOV/0068	Winsford Gateway	None	94	None	No planning application. No developer.
WOV/0045	Handley Hill School	None	71	None	No planning application. No developer.
WOV/0092	Land at St John's Drive	None	37	None	No planning application. No developer.
WIW/0044	Land south-east of A54	None	34	None	No planning application. No developer.
WSD/0027	Dene Street car park	None	32	None	No planning application. No developer.
WIW/0059	Meadow Island	None	30	None	No planning application. No developer.
WIW/0045	South of Middlewich Road	None	27	None	No planning application. No developer.
WOV/0066	Land at Sadler Road	None	26	None	No planning application. No developer.
WOV/0070	Land north of former Richmond Packaging	None	26	None	No planning application. No developer.

Ref:	Address	Planning Status	CWAC Supply	Developer	Comments
WOV/0071	Church Street car park	None	26	None	No planning application. No developer.
WIW/0061	North of Middlewich Road	Outline planning application	21	None	An outline planning application was submitted in July 2017 but it has not been determined. No developer.
WIW/0063	Land west of Clive Lane	None	19	None	No planning application. No developer.
WIW/0052	Land to rear of Red Lion PH	None	18	None	No planning application. No developer.
WIW/0019	Rilshaw Lane Phase 1, Caravan Park	None	15	None	No planning application. No developer.
WIW/0004	Securicor Ltd, Wharton Road	Outline planning permission	14	None	Outline planning permission was granted in September 2016. A reserved matters application has not been submitted. There is no developer.
WOV/0067	North of Winsford Police Station	None	14	None	No planning application. No developer.
WSD/0044	The Hollies, Darnhall School Lane	Full planning permission	14	None	The site has full planning permission but the HLM confirms it has stalled
WIW/0020	476 Rookery Rise	None	13	None	No planning application. No developer.
WSD/0034	Rear of Weaver Street	None	13	None	No planning application. No developer.
WOV/0084	Land at Sadler Road - Former Winsford Clio Centre	Full planning application	12	None	A full planning application was submitted in November 2017 but remains undetermined.
WSD/0030	Winsford Library and Dingle Recreation Centre	None	11	None	No planning application. No developer.
WSD/0028	Site of former Civic Hall	None	10	None	No planning application. No developer.

Ref:	Address	Planning Status	CWAC Supply	Developer	Comments
WSD/0031	Land at High Street / Dingle Lane	None	10	None	No planning application. No developer.

3. Summary

- 3.1 The Council's approach to housing allocations in Winsford in the LPP2, whereby it is relying on sites with extant planning permissions, sites on the Brownfield Register, and sites allocated in WNP to deliver the identified need for Winsford over the plan period, is fundamentally flawed, as also demonstrated by the legal advice from Leading Counsel which accompanies this hearing statement.
- 3.2 The site selection process was therefore not robust and an appropriate selection of potential sites was not assessed. In relying on the WNP's assessment of allocations rather than taking the opportunity to fully assess the deliverability of sites in the LPP2, the Council failed to assess alternative sites, let alone take the correct criteria into account and/or robustly assess sites against this criteria.
- 3.3 In addition to this flawed and unsound approach, this statement sets out evidence (including the Council's own evidence) that several WNP allocations will not deliver the anticipated level of housing, and raises serious doubt over several others and the overall delivery of housing in Winsford. Therefore, as currently drafted, there can be no certainty that the LPP2 Publication Plan will be effective at meeting the objectively assessed development requirement of 3,500 dwellings for Winsford. There is also no evidence that sites on the BLR will deliver enough dwellings to make up any shortfall. The overall strategy proposed is therefore not the 'most appropriate reasonable alternative based on proportionate evidence' and the LPP2 is not justified and has not been positively prepared in the context of meeting the soundness tests. All of this renders the submitted LPP2 unsound.
- 3.4 In order to make the LPP2 sound, the Council must identify and allocate additional land in Winsford for residential development, including the site at Darnhall School Lane. Failing this, reserve sites in Winsford should be allocated through the LPP2, with clear triggers for them being developed in situations where delivery in Winsford falls below the anticipated levels.
- 3.5 Representations made by the Darnhall Estate to the LPP2 'Preferred Approach' consultation, dated 24th September 2016 demonstrated that the Site is deliverable and sustainable and can contribute to the Winsford's housing needs over the plan period to 2030 and the Council's own evidence base (HELAA), demonstrates that the Site is deliverable entirely within the LPP2 plan period.

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