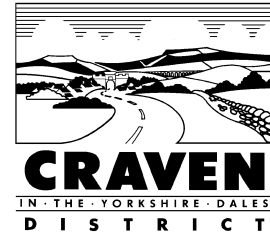


Policy Committee – 22nd July 2014

REVIEW OF METHODOLOGY FOR CALCULATING THE 5 YEAR HOUSING LAND SUPPLY

Report of the Strategic Manager for Planning and Regeneration

Ward(s) affected: All outside the Yorkshire Dales National Park

1. **Purpose of Report** – To present the findings and consider the recommendations of a review of the methodology for calculating the 5 year housing land supply.

2. **Recommendations** –

It is recommended that:

- 2.1 The published updates of the 5 year land supply position in Craven is changed from a bi-monthly basis to an annual basis, to facilitate a more tailored approach to be developed for applying a discount(s) to sites with planning permission to estimate the net deliverable supply of housing for both 5 years ahead and for the housing trajectory beyond 5 years.
- 2.2 A buffer of 20% to the 5 year housing requirement figure be maintained in the Council's assessment of its 5 year housing land supply until such time as sufficient robust evidence exists to support a change to a 5% buffer.
- 2.3 A 5 year housing requirement for development control purposes based on the most up to date DCLG household projections is adopted, until such time as the emerging housing target of the Local Plan has been tested at examination and held to be sound.
- 2.4 Delegated authority is given to the Strategic Manager for Planning and Regeneration to adjust (if necessary) the housing requirement figure to be used in the 5 year housing land supply assessment when the 2012 based DCLG household projections for Craven are published later this year.

3. **Report**

Introduction

3.1 Members may recall that during the public participation session at the meeting of this Committee on 19th November 2013, a resident of Skipton circulated a presentation to Members and expressed his view that there was an inherent error in the Council's calculation / comparison of the numbers which determined the surplus

or shortfall to the National Planning Policy Framework (NPPF) target for housing supply in Craven (the 5 year housing land supply).

- 3.2 The Chairman assured him that his concerns would be examined and he would be advised of the findings and if appropriate these would be reported to Committee.
- 3.3 Additionally, on 12th December 2013, an Appeal Court judgment was released that provided clarification on the proper interpretation of paragraph 47 of the NPPF, in respect of what is meant by “*full and objectively assessed needs for market and affordable housing*” particularly in cases where the Regional Spatial Strategy for the area has been revoked and there is no replacement up to date adopted local plan in place. Officers consider that the judgment has particular relevance for the Council’s current position and the 5 year housing land supply assessment has therefore also been reviewed in the light of this judgement.
- 3.4 The review of the methodology used by the Council to calculate its 5 year housing land supply has now been completed and is presented in full in this report. The Skipton resident has also been supplied with the review findings and recommendations.

4.0 **Review of Methodology for Calculating the 5 Year Housing Land Supply**

- 4.1 The submission to the Policy Committee in November 2013 considered that the inclusion in the Council’s methodology of adding 20% to the housing requirement (or housing target) and also applying a 20% discount to the gross “supply” of extant planning permissions results in “slippage” being accounted for twice and therefore results in an inaccurate estimate of the 5 year land supply position.
- 4.2 In undertaking the review, the following sources of information/advice have been researched :-
- The National Planning Policy Framework (NPPF) (March 2012) and National Planning Practice Guidance (nPPG) (March 2014) on-line resource ;
 - the housing land supply methodologies of other local authorities. These were randomly selected with the only proviso that they had been prepared since the National Planning Policy Framework was published in March 2012 (Peterborough City Council – Oct 13, East Staffordshire Borough Council – July 13, Selby District Council – Dec 13, Fylde Borough Council – March 13, North Devon Council – April 13 and Malvern Hills District Council – June 13);
 - Planning Advisory Service (PAS) advice notes “Why does my council need a five-year housing land supply?” Nov 2013 and “Key principles for owning your housing number-finding your objectively assessed housing needs” July 2013;
 - Planning Appeal cases and High Court and Appeal Court Judgements.

5.0 The National Planning Policy Framework (NPPF) and Planning Practice Guidance (nPPG)

5.1 In paragraph 47 of the National Planning Policy Framework (NPPF), the Government states that to boost significantly the supply of housing, local planning authorities should :

- Use their evidence base to ensure that their Local Plan meets the full, objectively assessed needs for market and affordable housing in the housing market area, as far as is consistent with the policies set out in this Framework, including identifying key sites which are critical to the delivery of the housing strategy over the plan period;
- Identify and update annually a supply of specific deliverable sites sufficient to provide 5 years worth of housing against their housing requirements with an additional buffer of 5% (moved forward from later in the plan period) to ensure choice and competition in the market for land. Where there has been a record of persistent under delivery of housing, local planning authorities should increase the buffer to 20% (moved forward from later in the plan period) to provide a realistic prospect of achieving the planned supply and to ensure choice and competition in the market for land;
- Identify a supply of specific, developable sites or broad locations for growth for years 6-10 and, where possible, for years 11-15;
- For market and affordable housing, illustrate the expected rate of housing delivery through a housing trajectory for the plan period and set out a housing implementation strategy for the full range of housing describing how they will maintain delivery of a five year supply of housing land to meet their housing target; and
- Set out their own approach to housing density to reflect local circumstances

5.2 Paragraph 47 of the NPPF provides general guidance on what local authorities should include in their assessment of the 5 year land supply, but does not provide a detailed or prescribed methodology for how local planning authorities are to calculate their five year land supply. The national Planning Practice Guidance (nPPG) provides some further guidance on relevant factors to take into account when assessing the 5 year land supply, but again does not prescribe a detailed methodology for calculating the 5 year land supply.

6.0 Review of Council's Housing Position Statement – assessing the supply of deliverable housing land/sites.

6.1 When reviewing the Council's Housing Position Statement methodology against the NPPF, it is clear that the frequency of updating the 5 year housing land supply position is different to that envisaged in the NPPF (the Council's Housing Position Statement is normally updated every 2 months). The national Planning Practice

Guidance (nPPG) advocates that an assessment of sites should be updated yearly as follows:- *“ The National Planning Policy Framework requires local planning authorities to identify and update annually a supply of specific deliverable sites sufficient to provide five years’ worth of housing. As part of this, local planning authorities should consider both the delivery of sites against the forecast trajectory and also the deliverability of all the sites in the five year supply. By taking a thorough approach on an annual basis, local planning authorities will be in a strong position to demonstrate a robust five year supply of sites.”*

- 6.2 The review of other local authority methodologies revealed that all of them (apart from East Staffs which does twice yearly updates) undertake annual updates of their 5 year housing land supply. The Planning Advisory Service (PAS) also recommends that *“ the five year housing land supply should be a “live” document, updated annually to continually be able to show a deliverable supply.”*¹
- 6.3 The NPPF states that local planning authorities should *“identify a supply of specific deliverable sites sufficient to provide 5 years worth of housing against their housing requirements”* A footnote to paragraph 47 of the NPPF indicates that *“ to be considered deliverable, sites should be available now, offer a suitable location for development now, and be achievable with a realistic prospect that housing will be delivered on the site within 5 years and in particular that development of the site is viable. Sites with planning permission should be considered deliverable until permission expires, unless there is clear evidence that schemes will not be implemented within 5 years, for example they will not be viable, there is no longer a demand for the type of units or sites have long term phasing plans.”*
- 6.4 The nPPG advises that *“Deliverable sites for housing could include those that are allocated for housing in the development plan and sites with planning permission (outline or full that have not been implemented) unless there is clear evidence that schemes will not be implemented within five years.*

However, planning permission or allocation in a development plan is not a prerequisite for a site being deliverable in terms of the five-year supply. Local planning authorities will need to provide robust, up to date evidence to support the deliverability of sites, ensuring that their judgements on deliverability are clearly and transparently set out. If there are no significant constraints (e.g. infrastructure) to overcome such as infrastructure sites not allocated within a development plan or without planning permission can be considered capable of being delivered within a five-year timeframe.

The size of sites will also be an important factor in identifying whether a housing site is deliverable within the first 5 years. Plan makers will need to consider the time it will take to commence development on site and build out rates to ensure a robust five-year housing supply.”

- 6.5 All the methodologies of the other local authorities have different ways in which they decide what constitutes specific deliverable sites, which is largely dependent on

¹ Planning Advisory Service Advice Note “Why does my council need a five year housing land supply? 29 Nov 2013

whether they have an up to date adopted development plan or upon the stage they have reached in preparing their development plan and Strategic Housing Land Availability Assessment (SHLAA).

- 6.6 However, critically, when considering sites with planning permissions, they all (with the exception of one) apply a generic discount to all or some of their supply of planning permissions to account for non-implementation of permissions (or what is referred to in the Council's Housing Position Statement as "slippage") i.e. a gross housing supply in the form of planning permissions is discounted to account for non-implementation so that a more realistic net deliverable supply of housing can be used in the assessment. How the discount is calculated and applied varies between authorities, some have an assumed discount rate applied to the total number of planning permissions , other methodologies drill down further applying different discount rates for different types of development based on past trends. The discounts vary from 6%, 10% and 15%. The Council's Housing Position Statement applies an assumed discount rate of 20% to the total number of planning permissions.
- 6.7 The local authority that does not apply a generic percentage discount to their planning permissions has an up to date adopted Core Strategy and Site Allocations DPD with supporting SHLAA, so their approach is somewhat different in that they make discounts to individual site permissions based on assumptions about the likely delivery rate of each site, identifying when development is likely to start on site and how many dwellings could be delivered each year. Their assumptions are based on previous completion rates and known market interest in sites being developed. They also take into account known constraints which may mean that some sites are unlikely to be available during the five year period. In other words, if they estimate that a site with planning permission would take longer than 5 years to be completed, they do not include some of the dwellings granted consent on that site in the 5 year land supply. To illustrate by example if a site has planning permission for 300 dwellings and the expected completion rate was 50 dwellings a year, then only 250 dwellings would be counted as being the deliverable supply in the 5 year land supply as the final 50 dwellings would be delivered after the 5 year period and would be accounted for during the next annual update of the assessment.
- 6.8 Whilst the way in which detailed discounts are arrived at vary between the local authorities, they nevertheless all commonly include the principle of applying a discount to planning permissions to provide a more realistic picture of how much housing is likely to be delivered via existing planning permissions, i.e. built, over the following 5 years. The Council's Housing Position Statement is therefore not unusual in applying a discount to its stock of existing planning permissions and it is concluded that the principle of discounting sites with planning permission to take account of non-implementation within the 5 year period is a sound approach.
- 6.9 As indicated above, from the review of the other local authority methodologies, how the discount is calculated and applied varies between authorities, some have an assumed discount rate applied to the total number of planning permissions , other methodologies drill down further applying different discount rates for different types of development based on past trends, or as in the case of Peterborough City

Council, apply discounts to individual sites based on estimated annual delivery rates.

- 6.10 The Council's Housing Position Statement is currently updated every two months and it is not feasible, within the resources available to carry out a detailed assessment of discounts tailored to individual sites or types of sites at such frequent intervals, so applying an assumed discount rate is a reasonable approach in these circumstances. However, if the 5 year land supply assessment was changed to an annual update, this would facilitate a more tailored approach to be developed for applying a discount (or discounts) to existing planning permissions. This could involve a combination of detailed assessments of individual site permissions on large sites and specific discounts based on past trends for other types of sites, for example small infill sites or conversions. This more tailored approach done on an annual basis would provide more detailed evidence to underpin the estimate of a net deliverable supply of housing for the immediate 5 years ahead and for a housing trajectory beyond 5 years, as advocated in the nPPG "*local planning authorities should consider both the delivery of sites against the forecast trajectory and also the deliverability of all the sites in the five year supply. By taking a thorough approach on an annual basis, local planning authorities will be in a strong position to demonstrate a robust five year supply of sites.*"

7.0 Review of Council's Housing Position Statement – Calculating the Housing Requirement Figure

- 7.1 The Skipton resident's submission to the Policy Committee argued that the inclusion in the Council's methodology of a 20% discount to the gross "supply" of planning permissions for non-implementation is flawed because the methodology also includes adding 20% to the housing requirement figure, which he considers results in "slippage" being accounted for twice and that therefore the estimate of the 5 year land supply position is inaccurate and would lead to more houses being built than the intended planned supply and so "*will guarantee that CDC ends up with substantially more houses than its requirement*"
- 7.2 The second bullet point of paragraph 47 of the NPPF states that local planning authorities should "*Identify and update annually a supply of specific deliverable sites sufficient to provide 5 years worth of housing against their housing requirements with an additional buffer of 5% (moved forward from later in the plan period) to ensure choice and competition in the market for land. Where there has been a record of persistent under delivery of housing, local planning authorities should increase the buffer to 20% (moved forward from later in the plan period) to provide a realistic prospect of achieving the planned supply and to ensure choice and competition in the market for land*"
- 7.3 The housing requirement figure currently used in the Council's Housing Position Statement is the emerging local plan housing target of 160 dwellings per annum, which would give a 5 year requirement of 800 dwellings (5 x 160). However the Council would not be able to say that it had a 5 year land supply in accordance with paragraph 47 of the NPPF, as paragraph 47 says that the identified housing

requirement should also include a 5% buffer (moved forward from later in the plan period) and where there has been a record of persistent under delivery of housing a 20% buffer should be included (moved forward from later in the plan period) .

- 7.4 Over the previous 5 years 2008/09 to 2012/13 Craven had a housing target of 250 dwellings pa (as set out in the Yorkshire and Humber Regional Plan, which was not revoked until February 2013) and the number of houses built over those 5 years was 907 i.e $907/5 = 181$ per annum, so a 20% buffer to the housing requirement is required. This means that the “NPPF 5 year housing target “ is $800 + 20\% = 960$
- 7.5 The review of the 6 other local authorities methodologies reveals that all of them include either a 5% or 20% buffer to their housing requirement figure (as applicable). They all use their ‘buffered’ 5 year housing requirement figure against a **net (or discounted)** figure for their deliverable supply of housing (not their gross supply of planning permissions) in order to measure whether they have a 5 year supply of land.
- 7.6 The NPPF says that 5 year land supply assessments should include the buffers of 5% or 20% (whichever is applicable), but it is important to note that the 20% buffer is not an additional amount of housing to the planned supply. The planned supply is that which is planned to meet housing requirements over a 15 year period in the Local Plan, not just the first 5 years. Paragraph 47 of the NPPF makes it clear that the buffer moves sites forward from later in the plan period and consequently the annual housing requirement for later in the plan period will be lower to reflect this. The emerging housing target for the new Craven Local Plan is based on meeting a housing requirement of 2,400 dwellings over a 15 year period, which is annualised as a target of 160 dwellings per annum.
- 7.7 To illustrate what paragraph 47 of the NPPF might mean for Craven, the following hypothetical future scenario is set out below:-

Assuming that Craven’s emerging housing requirement of 2,400 dwellings over 15 years is not changed during the local plan process and it is formally adopted following examination, it would mean that Craven would have an annualised housing target of 160 dwellings per year ($2,400/15$)

The number of houses built each year are monitored and the monitoring of housing completions built over the first 5 years of the Local Plan shows that dwellings have been built at an average rate of 200 per year.

So, over the first 5 years of the Local Plan, 1,000 houses have been built.

The residual housing requirement over the remaining 10 years of the plan is therefore $2,400 - 1000 = 1,400$, so the annual average housing target to achieve the planned supply over the remaining 10 years of the local Plan is 140 dwellings per year ($1,400/10$).

This lower annual housing requirement target would be reflected in the annual 5 year land supply calculations i.e $5 \times 140 = 700$ and in this scenario the Council

would also be able to demonstrate that only a 5% buffer would be required resulting in an NPPF 5 year housing target of 735.

- 7.8 This illustration demonstrates that the Council's methodology for calculating its 5 year land supply does not mean that Craven will end up with "*substantially more houses than its requirement*". Whilst the NPPF requires local authorities to "front load" their 5 year land supply calculations with either a 5% or 20% buffer to achieve the NPPF stated objective to "*boost significantly the supply of housing*", this is adjusted through the plan period (based on actual delivery of houses) to ensure that the overall planned supply (over 15 years) is not exceeded.
- 7.9 It is concluded therefore that the methodology for the Council's Housing Position Statement to estimate its 5 year housing land supply by measuring its housing requirement (including a 20% buffer) against a net deliverable supply of planning permissions is sound and accords with the approach advocated in the NPPF and also taken by other local planning authorities.
- 8.0 **Review of 5 year land supply calculation for Craven (outside YDNP) in light of recent High Court and Appeal Court Judgements on Paragraph 47 of NPPF.**
- 8.1 A recent Appeal Court judgement released on 12th December 2013, in respect of an earlier High Court case has provided some clarity on how the housing requirement for the 5 year period should be established to be compliant with the approach in the NPPF and in particular paragraph 47 of the NPPF. Indeed, in giving permission to appeal Lord Justice Sullivan said that there was a compelling reason for the appeal to be heard so that there could be a "*definitive answer to the proper interpretation of paragraph 47*" of the NPPF and in particular the interrelationship between the first and second bullet points in that paragraph.
- 8.2 The Appeal Court Judgement in the case of *St Albans and City District Council v (1) Hunston Properties Ltd and (2) Secretary of State for Communities and Local Government* was released on 12th December 2013. The relevance of the Appeal Court judgement to 5 year land supply assessments relates to the Appeal Court's conclusions that where there is no adopted up to date development plan setting out housing requirements, that the meaning of the phrase in the first bullet point of paragraph 47 of "*full objectively assessed needs for market and affordable housing*" cannot be construed to mean either previous targets in revoked Regional Spatial Strategies, nor emerging targets in draft Local Plans, but should be the most up to date information on objectively assessed housing need in DCLG household projections.
- 8.3 Craven's housing target up to February 2013 was that set out in the Regional Spatial Strategy (RSS) which was 250 dwellings per annum. The RSS was formally revoked in February 2013. The Policy Committee of the Council had previously agreed back in November 2012 that in the event of the RSS being formally revoked, that the emerging target of 160 dwellings (for the new local plan) be adopted for development control purposes to establish a 5 year supply of housing land. The

target is based on Craven's housing requirements over a 15 year period being 2,400 dwellings.

- 8.4 The Appeal Court Judgement has implications for the Council's 5 year land supply assessment as it uses the emerging Local Plan target of 160 dwellings per annum to establish the 5 year housing requirement, not the latest DCLG household projections.
- 8.5 The most up to date household projections for Craven from DCLG are the interim 2011-based household projections which provide projections up to 2021 and are shown in the Table below. The 2012-based household projections are due to be published later this year and are likely to have a longer timeframe up to 2033.

Table 406: Household projections by district, England, 1991- 2021

England													
Counties, London boroughs, unitary authorities and districts in England ^{1,2}													All Households ('000s)
Area code	Area name	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020	2021	
E07000163	Craven	24.593	24.782	24.961	25.146	25.336	25.539	25.729	25.917	26.117	26.314	26.523	

Source:DCLG

- 8.6 The 2011 based DCLG projections to 2021 for Craven show a total projected increase in new households of 1,930, or 193 new households per year between 2011-2021. This figure relates to the whole of the Craven District, including the National Park area. Work undertaken by Edge Analytics analysing projected new household growth for sub areas within the District suggest that about 11% of the housing requirement is likely to be within the National Park area. Based on the 2011-based household projections this would mean that the annual housing requirement would be about 21 dwellings per year within the National Park and 172 dwellings per year outside the National Park.
- 8.7 The 5 year housing requirement for Craven outside the National Park would therefore be $5 \times 172 = 860$ dwellings. A NPPF buffer of 5% would result in a 5 year housing requirement of 903 (181 dwellings pa) and a NPPF buffer of 20% to the housing requirement would bring the 5 year housing requirement to 1,032 (206 dwellings pa).
- 8.8 The question that could be posed is, if the objectively assessed need for housing from the 2011 based DCLG projections is to provide the basis for the housing requirement, then should the assessment of whether there has been any under or over delivery of housing also be measured against the 2011 based DCLG projections? In Craven outside the National Park, there were 267 net housing completions in 2011/12, 119 housing completions in 2012/13 and 46 housing completions in 2013/14 which is a total of 432 dwellings built over 3 years, giving an annual average delivery of 144 dwellings per year (432/3). This is an under delivery

of housing measured against the annual housing requirement for Craven (outside the National Park) based on 2011-based DCLG household projections of 172 dwellings per year (it is also an under delivery of housing measured against the emerging local plan target of 160 dwellings per year). The evidence on housing completions for the 3 years from 2011 to 2014 would indicate that a buffer of 20% to the housing requirement figure would be necessary to comply with paragraph 47 of the NPPF.

- 8.9 It is recommended therefore that a buffer of 20% to the 5 year housing requirement figure is maintained in the calculation of the 5 year land supply position.
- 8.10 It is further recommended that the Policy Committee of the Council be requested to consider adopting a 5 year housing requirement for development control purposes based on the most up to date DCLG household projections, until such time as the emerging housing target of the Local Plan has been tested at examination and held to be sound. At the present time, the most up to date household projections from DCLG are the 2011 based projections to 2021, which indicate a requirement for 172 dwellings per year (outside the Yorkshire Dales National Park). It is also recommended that the Policy Committee consider giving delegated authority to the Strategic Manager for Planning and Regeneration to adjust (if necessary) the housing requirement figure when the 2012 based DCLG household projections for Craven are published later this year.

9.0. **Summary of Review Findings**

- The NPPF and nPPG only provides basic information for the factors that local planning authorities should take into account in undertaking their 5 year land supply assessments and does not prescribe a specific or detailed methodology for calculating the 5 year land supply.
- The methodologies of other local planning authorities examined as part of this review reveal that the principles used in the Council's methodology to discount planning permissions to estimate a net deliverable supply and to measure that net supply against the housing requirement figure which includes a buffer of 20% is a sound approach.
- A recent Appeal Court Judgement (December 2013) in the case of *St Albans City and District Council v (1) Hunston Properties Limited and (2) Secretary of State for Communities and Local Government* has provided some further clarity on the proper interpretation of paragraph 47 of the NPPF, and in particular the interrelationship between the first and second bullet points in that paragraph in respect of how 5 year land supply assessments should be carried out. The judgement clarifies that in the absence of an up to date local plan, the housing requirement figure (or housing target) should be based on the most up to date national household projections.

10.0 Implications

- 10.1 **Financial and Value for Money (vfm) Implications** – The recommendations in this report if approved by Members will ensure that the Council can maintain a robust position at planning appeals in respect of its 5 year housing land supply assessment and avoid any potential award of costs.
- 10.2 **Legal Implications** – Appeal Court Judgements on planning matters can be taken into account by Planning Inspectors when considering applications for award of costs at appeal.
- 10.3 **Contribution to Council Priorities** – The delivery of a robust planning decision making process contributes to all the Councils' Priorities..
- 10.4 **Risk Management** – The NPPF states that *“planning law requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. This Framework is a material consideration in planning decisions”* The issue of whether or not the Council has a 5 year housing land supply therefore forms a material consideration in the determining of residential planning applications and it is important that the Council has a robust position with respect to its 5 year housing land supply assessment to reach decisions on applications. If the recommendations in this report are not approved there is a significant risk that the Council's position at a planning appeal in respect of its 5 year housing land supply assessment would not be robust and could result in an award of costs against the Council.
- 10.5 **Equality Analysis** – No new policy or procedure is proposed in this report which would give rise to a requirement for an Equality Analysis.

11 **Consultations with Others** – Financial Services, Legal Services.

12 **Access to Information : Background Documents** – None

13 **Author of the Report** – Mrs Sian Watson, Spatial Planning Manager; telephone 01756 706462; e-mail: swatson@cravenc.gov.uk

Note : Members are invited to contact the author in advance of the meeting with any detailed queries or questions.

14 **Appendices** – None