

PENDLE LOCAL PLAN CORE STRATEGY

MATTER 5: HOW IS THE HOUSING REQUIREMENT TO BE MET?

STATEMENT BY BARTON WILLMORE

ON BEHALF OF

JUNCTION PROPERTY LTD

MARCH 2015

Issue 1: Is Policy LIV1 effective in indicating how the housing requirement will be met, including the contribution that will be made from new allocations and existing commitments?

1. Submitted Policy LIV1 does not set out fully how the housing requirement will be met. This is not surprising as it is a CS policy and not one making site allocations.
2. We have noted the intention of the Council to incorporate Table LIV1 within the justification to Policy LIV1. We do not disagree with this in principle but consider that all the inputs to it would need to be re-tested at the Allocations DPD Examination in a much more thorough way than is necessary for a CS Examination. This should be made clear in the accompanying text.

Issue 2: What contribution will be made to the housing requirement from bringing back empty houses into use?

3. The PPG allows for the re-use of empty homes to be counted against housing need but only in particular circumstances. The PPG (3-040) says:

"The National Planning Policy Framework encourages local authorities to bring empty housing and buildings back into residential use. Empty homes can help to contribute towards meeting housing need but it would be for individual local authorities to identify and implement an empty homes strategy. Any approach to bringing empty homes back into use and counting these against housing need would need to be robustly evidenced by the local planning authority at the independent examination of the draft Local Plan, for example to test the deliverability of the strategy and to avoid double counting..." (our underlining)

4. The Council now proposes a proposed modification that would count a suggested reduction of empty homes against the Policy LIV1 housing requirement. The reduction for the period 2011-2014 amounts alone to 748 dwellings, equivalent to over 13% of the housing requirement for the

whole 19 year plan period. It is also suggesting that an allowance should be made for further reductions in the number of empty homes over the remainder of the plan period, but without putting a figure on it.

5. The starting point to consider the merits of the proposed modification is that the Council took the view at pre-submission and submission stages that no allowance should be made for the net re-use of empty homes. We must emphasise that this view was taken well after the publication of the PPG.
6. The Council's decision not to include an allowance would have been informed by its own SHMA. After specifically considering the subject of vacancy rates (2.55-2.66), the SHMA did not recommend any allowance for the re-use of empty homes. The SHMA would normally be the primary evidence base document for considering the potential contribution of empty homes. Therefore, the lack of any support from the SHMA for the proposed allowance goes directly to the issue of whether it has been "*robustly evidenced by the local planning authority*", as required by national guidance.
7. The Council has now introduced two documents to the Examination library which deal with empty homes (although neither were submission documents). The two documents are:
 - Pendle Empty Homes Plan 2012-2014 (CD/04/10)
 - Pendle Empty Homes Action Plan 2013 (CD/04/11).
8. We acknowledge that these two documents show a policy commitment by Pendle Council to deal with long-term empty homes. However it is equally clear from CD/04/10 that there has been a similar policy commitment over many years, including the Empty Homes Strategy 1999, the Empty Homes Strategy 2006-2009, and the Empty Homes Action Plan 2009-2011. Despite this commitment, the actual number of homes did not significantly reduce between 2001 and 2011. There were large fluctuations year-by-year but overall there was no significant decrease over the years. Indeed the number of vacant properties rose from 2442 in 2005 to 2746 in 2011 despite all the Local Authority policy initiatives.
9. In the two years since 2011, CLG published figures show a reduction from 2746 vacant dwellings to 2519 dwellings, some 227 dwellings over two years. This size of reduction is within the normal range of fluctuations seen in the previous ten years, and is not evidence of a long-term trend.
10. The Table LIV1 empty homes allowance for 2011-2014 derives from a figure of 1022 long-term empty homes in 2014, according to a Council email sent on 10 March 2015. This is an unpublished figure and we have asked how it has been produced. In particular it seems to show

a scale of reduction which on first sight is implausible. However we will have further discussions with the Council about the matter before the Examination.

11. In conclusion we consider on the basis of present information, the Council has not justified an empty homes allowance with the type of robust evidence required by national guidance. Also, as raised in our Matter 1 Statement, we consider in principle that the Council should not be introducing such a major change to its strategy on meeting housing needs at this very late stage. There has been simply inadequate time to deal with it properly in what is meant to be a front-loaded plan preparation process.

Issue 3: Is there sufficient emphasis on the contribution that can be made from Housing Regeneration Priority Areas?

12. As far as we are aware, the potential contribution of the Housing Regeneration Priority Areas have been fully taken into account by the SHLAA.

Issue 4: Is the proposed strategic housing site at Trough Laithe justified (Policy LIV2)? Does it fit with the settlement hierarchy of the Plan (Barrowford is defined as a Local Service Centre)? Should the site form part of the CS or should consideration be deferred to the SAP?

13. JPL has no objections in principle to the development of the Trough Laithe site within the plan period. However, we see little justification for its designation as the only strategic Housing allocation by the CS for two main reasons: -
 - i) The allocation of the site by itself will do little to remedy the problems of housing delivery within the Borough. In particular, it will not create a five year supply of deliverable housing land at the time of the adoption of the CS. The total capacity of the site is only 500 dwellings, whilst the 2014 SHLAA estimates that just 150 dwelling completions are possible by 2019 (which we show later is likely to be an over-estimate). To achieve a five year supply at adoption, there will still need to be substantial releases of other greenfield sites in locations contrary to policies and designations of the 2006 Adopted Local Plan which will remain in force after the adoption of the CS (the saved policies). In conclusion, the early release of Trough Laithe will not make much difference to housing supply in the Borough.
 - ii) The early release of the site will not assist the spatial strategy of the CS which is to focus development on to the Key Service Centres of Nelson, Colne and Barnoldswick. Barrowford is only a Local Service Centre as defined by Policy SDP1 According to CS

paragraph 7.22, Local Service Centres are only intended to play a supporting role to the Key Service Centres and “*accommodate levels of new development to serve a localised catchment.*” A strategic housing site is not serving a localised catchment area.

14. The Council’s evidence to support the decision to proceed with a single strategic housing allocation is set out in CD/04/04. This document is flawed as it relies almost entirely for its rationale on withdrawn national policy (PPS12) and withdrawn Planning Advisory Service guidance. Current national policy and guidance no longer refers to the identification of strategic sites. Moreover CD/04/04 does not seek to address the central question why only a single site allocation has been proposed when it is insufficient by itself to provide a five year supply.

15. The Policy LIV2 explanation (paragraph 10.55) says that:

“Through the SHLAA review process a number of additional sites, that were not previously considered, have been assessed to determine their sustainability, availability and achievability. The findings of the SHLAA show that there is only one site of a size which could be put forward as a potential strategic allocation....This is the site at Trough Laithe Farm.”

16. This rationale is flawed as there is no minimum size set by national policy for proposed allocations by Core Strategies. In this regard, sites of greatly differing sizes have been identified by other Core Strategies as allocations and found to be acceptable by Inspectors. A recent example is the Knowsley Core Strategy where the Inspector agreed that a wide range of site sizes should be allocated to make up a five year supply at adoption.

17. For these reasons, JPL considers that the Trough Laithe strategic site proposal fails key tests of soundness, including that of being justified.

Issues 5 to 8: Trough Laithe

18. We will need to see the responses from the Council and the developer (Peel) before commenting further.

Issue 9: Would an alternative approach to the identification of a single strategic housing site e.g. the allocation of a range of smaller greenfield/brownfield sites be more effective in boosting the supply of housing?

19. This issue is linked closely to Issues 10, 11 and 12 which deal with five year supply matters.

20. To produce a five year supply on adoption, we consider the CS should allocate a number of the larger SHLAA greenfield sites without planning permission.
21. Based upon policy LIV1, the 2014 SHLAA calculates a five year requirement of 1968 dwellings. We have reservations about this figure but we will use it for these purposes.
22. The SHLAA identifies a supply of 2090 dwellings to meet this five year requirement. This supply represents just 5.3 years so the margin is very small. Of the identified 5 year supply, only some 803 dwellings have planning permission. The remainder (1287 dwellings) are on sites without planning permission. We have analysed these sites. Of the 48, only some 16 (with a five year capacity of 402) are sites where development would accord with saved policies from the Adopted Local Plan (See CS Appendix B). The remaining 32 are on sites conflicting with these saved policies, mostly because the sites are outside settlement boundaries (Policy 1), or are designated as of Settlement Character (Policy 12) or Protected Areas (Policy 3A). We list these sites at Appendix 1.
23. The Trough Laithe site makes up only 150 dwellings (16.7%) of the 896 dwellings supply on sites contrary to the Adopted Local Plan saved policies. Therefore, the great bulk of these sites would still need to be treated as departures from the development plan even after the CS is adopted. This creates a major difficulty for the five year supply as sites can only be considered deliverable if they are *"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 five years."* The first two parts of this definition can only mean that to be deliverable, the Council must be prepared to grant planning permission at the start of the five year period. This is why it uses the word *"now"* in terms of availability and sustainability.
24. The CS makes no policy provision so that planning permission can be granted for the 31 SHLAA sites within its 5 year supply where development would be contrary to the saved policies of the 2006 Local Plan. As such, the CS by itself will not produce a five year supply on adoption. If the Council is to grant permission *"now"*, it would have to be on the basis that material considerations (housing land supply) outweigh the presumption in favour of the development plan established by Section 38(1) of the 2004 Act. This is a very undesirable position for a Council to take when it has a recently adopted development plan.
25. A possible alternative approach to making further allocations would be an addition to the third paragraph of Policy LIV1 to read:

To ensure significant and early delivery of the housing requirement, a Strategic Site has been allocated in the Core Strategy (see Policy LIV2). **The other greenfield sites identified by the 2013/14 Strategic Housing Land Availability Assessment for development in**

the next five years will also be granted planning permission before the adoption of the Allocations DPD in order to maintain an adequate housing land supply.

26. Our suggested addition to the text is highlighted.

27. The main advantage of this proposed change is that applications for sites identified by the SHLAA would not need to be treated as departures from the development plan. It would also help ensure that the CS provides a five year supply at the point of adoption.

Issue 10: Has the Plan demonstrated through a housing implementation strategy how delivery of a full range of housing will be maintained over the Plan period, including a continuous five year supply of deliverable housing sites?

28. See response to Issue 9.

29. We note from C/004 that the Council is intending to prepare an Appendix to the CS which will set out such a strategy. We will comment further when we see this.

Issue 11: Will the Plan be able to ensure a five year supply at the point of adoption, taking into account the need to make up any shortfall in provision from the start of the plan period and the application of a buffer as required in paragraph 47 of the Framework?

30. The short answer to this question is that the CS will not produce a five year supply of deliverable housing opportunities at the point of adoption because much of the five year identified by the 2014 SHLAA is on sites where development would be contrary to its policies or those of the 2006 Local Plan (see answer to Issue 9).

31. In addition, we disagree with the SHLAA's five year assessment in a number of other key respects-

- i) We consider that the five year requirement should be based on the policy LIV1 requirement for the whole plan period, not the staggered requirement. We give our reasons under Matter 4(6).
- ii) The 20% buffer for persistent under delivery should be applied to the total of the annual requirement multiplied by 5 and the backlog. This is because the purpose of the five year requirement is to ensure that the planned supply is provided (the annual requirement multiplied by 5 and the backlog), and secondly that the 20% buffer is "*to provide a realistic prospect of achieving the planned supply and to ensure choice and*

competition in the market for land" (NPPF paragraph 47). In other words, the 20% buffer is not to increase the number of dwellings provided above the planned supply, but to enhance the prospects of that planned supply being achieved.

iii) The Council's estimate of its deliverable supply is exaggerated because: -

- Many of the larger identified sites are simply not viable. This is demonstrated by the Council's DVS which identifies major problems of viability over large areas of the Borough, especially brownfield land in the M65 Corridor (see paragraphs 5.16 to 5.38). This is not to say all the development in these areas is unviable. Where there is public sector funding available either from the HCA or indirectly from the Council, some sites will be developed. Equally, where market attractive sites can be brought forward, such as on the east side of Colne, development will also take place. However, many of the larger urban sites identified by the SHLAA will simply not be developed under current economic conditions. This has been the case for many years and accounts for the very low delivery rates achieved in the recent past. This is why it is important that the Council brings forward urgently a much more attractive range of sites through the development plan.
- The Council's land supply –especially with planning permission– contains a large number of small sites. Many of these were granted consent to landowners rather than developers in an attempt to increase value. The DVS demonstrates that outside the Rural Areas there is little prospect that many of these small site consents will be implemented in the foreseeable future.
- Many of the sites identified within the five year supply are subject to significant physical, market and ownership constraints. We give further details in Appendix 2 to this Statement.

We will have further discussions with the Council about five year supply matters before the start of the hearing sessions.

Issue 12: Is a five year supply likely to be deliverable given the reliance of sites without planning permission and with policy constraints?

32. See response to Issues 9 and 11.

Issue 13: Is the requirement within Policy LIV1 for applicants to demonstrate deliverability necessary?

33. There should be no requirement on applicants for planning permission to produce a detailed statement demonstrating viability. The preparation of such a statement is an unnecessary and onerous financial burden on applicants which simply increases the costs on potential development.
34. To our knowledge, the requirement for a deliverability statement is unique to Pendle Council and has no basis in planning law or national policy and guidance. We consider that the Council could not lawfully refuse planning permission for an otherwise acceptable development just on the basis that the Local Authority considers the proposal is not viable.

APPENDIX 1

PENDLE SHLAA 2014-2030

SITES WITHIN FIVE YEAR SUPPLY WITHOUT PLANNING PERMISSION

CONTRARY TO ADOPTED 2006 LOCAL PLAN POLICIES

SS11	Land off Skipton Road, Barnoldswick	Policy 1	(Settlement Boundaries)
S225	Land at Lane Ends Farm, Barnoldswick	Policy 1	(Settlement Boundaries)
S165	Manchester Road, Barnoldswick	Policy 1	(Settlement Boundaries)
S016	Gillians Lane, Barnoldswick	Policy 1	(Settlement Boundaries)
S124	Trough Laithe Farm, Borrowford	Policies 1&3A	(Protected Land)
S199	Wheatley Lane Road, Borrowford	Policy 1	(Settlement Boundaries)
S240	Oaklands, Borrowford	Policy 1	(Settlement Boundaries)
S224	Hollin Head Farm, Blacko	Policy 1	(Settlement Boundaries)
S093	Field 6777 etc., Blacko	Policy 1	(Settlement Boundaries)
S213	Land off Halifax Road, Brierfield	Policy 12	(Settlement Character)
SS28	R/o Edge End Farm, Brierfield	Policy 12	(Settlement Character)
S218	Marsden Heights College, Brierfield	Policy 33	(Open Space)
S010	Skipton Old Road & Castle Road, Colne	Policies 1&3A	(Protected Area)
S012	Windermere Avenue, Colne	Policy 12	(Settlement Character)
S244	Recreation Ground, Harrisons Drive, Colne	Policy 33	(Open Space)
S004	South Valley Drive, Colne	Policy 1	(Settlement Boundaries)
S180	Nelson & Colne College, Colne	Policy 33	(Open Space)
S011B	Red Lane, Colne	Policies 1&3A	(Protected Area)
S011A	Red Lane, Colne	Policies 1&3A	(Settlement Boundaries)
S183	Dewhurst Street, Colne	Policy 1	(Settlement Boundaries)
S020	Stoney Bank Road, Earby	Policy 1	(Settlement Boundaries)
S219	East of Colne Road, Earby	Policy 1	(Settlement Boundaries)
SS20	Old Lane, Earby	Policies 1&22	(Employment Area)
S237	Aspen Grove, Earby	Policy 1	(Settlement Boundaries)
S1066	Birch Old Lane, Earby	Policy 1	(Settlement Boundaries)
S227	Emmott Lane, Laneshawbridge	Policy 1	(Settlement Boundaries)
S146	Sheridan Road, Laneshawbridge	Policy 1	(Settlement Boundaries)
S226	Rye Flatt Barn, Laneshawbridge	Policy 1	(Settlement Boundaries)
S106	Crow Nest, Laneshawbridge	Policy 1	(Settlement Boundaries)
S044	Halifax Road, Nelson	Policy 12	(Settlement Character)
S021/S143	Rye Flatt Barn Salterforth	Policy 1	(Settlement Boundaries)
S172	Sykes Laithe, Salterforth	Policy 1	(Settlement Boundaries)

APPENDIX 2

LARGE SITES IN DISPUTE WITHIN FIVE YEAR SUPPLY

SITES WITH PLANNING PERMISSION

BR029: Former Lob Mill, Brierfield

The main permission (13/10/0294P) dates from September 2010. The developer constructed Phase 1 but then left the site. No further development has since taken place. Phase 2 is almost certainly not viable without public sector funding.

The DVS indicates that this type of permission is unlikely to be viable. In these circumstances, the site should be considered not to be deliverable.

R048/8: Land off Bay Tree Close, Brierfield

The existing permission (13/12/0539P) is for 18 dwellings, of which 12 are houses and 6 are apartments. A previous permission was granted but has now lapsed.

We have spoken to the owner who has confirmed that he will not develop the site himself. He has offered the site to the market but with no interest from private sector developers. There has been interest from housing associations but they will require HCA funding of which there is no certainty. In these circumstances, the site should not be considered deliverable.

CE088: Former Simpson's Garage Site, Knotts Lane, Colne

The site originally received permission in January 2008 (13/07/0804P). Development started and 12 apartments and a convenience store were completed. However development then stopped, and the developer left the site leaving part completed structures. The site was sold by the receiver and a further permission was granted in January 2014 (13/13/0585P). However no construction activity has resulted. Our technical advice is that the current part-built structures on the site have been exposed too long to the elements, and have deteriorated to a point where they now need to be demolished and new buildings constructed.

The DVS indicates that the type of scheme permitted is unviable in present market conditions. For these reasons, we do not consider that the site is deliverable.

CE127: Bunkers Hill, off Hargreaves Street, Colne

The original planning permission (13/12/0063P) for 30 dwellings was granted in June 2012. Subsequently, a JV company between the Council and Barnfield Homes (Pearl2) completed 8 dwellings on the site under a separate planning permission (13/12/0458P). However no start has been made on the rest of the site which is previously developed and contaminated. We understand that the remaining part of the site will only be built if further HCA funding is secured (for which there is no current prospect)

The DVS shows the site is unlikely to be viable for market housing.

For these reasons, we consider the site is not deliverable.

S246: Land at Keighley Road/Carry Drive, Colne

The landowner (Peter Birtwhistle Trust) obtained outline planning permission (13/14/0077P) for 30 dwellings in May 2014. The intention was to develop 11 affordable dwellings from Peter Birtwhistle Close and to sell the remainder for market housing (accessed from Carry Lane). The landowner is a Registered Charity, providing supported housing for the elderly.

We understand from the Trust that no interest has been expressed in the market dwellings, but the affordable units are likely to proceed.

The DVS indicates that the market units are unlikely to be viable. In this regard, the site is close to Colne Town Centre where there are very low residential values.

For these reasons, we consider that the 19 market dwellings are not deliverable.

E144: Land at Ivegate, Colne

The landowner (Grays Inn Developments Ltd) obtained planning permission (13/13/0544P) for 22 apartments on this site in January 2014. The site has a long history of planning permissions for various alternative developments which have not been implemented.

There are problems with viability of apartment schemes generally in East Lancashire but especially within areas such as Pendle. Very few have been developed by the market in recent years. Discussions are taking place about a potential care home on the site which would mean that housing would not proceed.

The DVS indicates that the proposal is unlikely to be viable for market housing.

For these reasons, we consider that the site is not deliverable.

SH013: Salterforth Mill, Salterforth

Planning permission (13/12/0401P) was granted to the landowner (Broughton Estates Ltd) in December 2012 for conversion of the mill building to 14 one and two bedroom flats. However no development has started and the building is still occupied by tenants as offices.

Mill conversions of this type tend to be costly and there is little market for small apartments in this rural area. The DVS indicates that the proposal is unlikely to be viable.

For these reasons, we consider that the site is not deliverable for housing.

SITES WITHOUT PLANNING PERMISSION

984: Former Fernbank Mill, Barnoldswick

We understand that this site was purchased in the summer of 2014 by Hope Technology, a local major employer who intends to build a £4.5million research and development centre on the site. An application is due to be submitted before the end of the year.

On this basis, the site is not deliverable.

S124: Land at Trough Laithe Farm

We accept that this site is deliverable (on the basis of our current knowledge). However, it will not produce the 150 dwellings expected by the Council by April 2019. No planning application has been made yet for the site by the owners, Peel. Even if planning permission is granted by the end of the year, the site will need to be marketed, sold to a housebuilder, and a reserved matters application approved. As a large strategic site, there will be significant advance works needed before housing construction can begin. On this basis, it is highly unlikely that housing construction will start before 2017, leaving at most two years of housebuilding in the five year period. This would indicate a maximum of 100 completions by April 2019, which is probably optimistic.

S199: Land Rear of St Thomas' Primary School, Barrowford

We understand that the land required to access the site from Wheatley Lane is in a different ownership and consequently there is a potential ransom on the site. Until this is resolved, the site cannot be considered deliverable.

S240: Oaklands, Barrowford

This site has no access onto a suitable public road and is effectively ransomed. Until an access is provided, it cannot be considered deliverable.

S232: Brierfield Mills, Brierfield

This is a large listed building complex owned by the Council which will be very costly to develop. The Council is currently considering with a potential partner a conversion scheme for 71 retirement flats, a 78 bed hotel and spa, leisure facilities, a marina and a family pub. This is an important scheme for the Borough with major regeneration benefits. However the funding for the scheme is not yet secured and we understand that the retirement flats may not be delivered until near the end of the conversion programme. In these circumstances, we consider that the 71 flats cannot be considered deliverable at the current time.

SS28: Land to rear of Edge End Farm, Brierfield

This site will require the acquisition of parts of two gardens to provide access. These gardens appear not to be in the same ownership. As such, there is a potential ransom position which needs to be resolved before the site can be considered deliverable.

The DVS indicates that the development of this site may not be viable. It is in an area of low residential values.

In these circumstances, the site cannot be considered to be deliverable.

S244: Recreation Ground off Harrison Drive, Colne

The site is located within a large Local Authority estate and would not be viable for market housing. As currently identified, there are no potentially acceptable accesses onto the public highway. As such, it is not deliverable in its current form.

S011B: Red Lane, Colne

The Council has now refused planning permission for this site twice in the past 12 months including for reasons of highways impact. As such, it cannot be considered deliverable.

SS20: Land off Old Lane, Earby

The site is within a designated employment area and adjoins other employment development. It is also very close to a major waste water treatment works which is likely to be a deterrent to most potential residents.

We consider the site is unsuitable for residential development and cannot be considered deliverable.

S227: Land adjoining Emmott Lane, Laneshawbridge

The site has significant access difficulties which need to be overcome. It has insufficient frontage onto Skipton Road to provide a satisfactory access whilst the part of Emmott Close adjoining the site does not appear to be adopted. The Council's proforma for the site recognises these access issues.

For this reason, we consider that the site cannot be considered deliverable.