



# REPRESENTATIONS

## RESPONSES TO THE MAIN MODIFICATIONS

9274

Project : 9274  
Site address : Land between 27 and 33  
West Bank, Saxilby,  
Lincoln, LN1 2LU  
Client : [Click here to enter text.](#)  
Date : 03 March 2017  
Author : Peter Emery

This report has been prepared for the client by Emery Planning with all reasonable skill, care and diligence.

No part of this document may be reproduced without the prior written approval of Emery Planning.

Emery Planning Partnership Limited  
trading as Emery Planning.

# Contents:

1. Main modification MM/2: Policy LP2	1
2. Main modification MM/7: Policy LP3	3
3. Main Modification MM/8: Policy LP3	3
4. Main Modification MM/67: Amended Trajectory	10

## 1. Main modification MM/2: Policy LP2

### The spatial strategy and settlement hierarchy

- 1.1 MM/2 proposes to amend policy LP2 by making three significant amendments in section 4 to large villages.
- 1.2 The first is the insertion of housing into the list of uses that large villages provide. This amendment is fully supported.
- 1.3 The second, is the insertion of ... *"within the existing developed footprint"*... which replaces ... *"of the existing urban area"*. The development footprint of the settlement is defined as the continuous built form of the settlement and four exclusions are specified which includes:
  - dispersed buildings clearly detached from the continuous built-up area of the settlement; and
  - undeveloped land within the curtilage of buildings on the edge of the settlement.
- 1.4 It is considered that the second amendment as proposed to be worded is open to (mis) interpretation and needs further clarification. e.g.
  - What is meant by ... *"clearly detached..."* in the definition of the term... "developed footprint?"
  - When would individual or groups of buildings be so... *"clearly detached"*... and not be infill development – generally defined as filling in a gap in a largely built-up frontage?
  - Similar considerations of interpretation apply also to differentiating the relationship of individual or groups of buildings from either the surrounding countryside or the built-up area.
- 1.5 The third amendment states that in exceptional circumstances additional growth in appropriate locations... *"outside of, but immediately adjacent to, the developed footprint..."* might be considered favorably... for small sites.
- 1.6 It is considered that the third amendment does not provide the certainty required for consistent decision making. It needs changes to the wording to make it clear and more effective.

- 1.7 When the proposed modification is used in conjunction with the term “*exceptional circumstances*” where only growth on small sites outside of but immediately adjacent to the developed footprint of large villages might be considered favourably, it does not accord with the presumption in favour of sustainable development in paragraphs 14 and 15 of the Framework, where “*if it is clear the development is sustainable it can be approved without delay*”. Nor would it be in accord with paragraph 50 of the Framework of delivering a wide choice of high quality homes and widen the choice for home ownership.
- 1.8 In the circumstances of large villages, development of small sites on the edges of the settlements, which by definition are most likely to be sustainable, should be approved without delay. There should not be the added test of sites being so exceptional.
- 1.9 It is accepted that for a site to qualify as appropriate for development, guidance is needed and this is provided in the term...“appropriate locations” which is defined in the policy. This term has three requirements. The first of these, we consider should be amended to reflect the wording in requirements 2 and 3 and should read that the site, if developed, would:
- “not significantly harm the core shape and form of the settlement”... instead of .... “retain... etc.”*
- 1.10 The use of the word “*retain*” could be used to prevent needed development on small sites which would not significantly harm the character and appearance of the settlement or its setting or the surrounding countryside.
- 1.11 It is considered that given the definitions proposed for this policy with the amended wording recommended, than the term ...“*in exceptional circumstances*” is superfluous and not in accord with the paras in The Framework referred to above and therefore, should be deleted.
- 1.12 If “*exceptional circumstances*” however, is retained in the policy and in definition, \*\*\*\*\* then it is recommended that after... “*the decision maker to determine, but could be, for example*”, ...insert... “*but not exclusively*” (as used in definition\*\*). It is considered that the delivery of a community facility should not be treated as the only exception to allow a development which meets the criteria of an “*appropriate location*”.

## 2. Main modification MM/7: Policy LP3

- 2.1 This proposed main modification relates to the monitoring and publishing of dwellings completed and permitted against the target growth levels for each village by Central Lincolnshire. According to Appendix 4, it requires “live” data to be published every quarter. This modification is supported but why does it just apply to categories 5 and 6 – medium and small villages and not to other settlements in the hierarchy?
- 2.2 We note that in a response to a query to the programme officer concerning the publication of house completion figures, we received the following text following her discussion with the Central Lincolnshire Local Plan Team:-

*"Latest housing figures, assuming you mean completions and trajectory going forward (rather than housing requirement) are in the five year supply report from September 2016. This is in the library. (ref. E007D) attached in my previous email.*

*"The next figures published will be sometime this year. The precise date is not known at present as it will require the Districts to provide the monitoring from April 2016 – March 2017. I would expect this sometime in the autumn, and it will be published on the Central Lincolnshire website when it is completed".*

- 2.3 Based on this response, the publication of figures on completions and the trajectory going forward will not take place quarterly, as required by MM/7. A clear commitment on quarterly publications of housing figures by the council is required.

## 3. Main Modification MM/8: Policy LP3

- 3.1 Main modification MM/8 proposes to amend policy LP3: Level and Distribution of Growth by including the following new paragraph:

*"For the purposes of identifying and updating annually a supply of specific deliverable sites sufficient to provide five years' worth of housing against the Local Plan's housing requirements, the 'Liverpool method' of spreading the backlog across the remainder of the plan period applies to Central Lincolnshire for all reports published up to 31 December 2021".*

- 3.2 The backlog of 2,425 dwellings accumulated between 1<sup>st</sup> April 2012 and 31<sup>st</sup> March 2016 is significant. It represents over 1.5 years of unmet housing need (i.e.  $2,425 / 1,540 = 1.57$  years). The authorities anticipate that the backlog will increase by a further 427 dwellings by 1<sup>st</sup> April 2017 as they estimate that there will only be 1,113 dwellings completed between 1<sup>st</sup> April 2016 and 31<sup>st</sup> March (i.e.  $1,540 - 1,113$ ). Consequently, the accumulated backlog is expected to be 2,852 dwellings.
- 3.3 The NPPF does not specifically state how the backlog should be addressed. However, it did introduce a requirement to “boost significantly” the supply of housing (paragraph 47). Importantly, the backlog is a shortfall in supply which exists at the start of the five year requirement, so to defer addressing it until the end of the plan period makes little sense in the light of paragraph 47. Addressing the backlog as soon as possible would however be consistent with this paragraph.
- 3.4 Paragraph 3-035 of the PPG (Reference ID: 3-035-20140306): “How should local planning authorities deal with past under-supply?” provides further guidance. It states:

*“Local planning authorities should aim to deal with any undersupply within the first 5 years of the plan period where possible. Where this cannot be met in the first 5 years, local planning authorities will need to work with neighbouring authorities under the ‘Duty to Cooperate’.”*

- 3.5 Consequently, the PPG is clear that local planning authorities should aim to deal with the backlog within five years. Whilst the PPG does appear to recognise that there may be circumstances in which this is not possible, it does not suggest that the backlog should be addressed over any other period in those circumstances. Instead it states that local planning authorities will need to work with neighbouring authorities under the ‘Duty to Co-operate’, presumably with adjacent authorities looking to help to address the backlog by making immediate provision. As far as we are aware, none of the adjacent authorities have agreed to meet Central Lincolnshire’s unmet need through the Duty to Corporate. However, even if they had, the PPG does not endorse deferring addressing the issue for longer than five years. There is therefore no support in either policy or guidance for the council’s approach to addressing the backlog through the Liverpool methodology.

3.6 Furthermore, we note from Central Lincolnshire’s Five Year Land Supply Report 1<sup>st</sup> April 2017 to 31<sup>st</sup> March 2022 (ref: E007D, published September 2016) that the authorities are claiming a five year supply of 12,712 dwellings (see table 5 of E007D). This is far in excess of the base five year requirement (i.e. 1,540 X 5 years = 7,700 dwellings) and whole backlog (i.e. 2,852 dwellings) combined (i.e. 10,552 dwellings). Indeed, it would allow the authorities to demonstrate a deliverable five year supply of housing land including addressing the backlog in full in the five year period plus a 20% buffer. We set this out in the following table:

**Table 1: Council’s Supply Position based on Sedgelyield**

A	Five year requirement (1,540 X 5)	7,700
B	Backlog 1 <sup>st</sup> April 2012 to 31 <sup>st</sup> March 2016	2,425
C	Estimated backlog 1 <sup>st</sup> April 2016 – 31 <sup>st</sup> March 2017 (1,540 – 1,113)	427
D	Total five year requirement	10,552
E	Buffer (20% of D)	2,110
F	Total supply that needs to be demonstrated (D + E)	12,662
G	Assessed five year supply 1 <sup>st</sup> April 2017 to 31 <sup>st</sup> March 2022	12,712
H	Five year supply	<b>5.02</b>

3.7 The proposed new paragraph itself even appears to recognise that the backlog would be addressed in full in the five year period as it only states that the Liverpool method should be used up to December 2021. There is no explanation as to what method should apply post December 2021.

3.8 In summary, there is no justification for applying the Liverpool method in Central Lincolnshire, based on the current trajectory. Either the Sedgelyield Method should be used or a more realistic trajectory should be proposed.

3.9 In the event that the council maintains the current trajectory, the new paragraph should be amended as follows:

*“For the purposes of identifying and updating annually a supply of specific deliverable sites sufficient to provide five years’ worth of housing against the Local Plan’s housing requirements, the accumulated backlog should be addressed in full in the five year period in accordance with paragraph 3-035 of the PPG”.*



3.10 It should be noted from the above table that our calculations apply the buffer to the backlog as well as to the base requirement. This is because in our view, the total five year requirement includes the backlog. As set out in paragraph 47 of the NPPF, the 20% buffer is applied to:

*“provide a realistic prospect of achieving the planned supply and to ensure choice and competition in the market for land”.*

3.11 Therefore the 20% buffer is applied to the whole five year requirement to provide a realistic prospect of achieving it.

3.12 In a decision published in July 2014 relating to two appeals at land at Pulley Lane, Droitwich Spa (PINS refs: APP/H1840/A/13/2199085 and APP/H1840/A/13/2199426), where the issue had been contested, Inspector Harold Stephens concluded at paragraph 8.46 that:

*“It is also clear that the 20% buffer should be applied to the entire 5-year requirement (including the historic shortfall).”*

3.13 The Secretary of State agreed with Inspector Stephens in relation to the calculation of the five year supply in paragraph 14 of his decision letter:

*“For the reasons given at IR8.38-8.55, the Secretary of State agrees with the Inspector’s conclusions at IR8.56-8.58 that the Council cannot demonstrate a 5-year housing land supply, so that the test in paragraph 14 of the Framework applies”.*

3.14 Notwithstanding this, the Secretary of State in an appeal decision letter dated 19<sup>th</sup> January 2015 regarding land bounded by Gresty Lane, Rope Lane, Crewe Road and A500, Crewe (Cheshire East, PINS ref: APP/R0660/A/13/2209335) stated at paragraph 14:

*“the Secretary of State disagrees with the Inspector’s approach of including the allowances for each year’s backlog in the overall sum to which the buffer should be applied as he sees this as double-counting. He considers that it would be more appropriate to add the figures for the backlog once the figure for each year’s need has been adjusted to include the buffer. This would result in a slightly lower total requirement for each year but, nevertheless, one to which he considers that a 20% backlog should be applied.”*

3.15 Whilst the Secretary of State does not explain what is meant by “double-counting”, he was of the view that the buffer should not be applied to the backlog. This appeared to have settled the matter at the beginning of 2015.

3.16 However, not long after the Gresty Lane decision was published, on 17<sup>th</sup> March 2015 an appeal decision regarding land off Audlem Road / Broad Lane, Stapeley, Nantwich in the same authority (Cheshire East, PINS ref: APP/R0660/A/13/2197532.), the Secretary of State concluded:

*“The Secretary of State agrees with the Inspector’s conclusions at IR12.5 that the position on the housing land supply in the Council’s area is fluid and, for the reasons given at IR12.6-12.9, he also agrees (IR12.10) that a 20% buffer should be favoured with regard to the housing supply target in these appeals – giving a total of requirement of approximately 10,700 dwellings over the next five years.”*

3.17 The 10,700 figure, which the Secretary of State concluded was the housing requirement for Cheshire East over the five year period applies the buffer to the backlog.

3.18 A further Secretary of State appeal decision where the application of the buffer was debated relates to a decision regarding land at Bagley Lane / Calverley Lane, Farsley, Leeds (PINS ref: APP/N4720/A/13/2200640). The case for the Appellant is set out in paragraphs 14 to 76 of the Inspector’s supplementary report to the Secretary of State (dated 27<sup>th</sup> January 2015). Paragraph 29 states:

*“The buffer should be added to the base requirement and undersupply, according to the SoS in the Galley Hill and Droitwich Spa appeals. The undersupply is what should have been provided according to the CS. A buffer (whether 5% or 20%) is always to be applied to the base figure from the start of the new plan, so it follows that by not delivering the base requirement figure, the LPA cannot be allowed to wipe out the buffer as well - thereby reducing the requirement it would otherwise have had to meet in the 5 year period - simply because it failed to meet the base annual requirement. This would have the effect of rewarding a failure to deliver with a lower requirement that would have otherwise been expected.”*

3.19 The Inspector agreed with the Appellant. Paragraphs 188 and 189 of the Inspector’s supplementary report state:

*“On the basis that delivery exceeded targets for the first four of the last 10 years, a persistent under delivery of housing has not been proven, a conclusion which is consistent with that which I came to previously [OR176]. This is a judgement based on the particular circumstances in Leeds as put to me at the inquiry. A buffer of 5% should be applied to the five year requirement. The buffer should also be applied to the under supply as to do otherwise would result in some of the CS requirement and the 5% buffer disappearing altogether [IR29]. The application of a 5% buffer would not result in the harm from a higher requirement identified in paragraph 24 of the CSIP [IR87 & 89]*

*The five year housing requirement comprises about 24,440 dwellings which includes the under supply since April 2012 [IR184] made up in this period and the application of a 5% buffer to both the base requirement and the under supply."*

- 3.20 In the appeal decision letter, the Secretary of State agreed with both the Inspector's reasoning and conclusion regarding the five year housing requirement. Paragraph 11 of the decision letter (dated 10<sup>th</sup> March 2015) states:

*"Like the Inspector, the Secretary of State has then gone on to consider the implications of the shortfall in provision against the base requirement. He agrees with the Inspector's reasoning at IR(ii)184-188, and with his conclusion at IR(ii)189, that the five year housing requirement comprises about 24,440 dwellings including the undersupply since April 2012 to be made up in this period and the application of a 5% buffer"*

- 3.21 With the exception of the Gresty Lane appeal decision, all Secretary of State decisions where this issue has been raised confirm that the buffer should be applied to the backlog.

- 3.22 This approach is in line with other recent appeal decisions. The Inspector for an appeal regarding Land at Goch Way, Andover (PINS ref: APP/C1760/A/14/2222867) states at paragraph 32:

*"There is a dispute between the parties as to whether the 5% (or 20% for persistent under delivery) buffer required by the Framework should be added before or after adding the shortfall. But even assuming the Council's position of adding the buffer before the shortfall is correct (and it seems to me that it is not)..."*

- 3.23 In appeal decisions regarding Land East of Mount Hindrance Farm, Mount Hindrance Lane, Chard and land east of Crimchard, Chard, the Inspector states at paragraph 42:

*"The Council suggests that the 20% buffer should not be applied to the backlog as this would result in additional housing. That is incorrect. All it would do is bring forward housing provision from later in the plan period to allow the backlog to be dealt with effectively in the first five years. The buffer affects the supply side; it does not alter the requirement."*

3.24 In an appeal decision regarding land at 28 Church Street, Davenham (PINS ref: APP/A0665/W/15/3005148), the Inspector states at paragraphs 19 and 20:

*"19. The only matter of disagreement regarding the housing requirement is whether the agreed 20% buffer should be applied to the base 5 year requirement as the Council considers or to the base 5 year requirement plus the mutually agreed shortfall as the appellants consider. In all three 2015 appeal decisions in the Borough cited in evidence the former approach was adopted but this may be because the Council's method was not challenged by the appellants in those cases.*

*20. As evidenced at the Inquiry other recent appeal decisions by both Inspectors and the Secretary of State have been inconsistent on this point and there is no specific mention of it in the NPPF or Planning Practice Guidance (PPG). But there is recent guidance by the Planning Advisory Service that the preferred approach is to apply the buffer to both the requirement and the shortfall which represents all the need that exists. It seems to me that this is the logical way of addressing the issue because the shortfall is part of the requirement that has not yet been delivered and so there is no 'double-counting'. This is also the methodology used by the LP Pt1 Examining Inspector. For these reasons I favour the appellants' methodology and the 5 year housing requirement is therefore 7,603 dwellings"*

3.25 It is also in line with recent guidance from the Planning Advisory Service (PAS), entitled: "Five Year Land Supply FAQ". This was published on 20<sup>th</sup> July 2015 and states:

*"We believe the preferred approach is for the buffer to be applied to both the requirement and shortfall. This is the most appropriate order because it ensures the buffer is applied to the full requirement which represents all the need that exists. The idea is that for every year you underprovide the amount adds onto the requirement to be met in the next five years. In reverse any over provision which would count as completions and could be taken off the requirement, to which the buffer is then applied. The idea of the buffer is to ensure that there is flexibility to provide sites and meet the needs that exist."*

3.26 We also note that it is in line with the recommendations of the Local Plans Expert Group as set out in its report to the Secretary of State (March 2016, paragraph 43).

3.27 Consequently, the buffer should be added to the whole five year requirement, which includes the backlog. Therefore, given that the new paragraph proposed at MM/8 is designed "to avoid the risk of inconsistent application of methods to calculate the supply by subsequent decision makers", we recommend that the following additional sentence is added to the paragraph:-

*“For the avoidance of doubt, the NPPF buffer applies to both the base requirement and the backlog”.*

## **4. Main Modification MM/67: Amended Trajectory**

### Appendix 3: Revised Local Plan Housing Trajectory

- 4.1 In response to MM/8, we consider that a more realistic trajectory should be proposed than that identified in MM/67. This trajectory is considered to be wholly unrealistic and not deliverable in years 2017/18 to 2024/25. Its purpose appears to be trying to demonstrate a five year housing supply now, rather than one that is based on realistic expectations of the housing market and the house building industry in Central Lincolnshire.
- 4.2 For instance, for years 2018/19 to 2024/25, the trajectory proposes house completion rates at over 2000 dwellings per annum, which is more than twice the average over the past five years from 2011/12. It is also greater than the delivery in the highest year, 2006/07, when 1,989 dwellings were completed, according to the council's response to Q.3 of Matter 6 of its Hearing Statement.
- 4.3 Furthermore, the trajectory shows that in years 2019/20 and 2020/21, completion rates are expected to be above 3,000 dwellings per annum. Such build and sales/rent rates are unrealistic. House builders will only build the number of houses at any one time that the market requires, that can be afforded, where skilled labour is available and there are sufficient sources of materials.
- 4.4 According to the House of Commons – All party Parliamentary Group for Excellence in the Built Environment which reported last month, as much as half of the construction industry's skilled labour left the industry following the 2008 recession. And a fifth of the existing building workforce is set to retire in the next five to ten years. There is and will continue to be a substantial construction skills gap, that will not be easily filled.
- 4.5 Similarly, the construction industry continues to suffer shortages in a wide range of building materials and aggregates to provide the scale of housing required across the country, which the government assesses at some 2500 houses per annum.

- 4.6 In our statement on Matter 6: Housing Land Supply, we set out at Section 5 various factors that involve long lead – in times that need to be allowed for before a first house is completed on a site and the lower annual build rates achieved on large sites where there are multiple house builders competing in the same market. In our experience of over 40 years in assessing the delivery of housing sites, councils are too over-optimistic in the rates used of annual completions and of timescales for site completions. In our opinion, the council's expectation of the housing market is unrealistic and the delivery proposed is not achievable. For instance, the allocations in Lincoln City are expected to deliver 1,072 dwellings over the five year period from 2017/18. This is in addition to the 1,100 commitments and the 300 windfall dwellings, which the council expects to be completed in the same period. The expected delivery of 2,472 dwellings in the city represents nearly 500 completed dwellings per annum over the next five years. This is over twice the house building rate experience in Lincoln over the past five years according to the council's five year land supply report.
- 4.7 Moreover, the trajectory for years 2028/29 shows a declining house building delivery rate for the remaining eight years of the plan period below the annual 1,540 average housing requirement. For the last four years, the delivery proposed is less than 1,000 dwellings per annum. Such reductions in house building rates would have significant adverse impacts on the house building industry and more so, on local building and construction firms. The expectation of the delivery of houses in our opinion should be evened out over the whole of the plan period.
- 4.8 We recommended that the housing trajectory proposed in MM/67 ought to be revised and evened out over the plan period to take full account of all the factors referred to above.