



The Planning Inspectorate

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# **Report to South Kesteven District Council**

**by Katie McDonald MSc MRTPI**

an Inspector appointed by the Secretary of State

**Date: 12 October 2021**

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## **Report on the Council's Annual Position Statement**

## **RECOMMENDATION to the COUNCIL**

1. The South Kesteven District Council Draft Annual Position Statement July 2021 is confirmed, subject to the following:
2. The 5-year housing requirement is 3,829 dwellings or 765 dwellings per annum.
3. The 5-year supply is reduced by 533 dwellings comprising:
  - Site LV-H7 Main Road (South), Long Bennington – remove 50 dwellings.
  - Site LV-H10: Thistleton Land and Mill Lane – remove 26 dwellings.
  - Site LV-H11 Land off High Street, South Witham – remove 31 dwellings.
  - Site GR3-H1 Spitalgate Heath, Grantham – remove 100 dwellings.
  - Site GR3-H4 Prince William of Gloucester Barracks – remove 125 dwellings.
  - Site LV-H1 Wilsford Lane (North), Ancaster – remove 96 dwellings.
  - Site LV-H2 Wilsford Lane (South), Ancaster – remove 35 dwellings.
  - Site STM1-H1 Stamford North – remove 70 dwellings.

## **Context to the Recommendation**

4. Paragraph 75 of the National Planning Policy Framework (the Framework) sets out that local planning authorities (LPAs) can demonstrate a five year supply of deliverable housing sites, with the appropriate buffer, where it has been established in a recently adopted plan, or in a subsequent annual position statement (APS), which:
  - a. has been produced through engagement with developers and others who have an impact on delivery, and been considered by the Secretary of State; and,
  - b. incorporates the recommendation of the Secretary of State, where the position on specific sites could not be agreed during the engagement process.
5. The Housing Supply and Delivery section of the National Planning Practice Guidance (PPG) sets out the process that LPAs should follow if they wish to confirm their housing land supply (HLS) through an APS. Paragraph 011<sup>1</sup> of the PPG indicates that plans that are recently adopted, including those adopted under the 2012 Framework, can benefit from confirming their 5-year HLS through an APS. As required by paragraph 12<sup>2</sup> of the PPG, the Council advised the Planning Inspectorate of its intention to submit a draft APS by 1 April 2021.

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<sup>1</sup> Reference ID: 68-011-20190722 Revision date: 22 July 2019

<sup>2</sup> Reference ID: 68-012-20190722 Revision date: 22 July 2019

6. The PPG<sup>3</sup> says that when assessing an APS, the Planning Inspectorate will carry out a 2-stage assessment – whether the correct process has been followed and the sufficiency of the evidence submitted. I have assessed only the evidence submitted by the Council.

## **Stage 1**

### **Does the Council have a recently adopted plan?**

7. For the purposes of paragraph 75 of the Framework, the South Kesteven Council APS 2020 was confirmed by the Secretary of State in October 2020. The authority is seeking to renew the confirmed land supply following its earlier confirmed APS. Bullet point one from paragraph 13<sup>4</sup> of the PPG is met.

### **Has satisfactory stakeholder engagement been carried out?**

8. The PPG<sup>5</sup> identifies what engagement a Council will need to undertake and who it can engage with. The Council distributed deliverability information request forms to developers, agents and landowners in April 2021 prior to preparing the draft APS. Reminders were sent to those who had not responded, and the Council allowed extensions in order to receive a response. Of the 55 sites within the Council's supply, it received responses relating to 48 sites.
9. Following this, the draft APS was produced and a 4 week consultation with landowners, developers, promoters, agents, stakeholders, infrastructure providers and other Councils took place. In total, 176 consultations were sent. Reminder emails were sent at week 3, and 10 representations were received. The representations were considered prior to submitting the draft APS to the Planning Inspectorate and 16 disputed sites were identified, along with commentary on other matters.
10. Based on the above methods, extent of engagement and response rates, satisfactory stakeholder engagement has been carried out, in line with the guidance in the PPG. Furthermore, an appropriate schedule of response data has been produced and submitted, including in relation to remaining disputed sites with the Council's comments added in each case. The Council has also provided a schedule of, and its comments on, general responses concerning the nature of the draft APS process, along with general requirement and deliverability matters.

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<sup>3</sup> Reference ID: 68-013-20190722 Revision date: 22 July 2019

<sup>4</sup> Reference ID: 68-013-20190722 Revision date: 22 July 2019

<sup>5</sup> References IDs: 68-015-20190722 & 68-016-20190722 Revision date: 22 July 2019

## Stage 2

### **Is the evidence submitted sufficient to demonstrate a 5-year supply of deliverable housing sites?**

#### ***Requirement***

11. The South Kesteven Local Plan (LP) was adopted in January 2020, so is less than 5 years old. Thus, the Council's HLS is to be assessed against the housing requirement contained in its strategic policies<sup>6</sup>. The 5-year HLS requirement applies an appropriate buffer to produce a requirement over and above the level indicated by the strategic policy.
12. LP Policy SP1 sets a minimum requirement of 16,125 dwellings for the period 2011-2036, or 650 dwellings per annum (dpa). Since 2011, there has been a shortfall of 694 dwellings. The Council use the Liverpool Method to deal with the shortfall over the remaining plan period. This equates to a requirement of 3,481 dwellings over the next 5 years (2021-2026).
13. This use of the Liverpool Approach is disputed by respondents. The PPG<sup>7</sup>, when considering how past shortfalls in housing completions against planned requirements should be addressed, indicates that any shortfall should be added to the requirement for the next 5 years (Sedgefield Approach) then the appropriate buffer added. However, the guidance continues to say that if: *"a strategic policy-making authority wishes to deal with past under delivery over a longer period, then a case may be made as part of the plan-making and examination process rather than on a case by case basis on appeal."*
14. The Local Plan Examining Inspector confirmed the shortfall would be dealt with over the plan period (Liverpool Approach). However, owing to the wording of paragraph 5.13 of the LP, this is not entirely clear. Nevertheless, this matter was previously disputed in the 2020 APS. The Inspector confirmed the Liverpool Approach was being used to address shortfall. I agree.
15. Consultation responses assert the shortfall has been artificially reduced, by accounting for dwellings within a survey (2012-2016). The Council explain this is the result of a physical survey assessing small site completions in 2015/2016. The exact year of completion is unknown, so they are spread across the preceding 4 years. This is a sensible and proactive approach to ascertain if small sites have been completed and inclusion of these dwellings is appropriate.
16. Consequently, the 5 year requirement is 3,481 dwellings. Adding the 10% buffer<sup>8</sup> would bring the 5-year housing requirement for the purposes of the draft APS to 3,829 dwellings.

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<sup>6</sup> Framework paragraph 74

<sup>7</sup> Reference ID: 68-31-201990722 Revision date: 22 July 2019

<sup>8</sup> Framework paragraph 74 b)

## **Supply**

17. In the draft APS, the supply comprises: small sites with planning permission, including under construction (613); windfall (90); large sites with planning permission not under-construction (248); large sites under construction (827); sustainable urban extensions with planning permission (allocated through core strategy) (628); LP allocations (2082); and Council Capital Programmes (46). Taken together, these components amount to a draft 5-year supply of 4,534 dwellings, or 5.92 years.

### *Housing Sites in Dispute*

18. Sixteen sites are disputed, where engagement comments claim that the site should either be removed from the supply as undeliverable or that the contribution to the supply should be adjusted. I have considered the deliverability of these sites below, having regard to the glossary entry in the Framework relating to the term 'deliverable' and case law<sup>9</sup>.

#### *Site LV-H5: Swinstead Road/Bourne Road, Corby Glen*

19. LP allocated site for around 250 dwellings, but the Council are confident the site could deliver 266 dwellings. Full planning permission for 66 dwellings on part of the site is awaiting a completed planning obligation. It is being assembled by 2 developers, with one outlining it has committed to a delivery rate of 30 dpa, and the other assumes 35 dpa but with an additional year of lead in time. The response indicates first completions in year 2 if the planning application is granted permission by early 2022.
20. The site has no fundamental infrastructure constraints, one developer has a track record of delivery and intends to build out the 66 dwelling scheme. The other landowner has agreed terms with a national housebuilder and pre-application advice has been sought, with a positive response received. A full planning application is expected in summer 2021, with determination early 2022.
21. The Council follows the respondent's trajectory, and assumes 25 dwellings for year 2, and then 35 dwellings for years 3, 4 and 5, totalling 130 dwellings for the next 5 years, including the 66 from the smaller part of the site. Based upon the progress that has been made towards the submission of a detailed application, the positive response from the owner, and agreeing terms with a housebuilder, it is reasonable to assume that completions will take place in line with the trajectory.

#### *Site LV-H7 Main Road (South), Long Bennington*

22. LP allocated site. Resolved to grant outline planning permission for 50 dwellings at planning committee in June 2021 (subject to a planning obligation). The agent confirmed that they are content with the Council assumptions and expects the site to be brought forward once the decision is issued, but they are unable to put a time frame on commencement. The

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<sup>9</sup> East Northamptonshire Council v Secretary of State for Housing, Communities and Local Government case number CO/917/2020 – Consent Order sealed 12 May 2020

Council has moved the trajectory back a year, with completions set to take place from year 2 onwards.

23. The Council detail that the outline consent includes a condition that the Reserved Matters scheme will be required to be in broad accordance with the outline application's indicative layout, claiming this would give reassurance to any developer seeking to buy and develop the site, speeding up the reserved matters process. I disagree. This is not guaranteed to be attractive to a developer as they may wish to produce their own layout.
24. The site is available, of a modest size and offers a suitable location for development with no infrastructure constraints. However, given the uncertainty of the response from the respondent, no formal outline planning permission and the need for reserved matters along with taking into account sale of the site, there is no clear evidence that completions will take place within 5 years. The site should be removed from the supply.

*LV-H8 Main Road (North), Long Bennington*

25. LP allocated site. Full planning application submitted to the Council in March 2021, but undetermined based on the evidence before me, with a respondent's objection claiming there are technical issues to overcome.
26. However, the developer confirms completions are expected in 2022/23 with no barriers to delivery, except the delay in receiving planning permission. The trajectory indicates 43 dwellings, 13 to be delivered in year 2 and the remaining 30 in year 3. Based upon the developer's positive response and the submission of a full application, even if delayed, there is a reasonable prospect the site will be complete in 5 years.

*LV-H10 Thistleton Lane and Mill Lane, South Witham*

27. LP allocated site. The site has 2 landowners, one with 34 dwellings and the other with 16 dwellings. The Council assumes 26 dwellings over 5 years.
28. The owner for the smaller part of the site provides a vague intention of submitting a planning application in the next 2-3 years, but also indicates delivery in years 3 and 4. The site's location adjacent to residential development would provide an opportunity for service connections to be brought forward and there are no major infrastructure requirements. However, whilst the site is small scale with limited barriers to delivery, there has been no agreement to sell the site, and the developer's response does not provide clear evidence that completions will take place within 5 years.
29. The response for the large part of the site is noncommittal and expects to deliver dwellings within the development plan period only, with no identified developer. There has also been a short-term extension to a poultry farm on site. Whilst the owner indicates completions in year 2, this appears to be aspirational; and is not clear evidence that housing completions will take place in 5 years.
30. Consequently, the site as a whole should be removed from the 5 year supply.

*Site LV-H11 Land off High Street, South Witham*

31. LP allocated site for 31 dwellings. The site's respondent agrees with the Council's trajectory and states that development on site could commence within 2 years given limited site constraints. The site has also been marketed.
32. However, no planning applications have been submitted, nor any pre-application advice sought. Marketing appears to be seeking offers, but this does not indicate any developer interest. Therefore, there is no clear evidence of housing completions beginning within 5 years and the site should be removed.

*Site GR3-H1 Spitalgate Heath, Grantham*

33. LP strategic allocation for 3,700 homes. Outline permission submitted in 2014, but given the size and complexities of the proposal, it has not yet been formally granted and is awaiting a planning obligation. The developer and Council indicate a trajectory of 75 dwelling completions in year 3, and 100 each for years 4 and 5, continuing beyond the 5 year supply period. This is a delay of one year from the 2020 APS, which the landowner indicates is due to the complexities of the site, the secure acceptance of the planning obligation and the assessment of the wider housing market in Grantham.
34. Two respondents outline that this is unrealistic, and delivery of site will not be realised in 5 years. The Council set out that the landowner entered into a Planning Performance Agreement (PPA) with the Council to cover the determination of the Outline application, with a possible committee in summer 2021. Council officers are working concurrently on the planning obligation and masterplan (to be required by condition), which is expected to be submitted soon after determination of Outline application.
35. Given the scale of the site overall, once works do commence, it is likely that delivery rates would be what is envisaged. Also, whilst there are significant complexities to the delivery of the site, it is clearly at the latter ends of consideration in the outline planning process.
36. That said, the expected date of completions in year 3 is ambitious given that the outline planning application has been under consideration for 7 years and there would be planning conditions which need to be discharged prior to submitting reserved matters. These relate to complex matters such as site wide design strategic framework and a residential design code to name a few. Furthermore, reserved matters are only anticipated to be submitted late 2022. Added to this would be potential further conditional discharge and at least 6 months site preparation. Moreover, the site is dependent upon completion of the Grantham Southern Relief Road, which is due May 2023.
37. Therefore, on balance, I am not confident that completions would be as quick as proposed in the draft APS, but I agree that completions are likely in the next 5 years. Consequently, it is reasonable to delay completions by one year, removing 100 dwellings from year 5.

*Site GR3-H2: Rectory Farm (Phase 2 North West Quadrant, Grantham)*

38. LP strategic allocation for 1,150 dwellings. Delivery is anticipated in year 2, with 330 completions within 5 years. The agent reports of ongoing advanced dialogue with a national housebuilder. However, they only anticipate submission of a planning application in the next 2 years.
39. That said, the Council report that planning applications on the site currently total 1,265 dwellings. All are not formally determined, but of these, there are 2 full applications approved by Planning Committee awaiting legal agreements. The trajectory set by the Council broadly reflects annual completions from the adjoining site, the same housebuilder who the agent is in dialogue with.
40. Once the legal agreements for the 2 full applications (amounting to 448 dwellings) are completed, commencement could be relatively quick, subject to condition discharge and site preparation. The Council indicate that the backlog in legal agreements will be addressed shortly, and the site is available now and suitable with no indication of any infrastructure issues. Therefore, whilst the inclusion of 330 dwellings is optimistic, in this instance, I consider it reasonable.

*Site GR3-H4 Prince William of Gloucester Barracks*

41. LP strategic allocation for 4,000 dwellings. The site is linked with the Spitalgate Heath site, and both are reliant on the completion of the relief road. No planning permission has yet been submitted, but the Council are working closely with the Ministry of Defence and Homes England. The relief road is due to be completed earlier than anticipated and Homes England indicate that more homes can be brought forward sooner.
42. Completions are included in the trajectory from year 3 onwards, totalling 300 dwellings, with Homes England indicating the site can deliver 125 dpa in years 4 and 5. This is a delay of one year from the previous APS, which is said to reflect the phased closure of the Barracks.
43. Whilst the planning application has not yet been submitted, significant progress has been made and a planning performance agreement is in place. That said, it will be an outline planning application, and I am not convinced that delivery of 50 dwellings in year 3 would be realistic, given the outline application would need to be assessed, along with reserved matters application/s, condition discharges and site preparation would be required. This is in addition to the infrastructure requirements of the road and utility reinforcements.
44. Therefore, whilst there is firm progress being made, I am unconvinced that completions will take place at the scale envisaged. Consequently, it is reasonable to delay completions by one year, removing 125 dwellings from year 5.

*Site LV-H1 Wilsford Lane (North), Ancaster*

45. LP allocation, with outline planning permission pending a planning obligation for 96 dwellings. Completions expected in year 2, totalling 96 dwellings in the 5 year trajectory. The Council expect reserved matters to be submitted in Autumn 2021. However, there has been no response from the developer to the draft APS.
46. Whilst the site is available and suitable for development and the Council report of no fundamental infrastructure constraints, there is no formal planning permission and nothing from the developer to indicate firm progress being made towards the submission of reserved matters or site assessment work. Therefore, I do not have clear evidence that completions will take place within 5 years. Accordingly, this site should be removed.

*Site LV-H2 Wilsford Lane (South), Ancaster*

47. LP allocation for 35 dwellings. Informal pre-application discussions have taken place, but no planning application has yet been submitted owing to slippage from the pandemic and landowner family circumstances. There are no fundamental infrastructure constraints to be resolved, and the landowners consider that completions can be expected within 5 years.
48. Whilst the site is modest in size, the landowners' response is not confident, with them setting out that they are currently reviewing their options in terms of how best to take this site forward for development, and there being no fixed timetable. This is not clear evidence that completions will take place in 5 years and this site should be removed.

*Site LV-H12 Part of Elm Farm, Thurlby*

49. LP allocated site for 50 dwellings. The developer indicates submission of a planning application imminently and expects commencement from 2023 and 20 completions in years 4 and 5. There are no fundamental infrastructure constraints to be resolved, but the agent indicates delays owing to the pandemic.
50. Whilst the planning application has not been submitted, there is firm intent to apply, and there is agreement from the landowners to sell the land to a developer identified in the response. Therefore, whilst an application has not been submitted, the number of dwellings anticipated is cautiously low, and I consider it reasonable to conclude that 20 dwellings could be delivered within 5 years.

*Site STM1-H1 Stamford North*

51. LP strategic allocation cross-boundary development with Rutland County Council (Quarry Farm site) for 1,300 units. The agent indicates completions are expected from year 3, totalling 170 dwellings in 5 years. There has been no planning application submitted, but the Stamford North Development Brief is progressing with consultation anticipated in 2021. Governance arrangements are also said to be progressing between both Councils. The agent indicates initial technical survey work has been completed at the site,

including highways modelling work. Thus, work has begun towards an application, with an indicative date of 2021/22 for submission and 2023/24 for the first completion. The Council also indicate that whilst the Quarry Farm developer considers completions at Quarry Farm are unlikely to come forward within 5 years, this does not hinder development of Stamford North which, given the phasing schedule and traffic work done so far, can come forward before or alongside Quarry Farm.

52. The site is available now and suitable for development, and site assessment work is being carried out. However, I am not convinced that delivery of dwellings in year 3 would be realistic, given the planning applications and condition discharges would need to be assessed, and site preparation would be required. There could also be delays in the development brief following consultation or cross boundary issues. For this reason, it would be reasonable to delay completions by one year, removing 70 dwellings from year 5.

*Site STM1 - H2: Stamford East*

53. LP allocated site for 162 dwellings. The agent indicates commencement in 2023 and completions in year 3 (2023/24). A planning application has been submitted in May 2021 for 213 dwellings (S21/0938). The application is full, and once approved, the Council expect the site to be developed quickly. Given the firm progress made towards the submission of a full application, the inclusion of 92 dwellings is reasonable.

*Council's Capital Programme: Wellington Way, Market Deeping*

54. The site is expected to deliver 11 affordable homes in 2022/23. The Council report that a feasibility design has been completed, pre-application discussions undertaken, and feedback received. Comments have been reported to the design team to develop the design prior to community engagement and member consultation, expected in August 2021. Site investigations are underway, and the developer has a proven track record with delivery of multiple schemes across the district including 14 homes delivered in 2019/20. The site is modest, and it is reasonable to expect 11 dwellings to be delivered in the next 5 years given the firm progress made.

*Council Capital Programme: Kesteven Road, Stamford*

55. The site is expected to deliver 23 affordable homes in 2022/23. Some feasibility design work has been undertaken for the site and the developer is the same as the other capital programme sites, with a proven track record. The site is modest and even if there was some slippage, it would be reasonable to expect 23 dwellings to be delivered in the next 5 years given the progress made.

*Council Capital Programme: Shaw Road, Grantham*

56. The site is expected to deliver 12 affordable homes in 2022/23. Member consultation and formal pre-application advice has occurred. Public consultation and community engagement is planned in July 2021. The

developer has the same proven track record as above and it is reasonable to conclude that the site will be delivered in the next 5 years.

#### *Conclusion on the Disputed Sites*

57. Clear evidence has not been produced to support the inclusion of 533 dwellings within the 5-year supply.

#### *Windfalls*

58. Assertions are made that the windfall allowance double counts the small sites. The Council has removed windfall from years 1 and 2 to respond to this, showing the lag from planning permission to implementation, given that windfall development generally relates to small sites that unexpectedly become available.
59. Whilst the contribution cannot be reliably anticipated, which is demonstrated by draft APS Table 6, the Council's annual average of 65 windfall site completions since the start of the plan period provides a moderate contribution. Indeed, the Council expect more windfall given the permissive nature of its LP. Therefore, the inclusion of 30 dwellings for years 3-5 is appropriate and reasonable.

#### *Small Sites*

60. Responses outline that the lapse rate added to small sites of 10% by the Council is too low, with average trends suggesting 23.5%. However, the Council have used the LP Examining Inspector's suggested figure of 10% owing to insufficient monitoring information. This was also supported in the 2020 APS. Furthermore, having regard to the Framework definition of deliverable sites, it is unnecessary to include an allowance for the non-implementation of small sites and the figures presented by the respondent does not indicate a lack of demand. Thus, the Council's lapse rate is proportionate and reasonable.

#### *Legal agreement delays*

61. Respondents outline that there is a significant delay in issuing planning permissions by the Council due to the length of time taken to finalise planning obligations. The Council explain there have been staff shortages but are clearing the backlog and will shortly be completing agreements within 3 months.
62. Whilst delays to legal agreements ultimately delay the delivery of sites, this should be resolved shortly, which would enable several developments with permission pending to come forward in line with the trajectory.

#### *COVID-19 Impact*

63. The Council invited comments on the potential impact of the pandemic. They received 3 responses directly on this matter. One set out it would be minimal, subject to the availability of materials, another said no significant impact, and the third said the effect was unknown. In other areas, some respondents said

it was likely to impact delivery. The trajectory on those sites was then amended by the Council on a case-by-case basis. This approach is suitable.

#### *Conclusion on deliverable housing supply*

64. Based on the above findings, 533 dwellings should be removed from the total 5-year HLS reducing it to 4,001 units against a requirement of 3,829 and reducing the supply in years to 5.22. In respect of individual sites where the supply has been found to differ from the Council's figures, these are summarised as follows:

- Site LV-H7 Main Road (South), Long Bennington – remove 50 dwellings.
- Site LV-H10: Thistleton Land and Mill Lane – remove 26 dwellings.
- Site LV-H11 Land off High Street, South Witham – remove 31 dwellings.
- Site GR3-H1 Spitalgate Heath, Grantham – remove 100 dwellings.
- Site GR3-H4 Prince William of Gloucester Barracks – remove 125 dwellings.
- Site LV-H1 Wilsford Lane (North), Ancaster – remove 96 dwellings.
- Site LV-H2 Wilsford Lane (South), Ancaster – remove 35 dwellings.
- Site STM1-H1 Stamford North – remove 70 dwellings.

#### **Conclusions**

65. The draft APS seeks to renew the confirmed land supply following the South Kesteven District Council APS 2020. Satisfactory stakeholder engagement has been undertaken.

66. The 5-year housing requirement is 3,829. The 5-year total supply calculated by the Council should be reduced by 533 dwellings to 4,001. Accordingly, the Council can demonstrate a 5.22 year housing land supply.

*Katie McDonald*

INSPECTOR