

Shropshire Local Plan 2016-2038

Stage 2 - Hearing Statement Matter 27 – General housing policies

Land at Boraston Drive and the A456, Burford

Prepared by Fisher German on behalf of Lone Star Land

Project Title

Land adjoining Boraston Drive and north of A456, Burford

Agent

Fisher German

The Estates Office

Norman Court

Ashby de la Zouch

LE65 2UZ

1. Introduction

1.1 This Hearing Statement has been prepared by Fisher German on behalf of Lone Star Land in respect of their land interests at adjoining Boraston Drive and north of A456, Burford as illustrated at Figure 1 below.



Figure 1: Land adjacent to Boraston Drive and the A456, Burford

1.2 The land is a proposed housing allocation within the emerging Local Plan under Reference BUR004, within Schedule S10.2(i) – Residential Site Allocations: Community Hubs in the Ludlow Place Plan Area for 100 dwellings.

1.3 The proposed allocation is supported and Lone Star Land and the landowners remain fully committed to the residential development of the site.

2. MIQs

Matter 27 – General Housing Policies

Proposed new Policy DP1A - Housing Provision for Older People and those with Disabilities and Special Needs.

1. Is the policy justified, effective and consistent with national planning policy?

- 2.1 The numbering in the Main Mods document do not appear to be correct. For example, Criterion 17 refers to criterion 15-17, excluding criterion 14, which appears to be an error. For clarity however we have referred to the numbering as it appears within the document:
- 2.2 **Criterion 2** - We do not believe the requirement for 75% M4 (2) and M4 (3) delivery has been adequately justified. As per other technical standards, it is accepted that increases may be justifiable, but we do not believe that a requirement that the vast majority of new build housing being built to M4(2) and M4(3) standards has been sufficiently justified. The draft Policy's proposed reasoned justification confirms that the rationale for this requirement is contained within the SHMA, albeit it is noted that the SHMA actually comes to a different conclusion on the needs for M4(2) and M4(3) homes. Paragraph 28 of the reasoned justification within Appendix 1 states "*the need for M4(2) and M4(3) housing was specifically considered within the SHMA. It estimated that for the total projected growth in households in Shropshire during the Local Plan period, 13% will require wheelchair accessible dwellings, M4(3) standard and 33% will require accessible and adaptable dwellings to M4(2) standard*".
- 2.3 The Policy however seeks to move away from the SHMA evidence's conclusions and increase the need for the quantum of M4(2) and M4(3) homes sought by a significant quantum. The rationale for this is provided in a somewhat confusing sentence at Paragraph 29 of the reasoned justification, which states "*closer inspection of household growth by the age of Household Reference Person, reveals a significantly higher level of household growth in households with a Household Reference Person aged 65 years and over*". It is not clear if this conclusion is a result of new evidence, or is a direct challenge to the credibility of SHMA itself, as the SHMA directly considers age as a key element of Table 100 when coming to the conclusions set out at Paragraph 2.8 above.
- 2.4 Paragraph 6.291 of the SHMA (September 2020) confirms that the figures referenced above may underestimate the actual need for M4(2) and M4(3) units. This may be the case, but the NPPF requires planning policies to be justified to be considered sound as per NPPF Paragraph 35. The Council's actions in uplifting the requirement for of M4(2) and M4(3) dwellings is not considered to

be justified given the evidence used by the Council in support of the Plan conflicts with the requirements sought.

- 2.5 Paragraph 6.292 states that “Table 94 [Estimate of Total Housing Need (2016-2038) for Households with at Least One Person with an LTHPD] already identifies that 19,785 older households (77% of the 25,554 growth in older households) will require either M4(2) or M4(3) standard housing”. However, this does not fully explain the conclusions of Table 94. Firstly, this is the upper end of a range provided within the table, so represents the worst case scenario (the lower end of the range being a greatly reduced 8,772 dwellings). Moreover, the table includes a further step to discount this identified need on the basis of the quantum of need which could be accommodated in existing housing that could be reasonably adapted to M4 (Category 1) standards. The introduction of this logical step reduces the range from 8,772 - 19,785 dwellings to 4,128 - 9,311 dwellings.
- 2.6 Lone Star Land strongly consider that the amended, lower range is more robust. It is noted that the published document itself references at numerous points the People’s Strategy for Shropshire, which is a document which adopts a principle of supporting people to *“remain independent within their own homes, within their existing communities and with access to their established support networks”* [our emphasis]. There is therefore an internal inconsistency in that the Council advocate a strategy in which people have a preference for staying in their own homes but discard that same principle as it appears at Table 94 in calculating the level of M4 housing needed. As the clear preference of Shropshire’s adopted strategy, and accepted logic, is that people will seek to stay in their own home if possible, thus if there is to be a requirement applied it should be based on the lower end of the range, not the upper as proposed by the Council.
- 2.7 The result of this approach is the Council want new development to disproportionately meet the district’s M4(2) and M4(3) needs, much of which is already existing. New development is generally expected to resolve the issues generated by itself, not be required to ‘fix’ pre-existing shortfalls or issues which are not directly related to the development itself, in accordance with the CIL regulations tests and Paragraph 57 of the Framework – namely reasonably related in kind and scale to the development.
- 2.8 Moreover, logically it is not a likely proposition that 75% of the purchasers of new homes will be strictly older people or people with disabilities, for whom such housing is required to meet the needs of. As acknowledged by the Council most people’s preference will be to remain in their own homes. Thus delivering 75% of housing to M4(2) and M4(3) specification is likely to significantly oversupply

the market when compared to people who will likely need such properties. The Council has outlined a specific requirement to increase its supply of specialist housing for older people and those with specialist needs, which again will help absorb some of the aforementioned need, further reducing the need for M4(2) and M4(3) dwellings.

- 2.9 Whilst it may be considered beneficial to increase such delivery generally, that again does not make it justified. Moreover, this approach is actually likely to result in unexpected and unwanted consequences. The cost of such requirements will result in higher build costs and whilst that may be absorbed by the landowner, given how competitive the housing land market is currently, it may also be partially passed to house buyers. Thus, people with no need for M4 housing, may end up paying a premium for it to be delivered.
- 2.10 Increasing populations of older, or otherwise unwell populations are national issues, however there is no national requirement to deliver such uplifts. Whilst this may change through building regulations, potential changes to national building regulations are again not sufficient justification for this policy requirement.
- 2.11 Whilst we concede there is likely some justification for an uplift in M4(2) and M4(3) standards in Shropshire, we do not believe a requirement for 75% new homes to be delivered to this standard has been adequately justified, and likely the evidence actually conflicts with the Council's own strategy and data as contained in Table 94 of the SHMA which points to a lower need. As such this requirement should be reduced to levels consistent with that initially suggested in the SHMA (Paragraph 6.290), with higher delivery an optional/aspirational target for developers to consider on a site by site basis.
- 2.12 Whatever the eventual level, the policy should enable this requirement to be negotiated depending on a range of factors, particularly geographic. Paragraph 10 of the proposed Reasoned Justification states in certain settlements that it "*is not always appropriate to provide new adaptable and accessible housing or specialist housing – due to their size and location*". Paragraph 11 states that older people and those with disabilities often have a clear preference to remain in their existing communities. Paragraph 18 confirms that "*if accessible and adaptable housing and specialist housing provision is to be capable of accommodating those that require support they must be of the right size, type, tenure and affordability. **Crucially it must also be in appropriate locations***" [our emphasis]. The Policy however does not allow for any such consideration of these factors, simply a blanket requirement on all dwellings. Notwithstanding therefore that the requirement is clearly too high in respect of the provision of

M4(2) and M4(3) dwellings, the criterion should be amended to include the ability to consider other factors, including geographic, when considering planning applications, in accordance with the Council's rationale as set out above.

- 2.13 **Criterion 6** – As raised in previous representations the pooling of requirements within this Policy are not sufficiently clear. For example, Criterion 2 states that there is a requirement for schemes to deliver 5% M4 (3) dwellings. However, Criterion 6 states that all “*all specialist housing for older people or those with disabilities and special needs will be built to the M4(3) (wheelchair user dwellings)*”. Criterion 16 states that “*On site allocations for 50-149 dwellings and all development sites for 50-149 dwellings (irrespective of whether such sites are brought forward through a series of phases or planning permissions), at least 10% of houses must constitute a form of specialist housing for older people and/or those with disabilities and special needs documented within Paragraph 8 of this Policy*”. Therefore, if delivered, the requirement for 5% M4(3) dwellings has already been satisfied by 200%.
- 2.14 **Criterion 16** –We do not believe the requirement has been adequately justified. Such provision requires specialist management and agreements, as is clear at Criterion 7, thus provision of modified market housing stock would appear not be compliant. In practice it would mean that distinct sections of sites will need to be marketed separately and specifically to specialist providers. The Policy does not contain any mechanisms, other than viability, to absolve sites from this requirement, for instance in the event that there simply isn't market interest or interest that would be substantiated by a fair market value offer. The policy, if it is to be retained in its current guise requires amendment, enabling a marketing exercise, or other suitable evidence to be provided.
- 2.15 **Criterion 17** – Whilst the inclusion of a mechanism relating to the impact of this proposal on viability is supported, as detailed above this does not go far enough and should be supported by further mechanisms which enable the dwellings to be transferred to other uses in the event there is not market interest from a specialist provider.
- 2.16 **Criterion 18** – The policy is inconsistent as it states “*Specialist housing provided in accordance with Paragraphs 15-17 of this Policy that is consistent with the definition of affordable housing can also represent all or part of the contribution to affordable housing required in accordance with Policy DP4 of the Local Plan*” [our emphasis]. DP4 of the submitted Local Plan refers to exception sites, it is assumed given the reference to affordable housing this reference relates to submission LP Policy DP3. Regardless, the criterion confirms that such a contribution can count as all of the affordable housing contribution, as highlighted above. However, part B of the criterion states “*affordable*

housing provision should not be concentrated only in affordable specialist housing, as it is important that the other forms of affordable housing are delivered, including for key workers such as the care staff for specialist housing". That would appear to directly conflict with the earlier part of the policy. The policy is in need of further refinement prior to being in a position to be supported.

2. Are the policy requirements clear?

- 2.17 No, as set out in previous representations and above the policy is difficult to understand, suffers from excessive prolixity and is not sufficiently clear on its expectations of development, for example the pooling of M4 (2) and M4 (3) requirements and affordable housing. The policy should be broken up into separate policies and/or simplified significantly. NPPF paragraph 16d confirms that Plan's should "*contain policies that are clearly written and unambiguous*". The policy as drafted does not achieve this.

3. Is the policy flexible enough?

- 2.18 No, as set out above the policy places significant and onerous requirements on larger and strategic sites offering limited mechanisms if such requirements are not deliverable through no fault of site owners/developers. For example, if the 10% specialist housing requirement for schemes of 50-149 dwellings is retained, mechanisms for release to other uses are required. Specialist housing can only be delivered by registered providers. If these providers have no interest in a site, or are not prepared to pay fair market value, then there must be a mechanism to allow the 20% to be put towards other productive uses, including the delivery of market housing. This may not be a strictly viability issue, thus the policy needs to allow for sensible scenarios wherein the Council will positively consider other appropriate uses, particularly more conventional residential delivery.
- 2.19 In practice, planning applications will need to be carefully worded to ensure no Hillside issues if they are to include a policy compliant element of care as part of any outline description, which is ultimately not delivered due to lack of market interest.

Policy DP2 Self-Build and Custom-Build Housing

1. Is the policy justified, effective and consistent with national planning policy?

- 2.20 Yes, as written, we consider the policy approach advocated is justified, effective and consistent with national policy. Critical to the policy's soundness is however the recognition within the Policy that the provision of self-build is **encouraged, but not required**.

2.21 If this wording was removed, the soundness of the policy would be challenged for reasons we have previously set out in representations to the emerging Plan.

2. Is the timescale for marketing of plots justified?

2.22 No, given the requirement for plots is only encouraged, it is clearly onerous to then require a specific timescale for the marketing of plots which have been provided in good faith. The policy proposes that where plots are provided, they must be serviced prior to marketing. Again, this is unnecessarily onerous and can have significant cash flow and build out implications, as essentially means the plots need to be provided early in a sites build out, further adding to the early costs of delivery ahead of any receipts being achieved. There is no reason why marketing could not occur in advance of the site being serviced. It is noted that the policy requires self-build plots to be expedited in the delivery phases. There is no reason why the policy needs to expedite the delivery of self-build plots versus market housing, as they are no more important and there is no planning justification for this requirement.

2.23 Similarly there is no planning reason to require any provision provided to be “*accessible via a suitably adopted or adoptable road at an early stage in the development (prior to 25% occupation of the relevant phase in which the serviced plots are located as agreed at planning application stage)*”. Such provision cannot be guaranteed to be delivered early and will sensibly be established on a site by site basis having regard for layout, design and other site specific contextual considerations. There is no planning reason why plots need to be provided by the first 25% of occupations, thus it is not justified and should be deleted.

3. Does the policy or explanation need to be clearer about what a developer needs to do if they have marketed the plots without success before they can sell them as market homes?

2.24 Having regard for our response to the question above, we again reiterate that given the provision of self-build housing is encouraged only, not required, it is unacceptably onerous to impose strict requirements on when self-build plots that are provided can be used for other purposes. There is no justification or need for the imposition of self-build plots according to the Council’s recent data when compared to the assumptions in the SHMA, which has significantly overestimated need.

2.25 The Council utilises the SHMA as justification for the self-build need and thus the encouraged provision of 10% of units on qualifying sites. The SHMA however assumes an annual need of 108 new entries to the register, based on an average inclusions during the initial phases of the register being operable. However, the SHMA is now out of date in this respect, as the entries since its

publication have continued to reduce, averaging only 52 entries per annum in terms of individual applications, and less than 1 group application a year, over the last 5 years. Looking at the last available year published on the Council's website (31 October 2022 - 30 October 2023) there was only 20 applicants to the register (Register Statistics, Shropshire Website). This is less than a fifth of the need that anticipated in the SHMA. This more contemporary data supports the approach actually advocated in the policy, which is that provision should be encouraged, not required. This is also a position supported by actual supply delivered without a policy intervention as discussed in relation to question 4.

4. The policy 'encourages' the provision of serviced plots for self-build and custom build developers. Is the policy worded strongly enough? Should it 'require' rather than 'encourage'?

2.26 Shropshire's published statistics (as available on the Council's website) indicate that the Council has routinely delivered more self-build plots than there have been new entries to the register. In the last 3 years there has been an over provision of plots delivered against the number of individuals registered in each year. Over the previous 5-years, overprovision amounts to 138 dwellings. This has been achieved without any self-build policy in place. There is therefore no planning justification to enforce this as a requirement rather than the encouragement proposed in this policy, particularly given delivery is already being met without policy intervention. If the policy was amended from encouragement to a requirement, it would almost certainly lead to significant over provision of plots, slowing and impeding market housing delivery. Moreover, it clearly couldn't meet the definition of justified on the above basis, therefore would not be sound.

2.27 The Council should continue to ensure a positive policy and development management environment exists where suitable self-build schemes, either of individual units, larger schemes or specific schemes providing serviced plots will be treated favourably, as proposed. This encourages delivery in line with the Council's statutory duties, without compromising sites which make up a vital facet of the Council's overall proposed housing supply. It will also more likely better serve the self-build market by enabling development in line with the wishes of perspective self-builders. Under the Self Build & Custom Housebuilding Act 2015 and 2021 NPPF (para 62), it is the responsibility of the Council, not landowners or developers, to ensure that sufficient permissions are given to meet demand. The Council is fulfilling this need without a policy requiring a percentage of strategic sites, thus no need or justification for a policy requirement.

5. Will the implementation of this policy adversely affect delivery of sites?

- 2.28 Not as currently written however should the 10% allowance be enforced, then this clearly will adversely impact the delivery of sites. Regardless, such a change could not be considered sound as the data demonstrates it is not required and would likely yield a significant overprovision of plots whilst impeding market delivery.

Policy DP3 Affordable Housing

1. Is the policy justified, effective and consistent with national planning policy?

- 2.29 This Policy is split into two parts. They are covered in turn.

Part 1

- 2.30 Lone Star Land have no objection to the proposed affordable housing targets which are considered in isolation to accord with the tests of soundness. However, as per previous representations the Lone Star Land do have concerns as to the pooling of requirements with other policies, not least the requirements for specialist housing. We do however have issues with some of the specific criteria, which we will cover in turn.

Criterion C

- 2.31 Whilst ordinarily it is in the interest of a developer to transfer affordable units to a Registered Provider, ultimately the transfer of affordable units will depend on a range of factors, including site design, layout and market conditions. Given other proposed policy requirements proposed through the Plan, including the need to provide 10% specialist housing, delivery of this is even more onerous. Concern is also raised as to the enforceability of the proposed Policy, which would appear to only be actually enforceable through a Section 106 agreement. This would however seem overly onerous, particularly if it results in the arbitrary delay of the delivery of market housing. The CIL tests (NPPF para 57) affirm that planning obligations must only be sought where they meet the following tests:

- A) necessary to make the development acceptable in planning terms;
- B) directly related to the development; and
- C) fairly and reasonably related in scale and kind to the development

- 2.32 The proposed requirement is not necessary to make the development acceptable in planning terms, as functionally there is no reason why the legitimate need of those who require a market home should be subservient to someone who was in housing need of an affordable home. This proposed

criterion is overly onerous, not sufficiently justified. Provided the affordable housing is provided within the build out of the site, its transfer should be determined on a site by site, case by case basis. On this basis we consider Criterion C has not been justified and should be deleted.

Criterion D

- 2.33 Criterion D provides a proposed favour tenure mix of 30% intermediate and 70% social or affordable rent. Criterion D is considered more favourable due to the criterion conceding that there may be instances when evidence indicates another mix is preferable in respect of local need. This is logical, however it should be the starting point, as need may fluctuate throughout the Plan period. The evidence which informs the 70/30 split is already 4 years old and logically could and should be updated throughout the Plan period. If the Criterion is to be retained, the starting point should be that tenure mix will be informed by matters including the latest published evidence (SHMA updates for example), local need, viability and conversations with Council Officers, with the 70/30 split used where evidence or conversations do not establish a more robust need.

Criterion E

- 2.34 Criterion E requires affordable rents to be set at 80% of open market rent and not to exceed Local Housing Allowance Benefit. This policy is considered unclear and unenforceable as it essentially places two, potentially conflicting requirements on rent limits. For example, what if 80% exceeds Local Housing Allowance Benefit, or vice versa. The position is clarified in the Reasoned Justification, but it should be explicit within the Policy. Again, this policy is considered overtly prescriptive, and this is an issue which is normally satisfactorily resolved during usual Section 106 discussions.

Criterion F

- 2.35 This requirement does not appear to have been justified. It is not clear who the cap applies to or why it is beneficial to be included. Again, the criterion is overly prescriptive and would only be deliverable through a Section 106 agreement. Given there is no evidence or justification for this cap, it should be removed as it is not justified.

Part 2

- 2.36 The second part of the Policy states that reduced rates of affordable housing due to viability concerns on otherwise sustainable schemes will be considered in exceptional circumstances. We support this approach, which is broadly accepted in most parts of the country as a suitable approach in respect of affordable housing delivery.