



The Planning  
Inspectorate

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# Report to Darlington Borough Council

by **Patrick T Whitehead DipTP (Nott) MRTPI**

an Inspector appointed by the Secretary of State for Communities and Local Government

Date: 13<sup>th</sup> April 2011

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PLANNING AND COMPULSORY PURCHASE ACT 2004

SECTION 20

**REPORT ON THE EXAMINATION INTO THE DARLINGTON CORE STRATEGY  
DEVELOPMENT PLAN DOCUMENT**

Document submitted for examination on 29 October 2010

Examination hearings held between 25 and 27 January 2011

File Ref: PINS/L1310/429/6

## **ABBREVIATIONS USED IN THIS REPORT**

AA	Appropriate Assessment
CS	Core Strategy
DPD	Development Plan Document
ELR	Employment Land Review
EVHL	Economic Viability of Housing Land study
GO-NE	Government Office North East
HA	Highways Agency
HBF	Home Builders Federation
LDS	Local Development Scheme
LP	Local Plan
PPS	Planning Policy Statement
RPO	Revised Preferred Option
RRES	Regional Renewable Energy Strategy
RSS*	Regional Spatial Strategy*
RS*	Regional Strategy*
SA	Sustainability Appraisal
SCI	Statement of Community Involvement
SCS	Sustainable Community Strategy
SHLAA	Strategic Housing Land Availability Assessment
SPD	Supplementary Planning Document
TVGTAA	Tees Valley Gypsy and Traveller Accommodation Needs Assessment 2009

\* The Local Democracy, Economic Development and Construction Act 2009 substitutes 'Regional Strategy' for 'Regional Spatial Strategy' in Section 38 of the Planning and Compulsory Purchase Act 2004. In this report 'RSS' has been used where this relates to the published North East of England Plan, Regional Spatial Strategy to 2021 (July 2008).

## Non-Technical Summary

This report concludes that the Darlington Core Strategy Development Plan Document provides an appropriate basis for the planning of the Borough over the next 15 years. The Council has sufficient evidence to support the strategy and can show that it has a reasonable chance of being delivered.

A limited number of changes are needed to meet legal and statutory requirements. These can be summarised as follows:

- Ensuring the Core Strategy correctly reflects the published Regional Strategy as part of the development plan;
- Providing clarification and additional justification for the locational strategy, and the provision for and timing of new housing development;
- Clarifying the Core Strategy's intentions regarding the provision of employment land and the mechanism for safeguarding existing employment sites;
- Ensuring there is clarity regarding the provision for Gypsy and Travellers accommodation through private windfall sites; and
- Providing a Key Diagram which accurately and clearly illustrates the locational strategy.

All of the changes recommended in this report are based on proposals put forward by the Council in response to points raised and suggestions discussed during the public examination. The changes do not alter the thrust of the Council's overall strategy.

## Introduction

1. This report contains my assessment of the Darlington Core Strategy (CS) Development Plan Document (DPD) in terms of Section 20(5) of the Planning & Compulsory Purchase Act 2004. It considers whether the DPD is compliant in legal terms and whether it is sound. Planning Policy Statement (PPS) 12 (paragraphs 4.51-4.52) makes clear that to be sound, a DPD should be justified, effective and consistent with national policy.
2. The starting point for the Examination is the assumption that the local authority has submitted what it considers to be a sound plan. The basis for my examination is the submitted draft CS (October 2010) [CD001], together with the accompanying Proposed Minor Amendments to the Publication Draft Core Strategy [CD009]. Since I have formally accepted these changes, they are embedded in the submission version of the CS and do not require any further recommendation or endorsement.
3. My report deals with the changes that are needed to make the DPD sound and they are identified in bold in the report. All of these changes necessary for soundness have been proposed by the Council and are presented in Appendix Ai, referenced as **SC** for the necessary changes. Additionally, the Council has proposed changes to introduce text referring to the Regional Spatial Strategy (Issue 1) and these are referenced as **RS** at Appendix Aii. None of these changes should materially alter the substance of the plan and its policies, or undermine the Sustainability Appraisal and participatory processes undertaken.
4. The Council has also proposed a number of minor changes, including factual updates, corrections of minor errors or other minor amendments in the interests of clarity. As these changes do not relate to soundness they are generally not referred to in this report although I endorse the Council's view that they improve the plan. These are shown in Appendix B. I am content for the Council to make any additional minor changes to page, figure, paragraph numbering and to correct any spelling errors prior to adoption.
5. Where the Council has proposed changes that relate to soundness they have been subject to public consultation and I have taken any consultation responses into account in writing this report.
6. References in my report to documentary sources are provided thus [ ], quoting the reference number in the examination library.

## Assessment of Soundness

### Preamble

7. Prior to publication, and in response to the Government's revocation of Regional Strategies, the Council (Cabinet 13/07/2010) [CR002] determined to prepare a revised version of the Publication Draft Core Strategy removing references to the Regional Strategy (The North East of England Plan, Regional Spatial Strategy to 2021 – July 2008). However, for the present the Regional Strategy remains part of the development plan.

## Main Issues

8. Taking account of all the representations, written evidence and the discussions that took place at the examination hearings I have identified 5 main issues upon which the soundness of the plan depends. These are: strategy; sustainable development and infrastructure provision; the local economy; quality housing for all and transport.

## Issue 1 – Strategy

### *Regional Strategy*

9. There was close liaison with the Government Office (GO-NE) during preparation of the CS and the Regulation 30(1)(d) Statement notes that the North East Regional Planning Body considered it to be in general conformity with the published RSS [CD006]. Nevertheless, as reported above, and in response to the Chief Planning Officer Letter of 6 July 2010 [SD082] all references to the RSS were removed prior to publication. The Letter advised that local authorities should continue to collect and use reliable information to justify their housing policy (para 11 in the attached 'questions and answers'). In the spirit of this approach I asked the Council to provide clarification regarding the basis for the new housing provision, and additionally for the employment land allocation [ID/3]. The responses [DBC002 & 003] provided justification for policies CS10 (housing provision) and CS5 (employment land).
10. Subsequent to the initial phase of the Examination a further Chief Planning Officer Letter dated 10 November 2010 [SD083] re-established Regional Strategies as part of the development plan. Whilst the Government's intention to legislate to achieve the revocation of RSSs is capable of being a material consideration, having regard to the time frame for this CS, and the local circumstances pertaining, I advised the Council [ID/8] that it would appear necessary to include recommendations reinstating appropriate references to the RSS in the CS.
11. The Council has accepted that, to be found sound, the CS would need to be in general conformity with the RSS but has also indicated that it wants to ensure the continuing relevance and longevity of the CS over the medium to long term [DBC009]. It has, therefore proposed to re-introduce references to the RSS in a manner which will not make the CS appear dated if the RSS is legally revoked as anticipated. This approach is proposed on the understanding that the evidence base supporting the RSS policies also supports several CS policies and that any future revocation of the RSS will not materially affect the soundness of the CS. The approach is necessary for soundness reasons and I endorse the Council's proposed amendments [**RS1 – RS33**] which seek to introduce appropriate text at various places in the CS to provide links to the RSS (Appendix Aii).

### *The Locational Strategy*

#### *Policy CS1: Darlington's Sub-regional Role and Locational Strategy*

12. There appears to be a large measure of support for the Core Strategy's Spatial Vision. However, there have been questions concerning the locational strategy in Policy CS1, particularly that the strategic locations, individually and collectively will fail to deliver the vision. Firstly, it has been suggested that the

strategy will not deliver the amount, type and timing of housing proposed for Central Park and the Town Centre Fringe. In part this concern is founded in the current weak housing market, with net additional dwellings in the Borough roughly 50% down from 2007/8 to 2009/10 (SD012, Table 2.2). The Annual Monitoring Report 2008/09 (CD017, tables 3.4 & 3.5 show similar evidence of a sharp decline in house building activity. The Council acknowledges the impact of the weak market on urban locations, resulting in a number of sites stalling but remains optimistic that those conditions will not prevail beyond the initial part of the plan period. It has also acknowledged the need for flexibility in the types and density of housing proposed and public sector involvement to bring forward development in Central Park. The Housing Implementation Strategy [SD004] provides evidence of the Council's commitment to delivery of the strategy, and the risks involved. The Council has also referred to the efforts of the Tees Valley Credit Crunch Task Force and Tees Valley Unlimited (as the body responsible for delivering the Tees Valley housing Growth Point) to focus funding on unlocking stalled sites, and advises that the HBF, through its representatives on the SHLAA Steering group, and through LDF consultation events to which its members were invited, have commented on and endorsed the figures.

13. Secondly, it has been argued that the identification of the North Western and Eastern Urban Fringes as the preferred directions of growth is flawed in that these do not represent the most appropriate strategy when considered against reasonable alternatives (PPS12, para 4.38). This is based on the suggestion that the Sustainability Appraisal (SA) [CD002] is fundamentally flawed. The Draft Final Report of the SA (para 5.11.2) indicates that it prioritised locations for new housing development based on a full range of 18 sustainability objectives with the North Western Urban Fringe (Area D) and the North Eastern Urban Fringe – North (Area E), ranked above the Western Urban Fringe (Area F). Paragraph 5.11.2 summarises the difference in scoring between the locations as largely down to i) how well the location related to existing communities, shops and services; and ii) whether the location would increase congestion and therefore safety issues and air pollution. However, the detailed findings of the SA indicate that performance against sustainability objectives 8 and 18, particularly sustainable access to sustainable and high quality employment opportunities is a key differentiating factor between the potential strategic locations D, E and F. I have found nothing to suggest the SA is fundamentally flawed.
14. In terms of the 18 objectives, Area F outscores Areas D & E only once for having a *very positive* effect; is outscored by both D & E in terms of *positive* effect whilst having higher scores than either in *very negative* impact. This results in a lower overall ranking (SA, p281). Evidence submitted on behalf of representors compares the scoring in the table for Theme 2, Issue 9: Location of New Housing (SA, pps 268-286) with suggested revisions. However this provides an incomplete comparison seen against the Council's more rigorous analysis involving consideration against a number of sub-objectives (decision making criteria) for each objective (SA, pps 32-37). It is not convincing evidence that the Western Urban Fringe (Area F) represents the most sustainable location for strategic development, such that it would supplant Areas D and E as forming the most appropriate alternative in PPS12 terms.

Policy CS10: New Housing Development

15. Criticism of Policy CS10 has been partly based on the lack of justification for the overall provision for new housing. This followed the Council's deletion of references to the RSS following the announcement that RSSs were to be revoked, a point dealt with above (paras 9-11). Additionally, the Council provided further justification in its Position Statement [DBC002], in particular regarding the relationship between the levels of new housing in the CS and the annual requirement included in the RSS. The situation regarding the Council's involvement in the Tees Valley Housing Growth Point, together with the shift in focus to unlocking stalled housing sites, is referred to in the Methodology Statement [DBC005], whilst the Revised Preferred Options (RPO) [CD022] provides a more detailed explanation (para 6.1.6). The evidence does not indicate that greater housing numbers will be required during the plan period, or that the order and timing of development is fundamentally flawed.
16. The underlying basis for some criticism of CS10 is to justify concerns with the locational strategy, considered above (paras 12-14). It is essential that the CS makes clear spatial choices about where development should go "*in broad terms*" (PPS12, para 4.5). It has done this and the question regarding whether it has made the most appropriate choices when considered against reasonable alternatives is considered above (paras 12-14). It has also been suggested that the Western Urban Fringe should be considered as an additional location to allow for an increase in housing capacity but, as already indicated convincing evidence has not been provided to suggest that greater numbers will be required.
17. A similar argument has been advanced in support of the inclusion of particular sites within the North West Urban Fringe location, notably the area known as Hall Farm (SHLAA Site 14). The advice in PPS12 indicates that CSs "*..may allocate strategic sites for development*" (para 4.6). However, Darlington BC has chosen not to allocate strategic sites, but proposes to identify precise land allocations through an Accommodating Growth DPD as shown in the LDS [CD016] (the 2011-2014 LDS, 27/01/2011, refers to a combined Making Places and Accommodating Growth DPD). It has been suggested that the constraints affecting Site 14 are similar to those affecting other sites considered by the SHLAA, but the final report [SD012] includes it in Table 5.7 - showing sites considered to have constraints on their development that mean they are not considered developable within the 15 year plan period (para 5.10). The evidence does not indicate errors in the SHLAA process; that the CS would lack flexibility without further extension of the North Western Urban Fringe strategic location; or the need to include an additional strategic location.
18. The Council has proposed changes in DBC010 to replace part of paragraph 3.1.10 with a new paragraph 3.1.11 to aid understanding and justification of the strategic locations **[SC1]**, and in DBC002 changes to paragraphs 6.1.1,2, 6, 10 and 11 of the reasoned justification to Policy CS10 **[SC9 - SC14]**. It has also proposed changes in DBC001 and DBC015 to Policy CS10 **[SC15 & SC16]**. These changes are necessary for soundness.

## Issue 2 – Sustainable Development and Infrastructure Provision

### *Sustainable Design*

19. Representations relating to Policy CS2 have been generally supportive and changes to the Policy and justification included in the post publication proposed minor amendments [CD009] addressed issues raised by representors. The role of CS2 is seen as important to achieving energy efficient development as part of the energy hierarchy approach proposed by Option 6 in the Decentralised Renewable and Low Carbon Energy Study [SD018]. For this reason I do not accept the suggestion that it is unnecessary to include the Policy on the grounds that the standards are intended to be implemented through Building Regulations. The Council has, however, proposed further minor changes which improve the clarity and precision of the CS but are not necessary for soundness.

### *Promoting Renewable Energy*

20. The Council included a number of minor changes to the text at paragraphs 3.3.3 and 3.3.7, and at Policy CS3 in its post-publication changes [CD009]. However, there remain two concerns with the Policy: the target for at least 20% of energy supply in strategic locations through on-site provision of decentralised and renewable or low carbon sources; and removal of the '*areas of least constraint*' for wind farm development in the north east of the Borough, previously included as fig.3.1 at Preferred and Revised Preferred Options stages [CD021 and 022]. The Council has responded through statements submitted to the Examination [DBC17 and 18].

#### The 20% target

21. The target in Policy CS3 of a minimum of 10% of energy to be provided for all major developments derives from RSS Policy 38 which in turn reflects Government policy. It is not controversial. However, the Policy also includes a target, first introduced at RPO stage, of at least 20% of energy supply in the strategic locations being provided by on-site decentralised and renewable or low carbon sources. This has raised concerns that it is not adequately justified and lacks clarity of application.
22. The Government's energy policy includes an aspiration to achieve a target to generate 20% of electricity from renewable resources by 2020 [PPS22]. The Regional Renewable Energy Strategy (RRES) concluded that there is significant potential to match the minimum national targets at regional level, and the RSS indicates that "*..there may be opportunities where local authorities could drive things further and faster where it is demonstrable there are clear local opportunities to use renewable or low carbon energy, perhaps through decentralised systems*" [SD076, para 3.171]. In itself, this framework suggests there may be a case for higher aspirations where these can be justified.
23. Based on the evidence in SD018, the Council considers there is clear potential to go beyond the 10% target for larger mixed use and urban extension sites, which are residential-led, by means of communal networks. It has also



indicated that the development of the strategic locations is likely to significantly add to the Borough's overall energy demand. There was concern at the hearings that this conflicted with the SD018 conclusion that a 6% increase in CO<sub>2</sub> per annum by 2026 would not have a significant impact. However, Appendix G to the report indicates a projected change of some two and a half times increase in energy demand from planned growth from 2008-2010 to 2016-2026. On this basis, and having regard to the nature and extent of the strategic allocations, I believe the Council has clear justification for its approach.

24. The Council has taken into account the cost implications of the findings of the Economic Viability into Housing Land study (EVHL) [SD007], as a consequence of which it recognises that the viability of achievable targets has to be weighed against other policy requirements. For this reason Policy CS3 includes the caveat "*..unless it can be shown that it is not feasible or viable*". With this caveat the Policy is sound. The Council has proposed changes both to the Policy and its supporting text which improve the clarity and have my support, but are not necessary for soundness.

#### The area of least constraint

25. On the second matter, it has been suggested that removal of the spatial element of Policy CS3 is not justified and makes the document less effective. The spatial element referred to is an area of least constraint for wind farm development which is derived from studies carried out for the North East Regional Assembly [SD019] and the Association of North East Councils [SD020] into the East Durham and Tees Plain wind resource areas. The part of the Borough identified as the area of least constraint is Zone 23 which is ranked 22 out of 27 zones on the basis of potential exposure to views of turbines [CD019, table 7]. There is also an indication of its having an 'in principle' capacity to accommodate "*..more than one medium small-small scale development*", but with the caveat that "*..development constraints within the zone may make this unlikely*" [CD019, table 8].
26. In addition to fig.3.1, the Revised Preferred Options report included fig.3.2 labelled Potential Areas of Least Constraint for Wind Energy Generation, derived from a diagram showing 3 'areas of search' within the Borough in a report commissioned by the Council into decentralised renewable and low carbon energy [SD018, Appendix B]. At neither stage of the preferred options did the draft Policy CS3 refer specifically to either diagram, although in the Revised Preferred Options report, potential locations for wind energy developments were indicated in the North-east, North-west and South-east areas of the Borough reflecting those 3 areas of search. The Policy included in the Publication Draft contains no spatial element and relies on specified criteria to determine applications for development proposals.
27. The advice in PPS22 is that planning authorities should "*..consider identifying suitable areas for renewable and low-carbon energy sources..where this would help secure the development of such sources, but in doing so take care to avoid stifling innovation including by rejecting proposals solely because they are outside areas identified for energy generation.*" In this context the Council was right to omit the area of least constraint since there is no credible evidence to

show that its inclusion would help secure the development of energy generation sources. Indeed, in respect of the proposed Moorhouse wind farm (comprising 10 turbines) the addendum study [SD020, p9] concluded that *"..overall the level of development proposed in this location exceeds the capacity of the landscape identified in the main study"*. Although all but two of the turbines are located within the least impact area, it advised that *"..the extent to which a development of the scale proposed would exceed the capacity of the local landscape, and the significance of that.. can only be fully resolved through a detailed investigation of the landscape and visual impacts of the individual scheme which is beyond the scope of this study"*.

28. From this, it would appear that any proposal within the area of least constraint would have to be evaluated on the basis of a detailed investigation, a situation no different from a proposal elsewhere in the Borough. The criteria set down in Policy CS3 provide the policy framework for the detailed investigation and, on this basis, the reintroduction of a spatial element, in the form of an *'area of least constraint'*, is not justified by the evidence. This conclusion is further supported by the fact the regionally based studies considered only the north-eastern extremity of the Borough so that no comparative evidence is available to indicate the presence or otherwise of similar constraints elsewhere.

### **Issue 3 – The Local Economy**

#### ***Supporting the Local Economy***

29. Policy CS5 has been criticised for allocating significantly more employment land than the predicted requirement of 101.5ha in the Employment Land Review (ELR; para 9.7) [SD017]. The ELR refers to 27 existing allocations in the Local Plan (LP) [CD019], together with new sites totalling 235ha for general and mixed use employment purposes. Additionally, 125ha are identified at the key employment locations of Faverdale and Heighington Lane to meet the needs of new and emerging growth sectors, innovative or large user requirements. The overall employment land available is, therefore, some 360ha. At first sight it may appear to be a significant overprovision but it is, nevertheless, in accordance with the RSS figure.
30. The Council's evidence [DBC004] is convincing: firstly, in that allocations at the key employment locations will provide opportunities for specialist growth sectors and secondly, that there is currently no justification for removing the majority of the existing sites from their current status – as advised by the ELR, para 9.2. For those reasons changes are not necessary for soundness.
31. However, as drafted, the Policy's intentions are not clear and therefore it is not effective in its present form. The Council has recognised this and addressed the Policy's deficiencies through proposals to a) change the title; b) replace the present third paragraph; and c) amend the fourth paragraph and re-order this and the third paragraph. Additionally the Council proposes changes to the supporting text at paragraphs 4.1.3 and 4.1.5. These changes **[SC2 & SC3, SC5 – SC7]** are necessary for soundness. Subsequent criticism of the revision to paragraph 4.1.5 **[SC3]** suggests deletion of the word 'types' in the final sentence would improve legibility. This is not an issue of soundness, although the Council may wish to consider a further amendment which I would support.

32. A second concern with Policy CS5 is that, given the substantial amount of land allocated for employment use, the demand for and desirability of some existing employment land is optimistic in the present economic climate. It has been suggested that the provision within the Policy's final paragraph, for allowing alternative uses where existing employment land is surplus to needs, is inadequate. During the hearing stage of the Examination the Council accepted that there is a need to clarify the policy framework and provide more detailed guidance on the mechanism for allowing alternative uses for sites which are commercially unviable. The Council's proposals for the replacement of the final paragraph of Policy CS5 and insertion of a new paragraph of text following paragraph 4.1.6 [SC4 & SC8] provide the clear guidance necessary for soundness.

### ***The Town Centre and Additional Retail Provision***

33. Representations relating to Chapter 5 and policies CS7 and CS8 did not form part of the hearing stage of the Examination. These included criticism of para 5.0.6 on the basis that there is no evidence that the expansion of the range of goods in supermarkets has affected the health of the Town Centre, but I am satisfied that evidence is provided in the Darlington Retail Study (2008) [SD026] para 8.4 to justify the text. I am also satisfied that para 5.1.2 and 5.1.5 are justified and I have seen no convincing evidence that edge-of-centre sites should be considered for retail expansion during the plan period.
34. In respect of Policy CS7 the criticism is that it would not be effective as it does not include sufficient flexibility in proposing priority developments, and should be amended to refer to '*..a priority..*' for development rather than '*..a first priority..*'. However I have not been convinced that this is contrary to advice in PPS4 and PPS12 since the Policy indicates a first preference and does not preclude other sites coming forward through the planning application process. Similarly, the final two sentences would not prevent other town centre fringe proposals coming forward where appropriate.
35. Concern that Policy CS8 is overly restrictive and insufficiently flexible is not well grounded. The figure, forecasts and limitations on additional retail provision are based on evidence in the Darlington Retail Study 2010 Update [SD024] which is both credible and robust. The text of Policy CS8 is not prescriptive but indicative. The Council has not proposed any changes in respect of these policies or their supporting text and none is required.

## **Issue 4 – Quality Housing for All**

### ***Meeting Housing Needs***

36. Changes were made to the affordable housing element of Policy CS11 between the Revised Preferred Options [CD022] and the Publication Draft, primarily to take account of the findings of the EVHL [SD007], also referred to as the 'LEVVEL' study. The Council also provided a Position Statement [DBC003] in response to a request for further information for the Examination [ID3 & 4]. In framing the Policy, the Council was aware of the need to find the right balance between securing the delivery of affordable housing and achieving viable housing developments (DBC003, paras 2.7-80). The EVHL found marked variations in the economic viability of housing land across the Borough, ranging from no affordable housing in the 'value areas' in Eastern Darlington to up to

40% being the likely maximum that could be achieved as part of new housing development in the south west sector. As a consequence the Council considers that *'up to 30% was a challenging but realistic target over the lifetime of the Core Strategy'*, based on the EVHL finding it to be potentially deliverable in four out of the eight 'value areas' examined. From the evidence provided, I consider the Policy target of 'up to 30%' to be robustly justified.

37. Concern has been expressed that the operation of the Policy would not be flexible given that there may be some instances where 30% provision cannot be justified once site-specific matters, market conditions and funding availability have been taken into account. A suggested solution to break down the target figure by sub-area would be difficult to justify and sustain over time on the evidence available. However, the fourth paragraph of the Policy indicates that the actual provision would be subject to negotiation and recent case evidence suggests this is working in practice. The Council has also pointed to a similar policy in Wakefield BC's CS, which withstood a challenge in the Court of Appeal: [2010] EWCA Civ 897. Nevertheless it accepted that clarification would be required and has proposed amendments to paragraphs 6.2.5 and 6.2.7, and to the fourth paragraph of Policy CS11 **[SC17 – SC20]**. These changes are necessary for soundness.

### ***Accommodating Travelling Groups***

38. The existing provision for travelling groups in the Borough consists of two sites totalling 56 pitches. The Tees Valley Gypsy and Traveller Accommodation Needs Assessment 2009 (TVGTAA) [SD029] shows a residential accommodation need arising from existing levels of population of 98 additional pitches for Darlington, the largest shortfall in the sub-region in the period 2011 – 2026. However, the Council considers that further work is needed to apportion the identified need across the sub-region. It has been suggested that the requirement should be written in to the CS at para 6.4.2 but, in my view, a more appropriate place for this information is the Making Places and Accommodating Growth DPD for two reasons: firstly because the Accommodation Needs Assessment report (SD029) was carried out at sub-regional level, with the needs identified on a *'need where it is seen to arise'* basis and does not *'imply those needs should actually be met in that specific locality'* (Executive Summary; para 32); and secondly the Issues and Options Report for the DPD has already been issued (SD077) with Chapter 7 specifically addressing the accommodation of travelling groups.
39. The Government's guidance on the provision of sites for Gypsies and Travellers is contained in Circular 01/2006, and for Travelling Showpeople in Circular 04/2007. The Government has stated an intention to revoke both circulars, following impact assessments, and their replacement with *'light touch guidance'*. Currently they remain in force. In this context, the Council has drafted Policy CS13 to provide criteria for the allocation of sites within the Borough. However, there is nothing within the Policy to address the provision of private windfall sites, although this provision is provided for by Policy H21 in the adopted LP [CD019]. In its Initial Responses [DBC001] the Council suggests this is a misunderstanding and the supporting text (para 6.4.3) indicates that the criteria will be applied in considering planning applications for the development of new sites.

40. Although the Council believes its Policy is clear it has accepted that additional text is necessary to clarify the intention of the Policy with regard to private windfall sites, addressed through changes to the Policy and to the supporting text [SC21 & SC22] which are necessary for soundness.

## **Issue 5 – Transport**

41. The Highways Agency (HA) submitted representations to the Publication Draft indicating that it did not consider the CS sound, as the evidence base was incomplete. Within those representations, the HA indicated that it considered it could reach an agreed position with the Council provided that an additional assessment that was currently being undertaken was completed prior to the commencement of the Examination. The assessment was completed in late October with the results and analysis submitted to the Council by the HA as part of a Position Statement. This submission included suggested changes to the reasoned justification in Chapter 6, to Policy CS19 and to the Infrastructure Delivery Plan, and indicated that if those changes were made, then the HA's objections to Policies CS5, CS10 and CS19 could be withdrawn and that the HA would then consider the CS sound.
42. The Council considered the change to Policy CS19 to indicate that the proposed junction improvements be delivered by 2016 - suggested by the HA - was unrealistic, and not sufficiently flexible; rather, it felt that these works could only be carried out progressively as and when developments come forward, not in advance of any meaningful development. It therefore suggested replacing the suggested 'by 2016' in CS19 to 'as required to meet the needs of new development', to clarify the link between new development and the need for the A66 junction improvements, and to provide flexibility. A further minor change was proposed to para.9.4 linking the need for junction improvements in this area back to the Tees Valley Area Action Plan. The text was included in the Council's Proposed Minor Amendments [CD009] and a Statement of Common Ground with the HA issued [DBC007]. No further changes are necessary for soundness.

## **Other Matters**

### ***Developer Contributions***

43. Policy CS4 which sets out the Council's position regarding developer contributions received a large measure of support from representors. In response to a specific criticism the Council has justified its commitment to a carbon management fund as part of the Policy, but has conceded that the CS should include a definition of 'major development'. To address this matter, and to clarify the establishment of priorities in paragraph 3.4.5, the Council has proposed minor changes which are helpful but not required for soundness.

### ***Key Diagram***

44. The Key Diagram has been the subject of some criticism, particularly in respect of the representation of the strategic locations and the location of some of the symbols. Although the Council has responded that the Key Diagram is only meant to be illustrative with the symbols only indicating general locations, further consideration has been given to it [DBC16]. This suggests minor amendments to provide more clarity and avoid ambiguity regarding the

representation of strategic locations. The revised Key Diagram (DBC16, Appendix 2) and consequential text changes are important to the legibility and clarity of the Core Strategy [SC23 – SC25]. These are necessary for soundness.

## Legal Requirements

45. My examination of the compliance of the Core Strategy with the legal requirements is summarised in the table below. I conclude that the Core Strategy meets them all.

LEGAL REQUIREMENTS		
Local Development Scheme (LDS)		The Core Strategy is identified within the approved LDS 2011-2014 [agreed by Council, 27/01/2011] which sets out an expected adoption date of July 2011. The Core Strategy's content and timing are compliant with the LDS.
Statement of Community Involvement (SCI) and relevant regulations		The SCI [CD005] was adopted in 2010 and consultation has been compliant with the requirements therein, including the consultation on the Proposed Minor Amendments to the Publication Draft Core Strategy [CD009].
Sustainability (SA)	Appraisal	SA [CD002; CD003] has been carried out and is adequate.
Appropriate (AA)	Assessment	The Habitats Regulations AA Screening Report [CD013, August 2010] sets out why AA is not necessary.
National Policy		The Core Strategy complies with national policy.
Regional Strategy (RS)		The Core Strategy is in general conformity with the RS.
Sustainable Strategy (SCS)	Community	Satisfactory regard has been paid to the SCS.
2004 Act and Regulations (as amended)	Regulations	The Core Strategy complies with the Act and the Regulations.

## Overall Conclusion and Recommendation

46. I conclude that with the changes proposed by the Council, set out in Appendices Ai and Aii, the Darlington Core Strategy DPD satisfies the requirements of s20(5) of the 2004 Act and meets the criteria for soundness in PPS12. Therefore I recommend that the plan be changed accordingly. For the avoidance of doubt, I endorse the Council's proposed minor changes, set out in Appendix B.

*Patrick T Whitehead*

Inspector

This report is accompanied by:

Appendix Ai (separate document) Council Changes that go to soundness

Appendix Aii (separate document) Council Changes relating to Regional Strategy

Appendix B (separate document) Council's Minor Changes