
Report of the Head of Scrutiny and Member Development

Scrutiny Board (City Development)

Date: 7th September 2010

Subject: Parish Council Representation on the Strategic Housing Land Availability Study

Electoral Wards Affected:



Ward Members consulted
(referred to in report)

Specific Implications For:

Equality and Diversity

☐

Community Cohesion

☐

Narrowing the Gap

☐

1. Purpose

- 1.1. This report considers a request by Parish Councillor George Hall of Barwick and Scholes Parish Council for a scrutiny board inquiry to be held into the way the Strategic Housing Land Availability Assessment (SHLAA) 2009 was conducted. It also recommends that the SHLAA be reviewed immediately by key stakeholders including local community representatives. The full text of the request is set out in Appendix 1.

2. Background

- 2.1. The SHLAA 2009 was prepared by the Director of Development to provide evidence to inform the Council's statutory plan making function known as the Local Development Framework (LDF). Work on Leeds' SHLAA 2009 lasted from June 2008 to February 2010. SHLAAs are a requirement of national planning guidance for every local authority. They are to be prepared according to national practice guidance to illustrate what land might be available for housing development over short, medium and long periods. The practice guidance expects SHLAA conclusions to be drawn up in participation with and agreed by a partnership of local housing interests.
- 2.2. When the SHLAA 2009 was agreed by Executive Board in February 2010 and published, Parish Councillor Hall realized from reading the background papers that consideration had been given in 2008 to how the community might be represented on Leeds' SHLAA Partnership and that representation by parish councilors was considered as an option. He sought an explanation by email from the planning officer responsible for the SHLAA preparation (Appendix 2) and is now pursuing

involvement of parish councils in the SHLAA through the scrutiny mechanism of the city council.

- 2.3. It should be noted that in Parish Councillor Hall's original email (Appendix 2) he refers to an anticipated number of dwellings from all sites in the parish of Barwick and Scholes as though this is what is being proposed. This is to misunderstand the SHLAA. It is background evidence and choices about which if any sites in the parish should come forward as allocations is a matter to decide through the LDF.

3. Parish Councillor Hall's Case

- 3.1. Mr Hall says he believes that the SHLAA element of the Local Development Framework will not pass a test for soundness at the forthcoming inquiry in public, by reason that the SHLAA was prepared without having regard to the following (bullet points):

- **The methodology contained in the CLG Practise Guidance dated July 2007**

- 3.2. Parish Councillor Hall is not specific about which parts of the Practice Guidance the city council failed to comply with. The CLG Practice Guidance sets out the ground rules to help local authorities undertake SHLAAs. It expects SHLAAs to be prepared in partnership with a range of key stakeholders and that the spatial coverage should not be constrained by artificial constructs such as green belt designations. It advises what type of information should be sought and methods for surveying sites stressing that choices need to be made on the basis of resources available. The end product should be sites assessed for their "suitability" (in terms of physical characteristics and planning policy), "availability" (when will the site be ready for development) and "achievability" (how strong is the market for housing in that locality) with a prediction of how many dwellings will be completed in short, medium and long term periods. It is assumed that Parish Councillor Hall believes that the advice on putting together a partnership of stakeholders was not followed.

- **Guidance contained in Chapter 3 & 4 of Planning Policy Statement 12**

- 3.3. Parish Councillor Hall is not specific about the parts of national planning guidance PPS12 chapters 3 and 4 that he believes the city council failed to comply with in preparing the SHLAA. Amongst other things, Chapter 4 deals with ensuring that plans (core strategies) are "sound" (4.48-52) and founded on a robust evidence base (4.37). Chapter 5 expects the same of "other" development plan documents.

- **Planning Policy Statement 1 Paragraph 13 (v1) also Paragraphs 41& 43**

- 3.4. Parish Councillor Hall refers to particular paragraphs which are repeated in full below.

"13. Key principles

The following key principles should be applied to ensure that development plans and decisions taken on planning applications contribute to the delivery of sustainable development:

(vi) Community involvement is an essential element in delivering sustainable development and creating sustainable and safe communities. In developing the vision for their areas, planning authorities should ensure that communities are able to contribute to ideas about how that vision can be achieved, have the opportunity to participate in the process of drawing up the vision, strategy and

specific plan policies, and to be involved in development proposals. (See also paragraphs 40 - 44 below).

41. One of the principles of sustainable development is to involve the community in developing the vision for its area. Communities should be asked to offer ideas about what that vision should be, and how it can be achieved. Where there are external constraints that may impact on the vision and future development of the area (for example, those that may arise from planning policies set at the regional or national level) these should be made clear from the outset. Local communities should be given the opportunity to participate fully in the process for drawing up specific plans or policies and to be consulted on proposals for development. Local authorities, through their community strategies and local development documents, and town and parish councils, through parish plans, should play a key role in developing full and active community involvement in their areas.

43. Community involvement in planning should not be a reactive, tick-box, process. It should enable the local community to say what sort of place they want to live in at a stage when this can make a difference. Effective community involvement requires an approach which:

- tells communities about emerging policies and proposals in good time;
- enables communities to put forward ideas and suggestions and participate in developing proposals and options. It is not sufficient to invite them to simply comment once these have been worked-up;
- consults on formal proposals;
- ensures that consultation takes place in locations that are widely accessible;
- provides and seeks feedback"

- **Section 8 of the Planning Charter between Leeds City Council and Parish & Town Councils within the administrative area of Leeds City Council (Operational from 4 January 2010)**

- 3.5. Section 8 of the Parish and Town Council Planning Charter deals with the local development framework (LDF) and states the following:

"8.1 Parish and Town Councils are recognised in the SCI as "Specific Consultation Bodies" who will be consulted in the production of the LDF and in particular Development Plan Documents (DPDs) and Supplementary Planning Documents (SPDs). It is recognised that Parish and Town Councils have an important role to play in their local areas and therefore the City Council will seek to consult prior to the production of relevant documents. Parish and Town Councils will respond with comments within any specified timescales in this process.

8.2 The City Council will consult Parish and Town Council at an early stage when drawing up planning development briefs for sites in their areas. Parish and Town Councils will respond with comments within any specified timescales in this process."

- **Revised Unitary Development Plan Policy GP 9 - The Statement of Community Involvement (The 2004 Planning and Compulsory Purchase Act 2004 has a**

requirement that Local Development Frameworks contain a SCI which sets out how the community will be involved in the development planning process).

- 3.6. Policy GP9 of the Revised Unitary Development Plan no longer exists. It was deleted as part of the saved policy review 2009 because it has been superseded by the Statement of Community Involvement (SCI) adopted in 2007. As stated in paragraph 1.2 the role of the SCI is to "...set out how and by what means the "community" will be involved in planning applications and the preparation of planning policies." The SCI helps to define what is meant by "community" and "community engagement" and sets out a set of principles which will be adhered to in order to ensure that the community is properly involved.
- 3.7. Parish Councillor Hall is unspecific as to which part of the SCI he believes the city council has failed to adhere to. It is likely to be section 4 which considers the local development framework. Also, Appendix 4 shows how the city council expects to consult the community during preparation of development plan documents such as the Core Strategy and forthcoming Allocations Plan Document.

4. LCC Response

What are the tests of soundness relevant to SHLAA preparation?

- 4.1. Parish Councillor Hall alleges that the SHLAA fails a test of soundness. The tests of soundness concerning public consultation relate principally to ensuring that the public are given the opportunity to comment on the content of *plans*. It is expected that the consultation undertaken for plans complies with a local authority's Statement of Community Involvement. The SHLAA is not a plan; it is one piece of evidence which will help inform plan making.
- 4.2. Other relevant tests of soundness are that a plan can be "justified" (ie founded on a robust and credible evidence base) and that a plan is consistent with national planning policy. In this context one would expect the SHLAA to be credible as a piece of evidence and follow national guidance in the way it was prepared. On this basis, it should be expected that the preparation of Leeds' SHLAA complied with national guidance and with Leeds' Statement of Community Involvement.
- 4.3. Virtually all of the national and local policy and guidance referred to by Parish Councillor Hall is concerned with ensuring that *plans* are properly consulted on. In fact public consultation on the preparation of *evidence* (such as a SHLAA) is not mentioned by PPS1, PPS12, nor the Council's own Statement of Community Involvement (SCI). In fact, Appendix 4 of the SCI makes clear that no consultation is expected as part of the "survey and evidence gathering" stage of plan preparation. Similarly the Town and Parish Council Charter summarises the SCI with no specific reference to evidence gathering.
- 4.4. Nevertheless, the city council is wholly committed to consulting the Leeds community on plan preparation. It is plan preparation which will throw up the difficult policy choices which really need to be consulted on. For example, the Core Strategy needs to determine the broad spatial approach for accommodating new housing growth and has already consulted on spatial options. The Allocations Plan Document will decide which pieces of land should be allocated for housing development and will have to consult on the choices available.

Soundness of SHLAA Preparation including public involvement

4.5. The city council believes that the SHLAA was drawn up in an appropriate way and is a robust piece of evidence which will help satisfy the test for the LDF of “justification”. The most important aspect of this is that it complies with national guidance and with the SCI. As stated above, most of the national policy/guidance and the Council’s own SCI referred to by Parish Councillor Hall has no relevance for public consultation on evidence preparation. The main exception is CLG’s SHLAA Practice Guidance.

4.6. The Practice Guidance includes a section on partnership.

“The Importance of a Partnership Approach

11. This guidance advocates that regional planning bodies and local planning authorities work together, and with key stakeholders, to undertake assessments to ensure a joined-up and robust approach. Assessments should preferably be carried out at the sub-regional level, for separate housing market areas , by housing market partnerships (where established). Housing market partnerships should include key stakeholders such as house builders, social landlords, local property agents, local communities and other agencies, such as English Partnerships where they have a recognised interest in an area. For further information on these partnerships and their benefits, refer to the Department’s *Strategic Housing Market Assessments Practice Guidance*.

12. Key stakeholders should be involved at the outset of the Assessment, so that they can help shape the approach to be taken. In particular, house builders and local property agents should provide expertise and knowledge to help the partnership to take a view on the deliverability and developability of sites, and how market conditions may affect economic viability. Key stakeholders should also be involved in updating the Assessment from time to time.”

13. There may be particular reasons why an assessment cannot be prepared for the whole housing market area, for example, where a local planning authority needs to urgently update its five year supply of specific deliverable sites. Where this is the case the Assessment should be capable of aggregation at a housing market area level at a later date.”

4.7. The key lines are in paragraph 11. which say that local councils need to undertake assessments *with stakeholders*, and that partnerships should include such stakeholders as house builders, social landlords, local property agents, *local communities* and other agencies. Although Parish Councillor Hall is not specific about what part of the Practice Guidance he believes the City Council failed to address, his concern focuses on the adequacy of representation of local communities.

4.8. The City Council believes it achieved an adequate breadth and scale of representation on its SHLAA Partnership. The following representation was agreed through the terms of reference:

City Councillor	Chair person
City Councillor	x 1
Planning Officers	x 3
Campaign for Preservation of Rural England	x 1
Housebuilder	x 3
Property Forum	x 1
Renew (Housing Associations)	x 1
Homes and Communities Agency	x 1
Local Government Yorkshire and Humber	x 1

- 4.9. Leeds' SCI regards "community" as a broad fully embracing concept taking account of the diverse population, the range of places, Leeds as a business, employment and retail centre and Leeds as a place for learning. When originally putting together the Partnership, planning officers considered how local communities might best be represented. Appendix 2 SHLAA Project Plan set out initial officer thoughts on how Leeds' SHLAA should be conducted. Paras 7-15 considered how the SHLAA Partnership might be formed. Paragraph 11 is particularly relevant:

11. Representation of local communities is less straightforward because Leeds is such a large area. It will be difficult to find individuals who are able to represent the whole of Leeds. Potential options include city councillors, resident association representatives, civic societies & parish/town council representatives. Leeds Civic Trust, local academics, local representatives of the Campaign for Preservation of Rural England and Town/Parish Councils are possibilities to be explored (Leeds Strategic Housing Land Availability Assessment 2009 Appendices)

- 4.10. It is difficult to see how parish or town councillors could naturally provide the broad representation of Leeds' communities. As it happened, two city councillors joined the Partnership and played the part of representing the communities of Leeds. It is arguable that city councillors (particularly as both had roles on the Development Plan Panel of Leeds City Council and had many years of local government experience) would take a broader view than representing their personal wards on the Partnership.
- 4.11. In any case, the proposals for the make up of the Partnership were discussed with the Executive Member for Development and Regeneration leading to the appointment of one of his Lead Members, Councillor Anderson, as chair of the Partnership. These arrangements were then endorsed by the Partnership itself when it first met. Whilst there may have been different choices preferred by Parish Councillor Hall, the choice on membership that the City Council made accords fully with the practice guidance. Therefore, it cannot be said that the SHLAA is unsound for not having regard to the policy and guidance referred to by Parish Councillor Hall.
- 4.12. Another endorsement of Leeds City Council's choice of representation comes from the fact that of all the nearby districts contacted (Bradford, Calderdale, Kirklees, Wakefield, Selby and Sheffield) none chose to invite parish or town councillors to sit on their SHLAA partnerships; the main reason given is that a SHLAA is an evidence gathering study not a policy document (Appendix 3).
- 4.13. Finally, there are questions of practicalities; if one parish councillor is involved, how will other parish areas be represented? how will non-parish council areas be represented? Would additional representatives be required? How would existing Partnership members respond? Would house builder representatives expect their number to be increased to redress the balance? Would planning consultants and agents have a stronger case to say that they need representation too? How will the aim to keep the partnership focused and effective be affected? It should also be remembered that Leeds' SHLAA Partnership is a partnership with key stakeholders that has already been established; it is not a construct entirely under the control of Leeds City Council and membership cannot be dictated.

5. Conclusion

- 5.1. Most of the national and local policy requirements for public consultation on the local development framework concern plan making as opposed to evidence gathering.

The SHLAA is a piece of evidence so is not expected to be prepared with the same degree of public consultation as for plans. In any case, the SHLAA was undertaken with a partnership of people representing a full range of stakeholder interests, including local communities. Hence there is no case to order a scrutiny inquiry into the way the SHLAA 2009 was conducted. The choice of representation for the SHLAA update 2010 will remain a matter for the SHLAA Partnership, bearing in mind the need for balanced representation of stakeholder interests.

6. Recommendation

- 6.1. Scrutiny Board is requested to note the contents of this report in determining whether or not to hold an inquiry into the SHLAA process.

Background Papers

Planning Policy Statements in particular PPS1, PPS12 and the Council's own Statement of Community Involvement (SCI)
Parish and Town Council Planning Charter
Local development framework (LDF)
Strategic Housing Land Availability Assessment (SHLAA) 2009
CLG's SHLAA Practice Guidance

Appendix 1: Full Text of Scrutiny Board Request

From: george hall [mailto:gehall.arthursdale@virgin.net]
Sent: 20 July 2010 21:03
To: Mills, Richard; Procter, Cllr John; Crabtree, Philip
Cc: Castle, Cllr Ann; Procter, Rachael; Robinson, Cllr Matthew
Subject: Fw: SHLAA (Strategic Housing Land Availability Assessment)
Importance: High

Dear Mr Mills,

In accordance with the suggestion made by Cllr John Procter late this afternoon and whose email is shown below; I formally ask that the City Development Scrutiny Board respond to my request to hold an inquiry which will consider and report on the following:-

"That the Board considers whether the Strategic Housing Land Availability Assessment was prepared in a robust and transparent way".

"That the Board recommend the existing SHLAA is reviewed immediately by key stakeholders which will include local community representatives"

I believe that the SHLAA element of the Local Development Framework will not be deemed as satisfactory to pass a test for soundness at the forthcoming inquiry in public, by reason that the Shlaa was prepared without having regard to:-

- The methodology contained in the CLG Practise Guidance dated July 2007
- Guidance contained in Chapter 3 & 4 of Planning Policy Statement 12
- Planning Policy Statement 1 Paragraph 13 (v1) also Paragraphs 41& 43
- Section 8 of the Planning Charter between Leeds City Council and Parish & Town Councils within the administrative area of Leeds City Council (Operational from 4 January 2010)
- Revised Unitary Development Plan Policy GP 9 - The Statement of Community Involvement (The 2004 Planning and Compulsory Purchase Act 2004 has a requirement that Local Development Frameworks contain a SCI which sets out how the community will be involved in the development planning process).

Would you kindly confirm that you are in receipt of this request for scrutiny and advise me in due course if the Chair and members are of a mind to include the matter in their work programme

Yours sincerely

George.E. Hall
Elected Member
Barwick-in-Elmet & Scholes Parish Council

----- Original Message -----

From: Procter, Cllr John
To: george hall
Cc: Procter, Cllr John ; Mills, Richard
Sent: Tuesday, July 20, 2010 4:06 PM
Subject: SHLAA (Strategic Housing Land Availability Assessment)

Dear George

As discussed. If you would like this issue referring to Scrutiny for investigation you need to submit a formal request to the council with the reasons behind this request.

I suggest you contact Richard Mills, my Scrutiny Advisor with the relevant information.
I have copied Richard into this email for ease of reference.

Kind regards

JOHN
Cllr John Procter
Chairman City Development Scrutiny Board

Appendix 2: Exchange of Emails regarding Parish Council representation on the SHLAA Partnership

Coghlan, Robin

From: Coghlan, Robin

Sent: 04 March 2010 12:31

To: 'george hall'

Cc: Anderson, Cllr Barry; Castle, Cllr Ann

Subject: RE: Leeds Shlaa 2009

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26/07/2010

George,

Thanks for your email and glad to see that you've given the report a thorough read already, including the appendices. In terms of the Full Report, this is now available on our website:

[http://www.leeds.gov.uk/Business/Planning/Planning_policy/Strategic_housing_land_availability_assessment_\(SHLAA\).aspx](http://www.leeds.gov.uk/Business/Planning/Planning_policy/Strategic_housing_land_availability_assessment_(SHLAA).aspx)

As regards involvement of Parish Councils in the 2009 SHLAA exercise, you have referred to para 11 of the project report which says that this was considered. As you will have noted from reading paras 7-14, officers had a responsibility to put together a Partnership Group that was representative of various interests in housing land development. Para 11 considered how the community interests could be represented well for the whole of Leeds. The officer steering group concluded that Parish Councils would not be able to represent all communities as they are parochial in nature. It was also agreed that the Partnership needed to be limited in numbers in order to be effective. When the Partnership was formed, one of the first matters it considered and agreed was whether it was composed of the right number and mix of representatives. You will be aware that Cllr Clive Fox sat on the Partnership representing the Council's Development Plan Panel and Cllr Barry Anderson chaired the Partnership.

The vast majority of SHLAA sites that Parish Councils are likely to be concerned about into a particular category of SHLAA conclusion on the suitability of housing development. This is the "LDF to Determine" category. As you'll see, the SHLAA concludes availability of land for nearly 150,000 dwellings in Leeds. About 40,000 would be on land considered suitable in policy terms of housing development. In terms of the requirement of 73,900 dwellings to 2026, further land would be needed for another 33,900 dwellings which would be drawn from the "LDF to Determine" category. Hence, most land in the LDF to determine category will not be required.

The arena for making the judgements on which SHLAA sites are needed is the LDF. The strategic choices of how much housing growth would be provided in different broad areas of Leeds will be made in the Core Strategy. Following the overall pattern set by the Core Strategy, the detailed decisions about sites will be taken by the Allocations Plan which we expect to start work on later this year. All Parish Councils will continue to be invited to be involved in the LDF preparation, including Core Strategy and Allocations Plan.

Robin Coghlan

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From: george hall [mailto:gehall.arthursdale@virgin.net]

Sent: 03 March 2010 16:05

To: Coghlan, Robin

Cc: Anderson, Barry; Castle, Ann

Subject: Leeds Shlaa 2009

Importance: High

Robin,

I have very briefly read through the report which you prepared for the Executive Board, Agenda Item 21, on the 12 February 2010. I note at Paragraph 2.2 that a full report is available. Can this be provided on a disc for me or could you loan me a paper copy please. Meanwhile I will read the executive summary again.

In Appendix 2, Paragraph 11; **Project Plan:** I note that the possibilities of involving Town/Parish Councils was to be explored. How and/or when did this take place?

I see in Paragraph 1 that you state " Conclusions reached were based on genuine partnership and the **final report** provides a fair and robust outcome of the exercise". Of course it may be that this exercise is to be continued and we may become involved so the final report may not be as final as it could be construed.

As I turn to through "Site Conclusions" the number of identified sites within our Parish is considerable. if all sites were to be developed complete with the associated infrastructure the villages would lose their identity and I hasten to add the historical kingdom of Elmet which has already marginalised would disappear.

The anticipated "numbers" of dwellings projected would more than double the existing residential capacity .

My personal view is that it would be arguable whether the status of this Parish Council could survive.

If the current assumptions are taken forward , the participation of our Parish Council in any discussions is vital and I believe consistent with national policy guidance. I look forward to receiving your response on this matter

You will note that I am copying this email to Cllr Barry Anderson for his consideration

Kind regards

George Hall

Elected Member

Barwick-in-Elmet & Scholes Parish Council

Appendix 3: A summary of the approach of neighbouring local authorities to involvement of parish and town councils in SHLAAs

Bradford Simon Latimer (01274 434606)

A firm view expressed that the SHLAA is a technical study to inform policy, not produce policy. No parish councils or environmental bodies are involved in Bradford's SHLAA partnership.

Calderdale Paul Copeland (01422 392380)

No parish council representation on the SHLAA Partnership; the partnership is viewed as a working group undertaking a technical study, not policy. However, Calderdale did visit Parish Council's to explain the final SHLAA report.

Selby Caroline Simpson Parker (01757 292115)

Parish Councils not involved. The SHLAA is not a public document for consultation. It is a technical exercise.

Sheffield Simon Vincent (0114 2735897)

The SHLAA Partnership was conceived as a working task group so only those with technical knowledge were involved

Wakefield Alex Roberts (01924 306417)

Parish Councils not involved in the SHLAA assessment as it's not an expectation of the practice guidance. A civic society was involved in the Wakefield's SHLAA update.

Kirklees Thomas Fish (01484 221618)

Parish Councils were not included on the SHLAA working group.