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County Hall, Nottinghamshire County Council

Housing provision and Five-year land supply following revocation of RS – a discussion paper

This paper attempts to put together the context and offer suggested approaches to establishing a five-year land supply (5YLS) target in the absence of a Regional Strategy (RSS or RS) provision, and subsequently the issues to be addressed in setting LDF provision. Comments are welcome.

A new landscape

The revocation of Regional Strategies on 6th July 2010¹ has altered the landscape for the preparation of housing provision on LDFs. This note focuses on the factors that may, in the short and medium term, guide the scale of LDF housing provision and what an appropriate approach for local authorities might be.

The revocation of the East Midlands RS removes any regional guidance on housing provision including PPS11 (Regional Spatial Strategies). Furthermore the mention of regions is deemed to be removed from other planning policy statements. All references to PPS and PPG below take account of this although further guidance will, no doubt emerge at some stage by Government².

The intention of Government is the housing provision should be prepared at the local level. “Local planning authorities will be responsible for establishing the right level of local housing provision in their area, and identifying a long term supply of housing land without the burden of regional housing targets.” (CLG guidance, July 6th).

The government has also indicated that it wishes or expects to see higher house building taking place nationally although this is in the context of advice that mentions housing provision based on ‘option 1’ i.e. draft regional spatial strategy provision that is comparatively lower than RS provision current as of 5th July. PPS3, containing the intentions to provide housing according to need and demand, also remains, although it has yet to be altered.

¹ Letter of 6th July from Steve Quartermain, Chief Planner:

<http://www.communities.gov.uk/publications/planningandbuilding/letterregionalstrategies>

² NB This paper does not give any legal, statutory or authoritative interpretation of revised national planning guidance.

National guidance

The letter from the Chief Planner following the revocation of RSs includes guidance on LDF preparation and establishing housing provision. Local planning authorities should continue to develop LDF core strategies and other DPDs.

It is clear from the above that LAs still need to be responsible in providing for housing need and demand, and use up-to-date evidence. The weight of that may be balanced differently, and Regional housing 'targets' (the government's phrase) are now removed. Regional policies are also removed, but there is no comment on dealing with this in the guidance note. Nevertheless, the evidence base which supported the Regional Spatial Strategies may still be a relevant and material consideration.

The guidance indicates that LAs should justify their housing supply policies in line with current policy in PPS3 (presumably as amended). It also states: "Authorities may base revised housing targets on the level of provision submitted to the original Regional Spatial Strategy examination (Option 1 targets), supplemented by more recent information as appropriate." LAs should act if revisions are intended; "...those authorities deciding to review their targets should quickly signal their intention to undertake an early review so that communities and land owners know where they stand." (my underlining)

Five-year land supply before LDF Revision

Greg Clark has amplified the Government view: "We have not made any changes to the five-year requirement, but that five-year requirement is obviously going to be based on the numbers that they have established are needed in that area" ...and.... "...when it comes to planning appeals, ... the regional strategies have been revoked; if a council or local authority has established a rigorous basis for its own housing needs assessment then that number applies".

This does not guide LAs, and begs the question as to what applies in the absence of that local authority needs assessment. The advice note "PPS3: demonstrating a 5 Year Supply of Deliverable Sites" has been cancelled and removed from the Planning Inspectorate web site. Elsewhere views have been expressed that there is no such thing in the absence of an RSS! This is clearly not the case, and some estimation of a five year land supply needs to be made by inspectors in appeal situations.

(a) The current development plan

Recent guidance has appeared from the Planning Officers Society ("Planning post RSS revocation" (<http://www.planningofficers.org.uk> Search 'post RSS')):

“...The advice note "PPS3: demonstrating a 5 Year Supply of Deliverable Sites" produced for Inspectors by CLG and until recently hosted on the PINS website said that the basis for calculating the supply should be the adopted development plan. Accordingly, now that RSSs have been abolished, the basis for calculating the 5-year supply is the current development plan. This is the approach recently taken by the Secretary of State in relation to two recovered appeals in Cornwall.

6.3 It therefore appears that the basis for calculating the 5 year requirement will now be the adopted core strategy or, where there is no adopted core strategy, the local plan/UDP or structure plan, whichever was adopted most recently. However, many local plans and UDPs were prepared to end dates which have now passed or are imminent, which has led to questions as to whether they still provide a proper basis for determining the requirement. Pending a statement from CLG or further appeal decisions which address the issue, the way forward may be to calculate the requirement by projecting forward the annualised local plan/UDP requirement. The calculation of the actual supply will of course be taken from the SHLAA“ (my underlining).

(b) ‘Option 1’

In the case of the East Midlands, while there may be clarity in earlier development plan rates, there is considerable doubt whether these are robust basis for a 5YLS. An appropriate basis might be the ‘Option 1’ figures suggested by ministers, but the reasoning for any figure still needs to be clearly argued, stated and endorsed by councillors.

(c) Existing RSS targets unless replaced

An alternative view that existing targets remain unless they are replaced has emerged in a planning appeal decision in South Northamptonshire (Appeal Ref PP/Z2830/A/10/2124685, September 2010). The Council had altered its position on account of the revocation of the East Midlands Regional Spatial Strategy and the Milton Keynes and South Midlands Sub Regional Strategy. While the circumstances were complicated the essence of the inspectors view took as its starting point an interpretation of the advice from the Chief Planner in July that, “while the former RSS targets are now open to change at local level, existing targets will need to continue to form the basis for land supply assessment by authorities unless and until replaced by alternative justified targets” (inspectors report).

(d) Status of the Council decision

The South Northants appeal inspector accepted a council decision to continue with the RSS target pending further work but not evidence from its planning policy

witness which revised a policy approach and did not appear to be based on any Council decision; “...there has been no transparent decision by the Council to support this position, leaving aside the ... point that there has been no consideration of it through cross-District working of the relevant authorities.”

In that instance the wider context was also important; “There is no evidence before me to support any specific change in growth [affecting] South Northamptonshire”. This was despite GOEM recognition that a target for the former ‘NIA’ area (an area partly within South Northants but not part of the district target) was likely to reduce.” This would require a joint council decision.

(e) The need for a land supply

Even if a more relaxed approach is taken a land supply is necessary. In a case in Wychavon, an inspector confirmed that the local authority should “have regard to” the latest household projections and the Option 1 housing numbers. Even though the exact level of housing that the authority would be expected to provide in the future was not clear, Wychavon were unable to demonstrate a five year housing land supply on the basis of more than one calculation at the time of the Inquiry.

PPS3 Context

PPS 3 (Housing) contains the principal National guidance on housing provision. Following amendment following the revocation of RSs (there is an unofficial recasting of parts of PPS3 in Appendix 1) this now would appear to set out the context for the scale of housing provision as follows:

- There remains the requirement to provide for housing need and demand.
- Broad intentions remain – Opportunity for all to live in a decent home, wide choice, affordable and market housing to meet community requirements, more affordability, sustainable, communities in urban and rural areas.
- The objectives remain, including sustainable development, visionary and strategic approach, market responsiveness, collaborative working, evidence-based, outcome and delivery focussed.
- In the determination of levels, most factors remain:
 - Evidence on need and demand, set out in Strategic Housing Market Assessments
 - Housing projections, regional (sic) economy
 - Affordability
 - Land availability (from SHLAAs)

- Sustainability Appraisal
- Impact upon infrastructure
- Regard for housing market areas

LDF evidence and the basis for a revised assessment

The 6th July guidance from CLG indicates that where authorities decide review figures they will still need to ensure they meet the requirements for soundness under the current legislation. “Local authorities should continue to collect and use reliable information to justify their housing supply policies and defend them during the LDF examination process. They should do this in line with current policy in PPS3.”

To be sound an LDF needs to be established on evidence which is based upon the context set by national planning policy. There was an initial indication from government that provision should be at the levels established for the Draft RSS (2006).

Even though your local authority may be satisfied that suitable alternatives have been considered and justified, a challenge at LDF examination may well arise from objectors, presenting a case for different housing provision based on one or more of the approaches described below.

Use of past rates

The experience of Oadby & Wigston was that the inspector, at an early stage in the post-RSS period, took past rates as sufficient evidence that the RSS provision could be adhered to.

“3.19 The new Government, formed after the hearings were held, has announced that decisions on housing supply will rest with local planning authorities in future, without the framework of numbers and plans contained in RSS. This is a material planning consideration, but there is no evidence that the RSS presented a target for housing development in Oadby and Wigston which was out of line with past housing completions, or with local potential. The Council has confirmed that the target of 1,800 dwellings is consistent with its own earlier representations to the East Midlands Regional Plan. I am satisfied that the target for future housing in Oadby and Wigston is sound even though the RSS is no longer in place.”

This may not be appropriate where significant changes to past rates are proposed, although it is still relevant what the authority’s response and commitment to the Draft RSS was.

Using 'Option 1' or the RSS figure

Taking both the 6 July letter and PPS3 into account the current context for the East Midlands authorities could be described as follows:

Provisional housing levels can refer back to the draft RSS as a starting point (6th July guidance). "Authorities may base revised housing targets on the level of provision submitted to the original Regional Spatial Strategy examination (Option 1 targets)". Importantly, it adds: "supplemented by more recent information as appropriate."

Given there have been 2 sets of population projections and 1 set of household projections (with another expected before Christmas) issued since the Regional Plan was published in March 2009, it may well not be sufficient to rely on the regional evidence base alone.

The draft RSS figures date back even earlier, to September 2006; they pre-date SHMA work, some later household projections and two sets of population projections (2006-based and 2008-based). Bearing in mind PPS3, other relevant information could be economic forecasts, updates to SHMAs, housing market information and completion rates since 2006. In addition, the level of infrastructure planned and financed may have changed.

If an authority wishes to stick with the RSS figure, or return to a Draft RSS figure, an LDF would not be sound without evidence to show that they have considered new information and can clearly demonstrate why it remains appropriate to do so. This would be based on the following:

- Most importantly, in the 'localism' context, what the local ambitions for the authority are, and whether the RSS policy and resultant housing totals are relevant and valid.
- Consideration over how later household and sub-national population projections should be accounted. (2004-based household projections were presented to the 2007 Examination, and dealt with unsatisfactorily in the final RSS, in the view of many. 2008-based population projections are now available and household projections imminent.)
- If the rationale behind the Draft RSS figure is still relevant, as is the authority's response and commitment to the Draft RSS. NB see the RSS Housing evidence papers – <http://www.emregionalstrategy.co.uk/RSS-Review-2006> - in particular the Housing Justification Paper.
- Any additional evidence from SHMAs, SHLASs etc.
- Updating to an appropriate start date, accounting for completions.

- Other PPS3 factors (above)
- NB For Northamptonshire one view is that there are no option 1 figures as such. Our targets came straight out of the MKSMS, so any LA input would be circa 2003, and may be considered to be out-of-date.

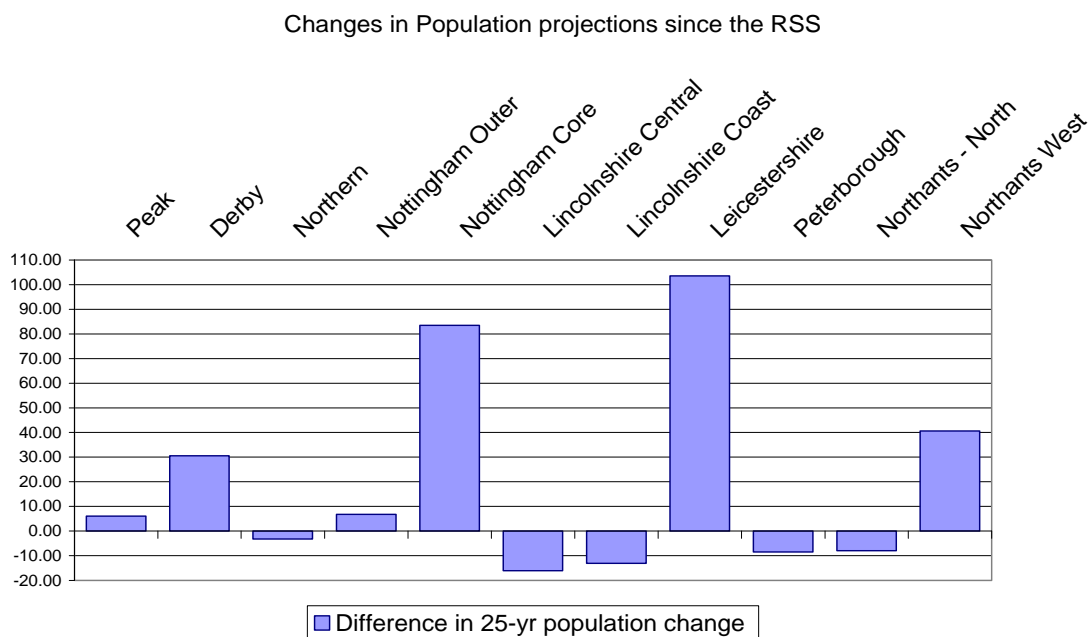
Updating the evidence - What are current and future levels of need and demand?

(a) Demographic trends

There have been three sets of population projections since the draft RSS was produced.

The forthcoming 2008-based household projections (due on 26th November) will be based on the 2008-based population projections (published 2010), which indicate growth higher by almost 50% than those used for the RSS.³

Importantly, though the sub-regional picture varies and appears to reflect the RSS strategy of concentration around the Three Cities. (see chart below).



As an example, at HMA level the use of later trends (up to 2008) shows lower movement into Lincolnshire than the trends used for the draft RSS (up to 2003), when house-building had been high. This had led to an RSS policy provision ‘below

³ The current household projections are 2006-based. These were used by the Regional Assembly in preparing the RSS Partial Review in 2009 and contain considerably higher trends for most parts of the Region than the RSS. However, more recent projections will soon replace those); new household projections are likely to be lower for the region as a whole, although still above the projections used to base the RSS on.

trend', so an unchanged policy figure would in future be closer to trend, because the trend is now beginning to reflect policy outcomes (lower house-building).

Whatever the background, for any particular district it is necessary to understand the dynamics behind the projection. In this way an argument can be presented that these trends may not themselves be ones that will transpire, or policies (economic or planning) would encourage.

Comparison of the RSS and later population projections at LA level is in Appendix ?

(b) Migration levels

The charts above show continuation of past population movements. Other approaches would include nil-net migration (a balance). It would be wrong to assume that nil-net migration would either be unrealistic, or produce little household growth. In most areas growth would be needed, as in Luton-South Bedfordshire, and Greater Nottingham has experienced housing growth with little or no net migration in former years.

Longer trends may be more appropriate to base planned housing levels on; one scenario being tested in Nottinghamshire and Derbyshire is to consider the impact of long-term trends of migration (10 years). These level out some short-term effects, and give an indication of what might be reasonable to plan for.

West Northamptonshire JPU has prepared a paper to illustrate its approach, which considers a variety of scenarios. (See Appendix 3).

(c) Economy or jobs-based

Different authorities have already given consideration to what establishes a housing figure apart from the demographic effects above.

Scarborough BC has, in a very thorough Interim Housing Position Paper, presented a case for housing provision based on urban renaissance for which a study explored and tested six scenarios, including some rejected for being 'not ambitious enough'. (www.scarborough.gov.uk/ldf)

Taunton Deane BC commissioned Fordham Research to consider various job-led scenarios, including reducing in-commuting to relate housing growth more closely to local jobs. (WebSearch Taunton+fordhams+housing)

(d) Housing needs-based

One possibility to go forward may be to establish overall housing provision more directly on the basis of housing need from SHMAs. There is danger in this, the purpose of a SHMA is not to establish overall housing need. Furthermore, evidence

from around the country points to such figures being calculated as very high, (in cases higher than the RSS, which may be politically unacceptable) are not comparable with, and may well duplicate need arising from within market housing. Market housing trends are very volatile, and

(e) Delivery of housing

In the current climate of low mortgage availability and no public finance for social housing, the question of deliverability will be a key question. There is no point in allocated land for housing if there is no prospect of them being built. The house builders will not build if they cannot sell them. It may be reasonable to recognise a lack of delivery in housing targets, otherwise unfeasible targets might be forced on Authorities.

Current evidence is that mortgages will continue to be restricted for up to 5 years, if not longer. In addition a HBF report has just indicated that it will take all the earnings of an average couple for 2 years to obtain a deposit in today's climate. Again this does not seem likely to change in the near future. Both of these beliefs, taken together, suggest that there will continue to be low housing numbers coming forward for up to 5 years. Once again, local evidence would be necessary for this approach to be taken.

(f) Just local needs?

The inspector's decision mentioned above (S Northamptonshire) interprets the CLG advice thus: "it is important in my view to note that the CLG advice refers to 'establishing the right level of local housing provision' (question 10) rather than suggesting that only local needs should be provided for." Thus any approach to local housing provision to account only for local needs still needs to account for the wider context.

Strategic approach, Housing Market Areas and co-operation

The Minister for localism Greg Clarke indicated at the RTPPI conference that the 'Decentralisation and Localism Bill' expected in the Autumn would contain a clause that would make co-operation between authorities mandatory. He stated "Neighbouring authorities will have many issues on which they can and should collaborate, and they will have a duty to do so."

An appropriate Housing Market Area (HMA) may be more or less important, depending on the context. A clear indication of the scale of housing provision for HMAs was established in the Regional Plan and this could be updated. A more strategic view and reading of PPS3 would be to say that this housing market context is important, as housing needs in some areas can only be provided for in a wider

area. For example, in the Nottingham Core HMA, there is a strong case to collaborate over the distribution of housing numbers. Elsewhere this may be less so. Another example is from Luton-Bedford, where a locally-derived need could not be accommodated, pointing to a solution similar to the (former) RSS, shifting housing towards South Bedfordshire.

It is a matter for conjecture at present how not meeting a HMA-wide housing provision (however measured) may be a legitimate test of soundness. The solution is not in the hands of the examined district so this may be a matter for PINS guidance, or the sitting inspector to decide whether collaboration or compatibility is required for soundness to be established.

Periods

As the period for an LDF is at least 15 years from adoption, and housing trajectories should operate for 15 years, preparation on the basis of 20 years or to 2026 seems sensible. To counter this 15 years from a future adoption date of 2012 would be 2027, and household projections will be available to 2031 (although less robust at that distance hence). Economic forecasting is even less certain over such periods.

A note about affordable housing

Affordable housing was also established by the RS, but with the proviso that strategic housing market area assessments (SHMAs) should update any provision levels. As an initial view the situation should be similar to that of overall housing provision, albeit that any draft RSS figures are of less significance and the outcome of current collaborative working across housing authorities is more so.

This would point authorities to review affordable housing levels if they considered that their most recent SHMA is not sufficiently up-to-date. Affordable housing provision was, for the RSS, based on an understanding of total housing provision (as established via projections and the PPS3 guidance). To disconnect this, as some SHMAs did, is not helpful, as it produces two irreconcilable assessments. Until a clear level of total housing provision is known, establishing a new affordable need in the right context is a difficult task.

Richard Cooper November 2010

APPENDIX 1

Provisional re-casting of parts of PPS3 relating to scale of housing

Paragraphs 32-34, 38, 39, 52, 53 are relevant.

Assessing an appropriate level of housing

32. The level of housing provision should be determined taking a strategic, evidence-based approach that takes into account relevant local, sub-regional,[...] and national policies and strategies achieved through widespread collaboration with stakeholders.

33. In determining the local, sub-regional [...] level of housing provision, Local Planning Authorities [...], working together, should take into account:

- Evidence of current and future levels of need and demand for housing and affordability levels based upon:
 - Local and sub-regional evidence of need and demand, set out in Strategic Housing Market Assessments and other relevant market information such as long term house prices.
 - Advice [...] ⁴ on the impact of the proposals for affordability in the region.
 - The Government’s latest published household projections and the needs of the regional economy, having regard to economic growth forecasts.
- Local and sub-regional evidence of the availability of suitable land for housing using Strategic Housing Land Availability Assessments and drawing on other relevant information such as the National Land Use Database and the Register of Surplus Public Sector Land.
- The Government’s overall ambitions for affordability across the housing market, including the need to improve affordability and increase housing supply.
- A Sustainability Appraisal of the environmental, social and economic implications, including costs, benefits and risks of development. This will include considering the most sustainable pattern of housing, including in urban and rural areas.
- An assessment of the impact of development upon existing or planned infrastructure and of any new infrastructure required.

⁴ NB The National Housing and Planning Advice Unit (NHPAU) mentioned here is now discontinued although the work remains and certain studies will be completed.

34. [...] *Text on setting a level of housing*

35. [...] *Text on co-ordinating housing provision*

Providing housing in suitable locations

Identifying suitable locations for housing development

38. At the local level, Local Development Documents should set out a strategy for the planned location of new housing which contributes to the achievement of sustainable development. Local Planning Authorities should, working with stakeholders, set out the criteria to be used for identifying broad locations and specific sites taking into account:

- The spatial vision for the local area (having regard to relevant documents such as the Sustainable Community Strategy) [...].
- Evidence of current and future levels of need and demand for housing as well as the availability of suitable, viable sites for housing development.
- The contribution to be made to cutting carbon emissions from focusing new development in locations with good public transport accessibility and/or by means other than the private car and where it can readily and viably draw its energy supply from decentralised energy supply systems based on renewable and low-carbon forms of energy supply, or where there is clear potential for this to be realised.
- Any physical, environmental, land ownership, land-use, investment constraints or risks associated with broad locations or specific sites, such as physical access restrictions,
- contamination, stability, flood risk, the need to protect natural resources eg water and biodiversity and complex land ownership issues.
- Options for accommodating new housing growth (or renewal of existing housing stock), taking into account opportunities for, and constraints on, development. Options may include, for example, re-use of vacant and derelict sites or industrial and commercial sites for providing housing as part of mixed-use town centre development, additional housing in established residential areas, large scale redevelopment and re-design of existing areas, expansion of existing settlements through urban extensions and creation of new freestanding settlements.
- Accessibility of proposed development to existing local community facilities, infrastructure and services, including public transport. The location of

housing should facilitate the creation of communities of sufficient size and mix to justify the development of, and sustain, community facilities, infrastructure and services.

- The need to provide housing in rural areas, not only in market towns and local service centres but also in villages in order to enhance or maintain their sustainability. This should include, particularly in small rural settlements, considering the relationship between settlements so as to ensure that growth is distributed in a way that supports informal social support networks, assists people to live near their work and benefit from key services, minimise environmental impact and, where possible, encourage environmental benefits.
- The need to develop mixed, sustainable communities across the wider local authority area as well as at neighbourhood level.

39. Reflecting the above considerations, Local Planning Authorities will be responsible for determining, in consultation with developers, infrastructure providers and the wider community, the most appropriate strategy and policies for addressing current and future need and demand for housing in their local areas within the context of delivering the overall spatial vision. They should undertake Sustainability Appraisal to develop and test various options, considering, for each, the social, economic and environmental implications, including costs, benefits and risks.

Delivering a flexible supply of land for housing

52. The Government's objective is to ensure that the planning system delivers a flexible, responsive supply of land. Reflecting the principles of 'Plan, Monitor, Manage', Local Planning Authorities [...] should develop policies and implementation strategies to ensure that sufficient, suitable land is available to achieve their housing and previously-developed land delivery objectives.

53. At the local level, Local Planning Authorities should set out in Local Development Documents their policies and strategies for delivering the level of housing provision, including identifying broad locations and specific sites that will enable continuous delivery of housing for at least 15 years from the date of adoption, *[taking account of the level of housing provision set out in the Regional Spatial Strategy. In circumstances where Regional Spatial Strategies are in development, or subject to review, Local Planning Authorities should also have regard to the level of housing provision as proposed in the relevant emerging [Regional Spatial Strategy].*

PPS 3 goes on to refer to identifying and maintaining supply, and delivery of sites.

APPENDIX 2 - East Midlands RSS Housing Provision indicating possible 'option 1 – draft RSS' provision

	Draft RSS	Final RSS	
	Annual	Annual	Total
Central Lincolnshire HMA	1,830	2,030	40,600
Lincoln	524	990 ²	19,800
North Kesteven	754	560 ²	11,200
West Lindsey	552	480 ²	9,600
Coastal Lincolnshire HMA	940	435³	8,700
Boston	290	135 ³	2,700
East Lindsey	650	300 ³	6,000
Peterborough Partial HMA	1,350	1,200³	24,000
Rutland	170	150	3,000
South Holland	550	370 ³	7,400
South Kesteven	630	680	13,600
Nottingham Outer HMA	1,465	1,830	36,600
Ashfield	455	560	11,200
Mansfield	410	530	10,600
Newark & Sherwood	600	740	14,800
Northern HMA	1,370	1,510	30,200
Bolsover	350	400	8,000
Chesterfield	360	380	7,600
NE Derbyshire	330	380	7,600
Bassetlaw	330	350	7,000
Peak, Dales & Park HMA	420	500	10,000
Derbyshire Dales	150	200	4,000
High Peak	270	300	6,000
PDNPA	0	0	0
Derby HMA	1,770	1,830	36,600
Derby	700	720	14,400
Amber Valley	465	510	10,200
S Derbyshire	605	600	12,000
Leicester & Leicestershire HMA	3,780	4,020	80,400
Leicester	1,180	1,280	25,600
Blaby	340	380	7,600
Charnwood	760	790	15,800
Harborough	345	350	7,000
Hinckley & Bosworth	460	450	9,000
Melton	160	170	3,400
NW Leicestershire	480	510	10,200
Oadby & Wigston	55	90	1,800
Nottingham Core HMA	2,370	2,850	57,000
Erewash	290	360	7,200
Nottingham	945	1,000	20,000
Broxtowe	270	340	6,800
Gedling	310	400	8,000
Rushcliffe	555	750	15,000
West Northamptonshire HMA¹	2,480	2,564	51,275
North Northamptonshire HMA¹	2,643	2,748	54,950
EAST MIDLANDS	20,418	21,517	430,325

Notes

The draft RSS for the East Midlands (Sept 2006) covered the period 2001-2026 but this was re-based to 2006-2026 in the final version issued in March 2009. This was done by removing completions for the period 2001-2006. The figures above represent annual averages over the 25 year period in the draft RSS and over 20 years for most districts in the final RSS (except for (not shown) Northamptonshire districts and Lincolnshire Coastal districts (see footnotes ¹ and ³ below).

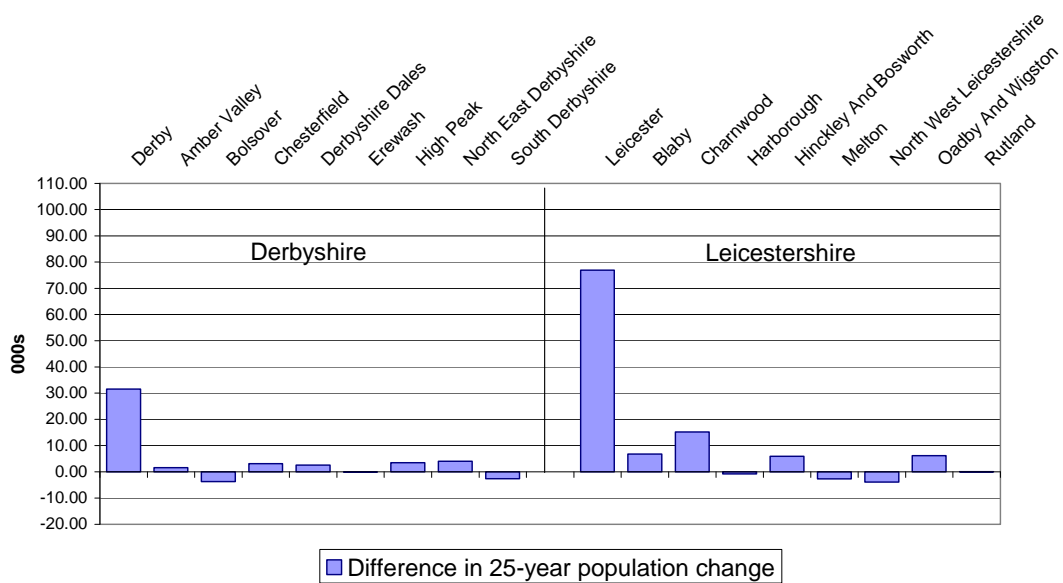
Housing provision was expressed in annual figures in the draft RSS but because of the exceptions noted below the final RSS establishes that the total provision over the 20 year period represents the target and not the annual apportionment which is included for monitoring purposes only

APPENDIX 3:

Comparison of the RSS and later population projections at LA level

This shows the effect of a more accurate representation of the international migrant population gravitating towards cities. However, this is not something that can or should be planned for, as housing capacity in the cities is limited and past trends could not continue. There also is and will be further movement out towards less central locations. In this instance the recognition of Housing Market Areas is important, especially around Derby, Leicester and Nottingham.

Changes in Population projections since the RSS



Changes in Population projections since the RSS

