

8 October 2018

By email and post:
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Dear Mr Middleton,

WELWYN HATFIELD LOCAL PLAN

We act for Aurora Properties (UK) Limited (Aurora Properties) in connection with the Examination into the Welwyn Hatfield Local Plan. We are writing to express concern about an email dated 3 October from the Programme Officer, issued to Regulation 19 respondents, concerning the Stage 5 Hearing Session. This stated that:

"The Inspector has decided that it would not be helpful to the examination for him to invite written hearing statements in response to his Matters and issues."

For the reasons explained below this has the potential to prejudice the making of appropriate comments on whether the Council's approach to Green Belt is sound.

Background

On 23 August 2018, Welwyn Hatfield Borough Council (WHBC) published its Stage 3 Green Belt Review, undertaken by LUC. On 24 August, the Programme Officer informed our client that:

"The Inspector has asked me to write to all regulation 19 representors to notify them that this document is now available, and to invite representors who raised the issue of the Green Belt in their regulation 19 representations to submit their comments on the Stage 3 Green Belt Review."

All comments were required to be submitted by 18 September 2018. Our client's planning consultant, Deloitte, submitted comments on behalf of Aurora Properties on 17 September 2018.

The Council's consideration of the LUC Review

On 6 September 2018, the Council held a meeting of its Cabinet Planning and Parking Panel (CPPP) to receive the LUC Review. The relevant Officer Report set out two "Scenarios" and

three "Approaches" to determine the areas of Green Belt which should be considered for release to accommodate housing need.

The first scenario comprised allocating extra capacity on some existing site allocations (greater density), loss of some employment land to enable it to be allocated for housing, and the release of some land from the Green Belt to accommodate any remaining, unmet need.

The officers did not identify which employment land the Council might allocate for housing or how many additional homes that strategy might achieve overall.

The second scenario comprised allocating extra capacity on some existing site allocations and a greater release of Green Belt land than required by the first scenario.

In the absence of the planning officers providing any information about the scale of potential housing development on employment land, it was impossible to discern the balance between the first and second scenario. Equally, none of the Councillors asked this question of the officers, so that information was effectively withheld from the public and was not considered by the Councillors.

The officers then set out three "Approaches".

"Approach One" requires a new "call for sites" which would be in addition to the previous calls for sites already undertaken by the Council.

"Approach Two" suggests that the Council should only allocate sites for the first ten years of the Plan period, with "Broad Locations for Growth" in the ten to fifteen year Plan period. This would require a review of the Plan, with additional site allocation, in the future.

"Approach Three" explains that the Council could allocate sufficient sites now to achieve 16,000 dwellings solely from existing allocations and the selection of additional sites that have already been promoted to the Council and analysed by officers.

The Council's Decision and subsequent actions

The Minutes of the CPPP meeting on 6 September have now been published. Those Minutes acknowledge that Approach Three would be the "quicker" strategy but is perceived to cause greater harm to the Green Belt. That perceived "harm" is not explained.

Consequent to the CPPP meeting, the Council has Resolved that the Head of Planning should write to you setting out the Council's views on the three approaches and implications for the examination programme.

It is now one month after the CPPP meeting, on 6 September, but the Council's Examination Website does not contain the proposed letter to you.

Position going forward

Given the fact that the Council has identified sufficient land to meet its FOAHN which it found to be "suitable", "available" and "achievable" in its HELAA (but has not allocated all of those sites) and also found all of the omitted sites to be "reasonable alternatives" in its Sustainability Appraisal, for the Council to comply with Section 20(5)(b) of the Planning and Compulsory Purchase Act 2004 and paragraphs 14, 47 and 182 of the NPPF and to make the Plan sound, it has no alternative other than to pursue "Approach Three". This does not prevent the Council from seeking to argue that it cannot meet its full objectively assessed housing need if it considers that *"the adverse impacts of doing so would significantly and demonstrably outweigh the*

benefits". However, the burden to identify any significant and demonstrable adverse impacts in respect of individual sites rests with the Council, which should be based on an objective, consistent and transparent assessment of those sites which are already known to the Council and previously assessed by the officers (see EX33A).

As stated above, we understand that you will not be inviting written hearing statements in response to your Matters and Issues. The Programme Officer also stated that you will not be issuing the Stage 5 "Matters for Discussion" until after 19 October.

As you will appreciate the Council's full explanation of its position on the "Scenarios" and "Approaches" considered, goes to the heart of the Green Belt Review, its methodology, and the additional site allocations necessary to make the Plan sound. Accordingly, until my client has had an opportunity to review the letter which the Council intends to submit to you (as per its Resolution of 6 September) and has been able to consider the Matters for Discussion at the Stage 5 Examination Hearing, it is not possible to assess whether or not there is a prejudice in the current process, and we reserve our client's position accordingly.

We hope you will take our concerns into consideration.

Yours sincerely

Hogan Lovells International LLP