



Hearing Statement- Stage 1

On behalf of:

King & Co

Representor ID:

863963

In respect of:

Welwyn and Hatfield Local Plan

Examination in Public

Stage 1

Date:

September 2017

Reference:

MA/KAC/003-04/R001m

1.0 Introduction

- 1.1 This Hearing Statement is submitted by Aylward Town Planning Ltd ("ATP") on behalf of our client King & Co ('King & Co') to supplement the representations previously submitted in advance of the Stage 1 Hearings session which are due to commence on 21st September.
- 1.2 This Statement is submitted in respect of the questions set out under document EXo6, and it is confirmed that we will provide further Statements in terms of Stage 2 and Stages 3 and 4 in due course. Whilst we have of course submitted representations to the emerging Local Plan (last iteration in October 2016) on these matters, we reserve our position on those themes at this time in the light of updated evidence.
- 1.3 King and Co has previously expressed development aspirations through the Local Plan for site HS25 (Hawkshead Rd, Little Heath) and HS20 (School Lane, Welwyn) up to and including October 2016. The representor has also promoted site LHe3 (Swanley Bar) in earlier iterations of the emerging Local Plan.
- 1.4 The Council has latterly published a suite of documents in August 2017 (under items EXo4-EX10) in respect of the duty to co-operate and also with respect to housing and job provision. However, it remains self-evident that whilst the Council clearly understands the extent of the residual housing need it has not effectively planned to meet it within its administrative area. The extent of chasing of other local authorities and collation of evidence only after April 2017 is a demonstration of the paucity of effort to deliver a cohesive Plan prior to that point. The Plan before the Inspector has not been influenced by these belated efforts at consultation.
- 1.5 We note that the Council has sought to conclude that through their recent dialogue with neighbouring local authorities that there is little or no evidence of a discord between OAN and Plan-led housing targets, save for a limited shortfall in East Herts. This is inconsistent with our understanding, where the evidence is that the majority of the named authorities that the OAN exceeds the current and (in some cases) emerging Local Plan targets. It is therefore unsurprising that these neighbouring authorities cannot agree to accept residual need from WHBC because they are already unable to meet their own needs.
- 1.6 It is also clear in our view that the Council has not taken a proactive approach to identifying all opportunities to meet the identified needs of its current and future residents. The inability to identify and plan for secondary school provision is a central failing of the Plan and impacts

markedly on a number of objectives of the Council and the LEP.

- 1.7 We are therefore compelled to prepare and submit this Statement to assist the Inspector to draw out this information from the Council at the Examination.

2.0 Responses to Key Questions

Has the DPD been prepared in accordance with the Local Development Scheme?

- 2.1 We would accept that the Council has sought to follow the process set out within the LDS. However, the target timetable for the Examination in Public has already slipped by consequence of the Council's need to undertake substantial additional and belated work to try and justify the Plan's proposals for housing and employment delivery, and the extent to which the Duty to Co-Operate had been met.
- 2.2 To that extent, it has not been positively prepared and it is already shown to fail to be effective (in terms of delivery against its own targets).

Is the DPD in general accordance with the Statement of Community Involvement and its public consultation requirements?

- 2.3 We do not seek to make any specific comments on this matter.

Has the DPD been subjected to Sustainability Appraisal? Are its conclusions sound and have they been taken into account in the DPD?

- 2.4 The Sustainability Appraisal has sought to assess a number of alternative scenarios to the Local Plan which have been deemed (by the Council) to be reasonable. It is important to note that in terms of housing delivery these have typically tested the opportunity to deliver the Plan-led target rather than the objectively assessed need as a reasonable development scenario.
- 2.5 Whilst the very early iterations of the Sustainability Appraisal did give some consideration of higher growth scenarios (up to 14400), at no point has the Sustainability Appraisal process sought to consider a scenario to deliver what is now recognised as the Council's OAN which is 15200.
- 2.6 The failure to assess a scenario which reflects the Council's own OAN does suggest that the Appraisal process is at best incomplete. We would ask the Inspector to seek clarification from the Council as to why they have not sought to update the Sustainability Appraisal work to reflect the latest available evidence.
- 2.7 We do not seek to make any further specific comments on this matter.

Has a Habitat Regulations Assessment been prepared? Are its conclusions sound and have they been taken into account in the DPD?

- 2.8 The HRA was undertaken in October 2012. This was prepared in connection with a Core Strategy process that was latterly abandoned in favour of this Local Plan.
- 2.9 The HRA also makes reference to what is now an obsolete policy framework inclusive of regional guidance (in the form of the RSS which is now revoked) and with specific consideration of the emerging policies of the Core Strategy which have been abandoned.
- 2.10 The failure to assess the actual Plan under Examination tends to suggest that the HRA process must be fundamentally flawed. We would ask the Inspector to seek clarification from the Council as to why they have not sought to update the HRA work to actually consider the draft Local Plan and to then reflect the latest available evidence and the current policy framework.
- 2.11 We do not seek to make any further specific comments on this matter.

Has the DPD been prepared in full accordance with the relevant parts of the Planning and Compulsory Purchase Act 2004 and the T&CP (Local Plan) (England) Regulations 2012 as amended?

- 2.12 We do not seek to make any specific comments on this matter.

Has the DPD had regard to appropriate national policy?

- 2.13 The DPD has clearly had regard to national policy, but it cannot be concluded that its objectives and advice have been fully adopted.
- 2.14 Paragraph 14 of the NPPF is well-rehearsed but it is nonetheless instructive to remind ourselves that in terms of plan-making it states:

"At the heart of the NPPF is a presumption in favour of sustainable development, which should be seen as a golden thread running through both plan-making and decision-taking. For plan-making this means that:

- *local planning authorities should positively seek opportunities to meet the development needs of their area;*
- *Local Plans should meet objectively assessed needs, with sufficient flexibility to adapt to rapid change, unless: – any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole; or – specific policies in this Framework indicate development should be restricted.*

- 2.15 To that extent, a Local Plan which fails to meet objectively assessed needs would ordinarily be in conflict with the NPPF. There is a caveat at paragraph 14 to ensure that the requirement to meet the OAN should not override the potential for significant adverse effects. It is our very clear view that the Council has had the opportunity to better meet objectively assessed needs and this could have been achieved through the selection of sites which would not have resulted in any such significant adverse effects.
- 2.16 The Council's Plan target of 12000 homes was partly based upon a previous understanding of an OAN between 12,616-13,433 dwellings. Their latest OAN evidence clarifies that this has climbed to 15200 and this does not provide the opportunity to fully meet affordable housing requirements. Nevertheless, there is nothing within the emerging Plan to suggest that there has been any attempt to respond to relevant evidence and market signals and this conflicts with the advice of paragraph 158 of the NPPF which states:
- "Each local planning authority should ensure that the Local Plan is based on adequate, up-to-date and relevant evidence about the economic, social and environmental characteristics and prospects of the area. Local planning authorities should ensure that their assessment of and strategies for housing, employment and other uses are integrated, and that they take full account of relevant market and economic signals."*
- 2.17 A central failure of the Local Plan is its recognition of the chronic undersupply of secondary school place and no positive resolution of a plan-led proposal to address this. The representor of course accepts that the cost implications of delivering such a school is not insubstantial, but that is inevitably the purpose of preparing an Infrastructure Delivery Plan and then taking the opportunity to meet the very clear needs of current and future residents.
- 2.18 At his point, the Plan would be unsound because it is not positively prepared and conflicts with the requirements of paragraph 182 of the NPPF.

Has the Council fulfilled the requirements of the duty to cooperate?

- 2.19 The DtC was introduced by Sections 210-211 of the 2011 Localism Act, and requires public authorities to engage constructively and actively on an ongoing basis throughout the preparation of any development plan document in relation to strategic matters.
- 2.20 Whilst it should not be read as a "duty to agree" it must be demonstrated that this duty has been undertaken effectively. Failure to do so has proved pivotal in terms of the examination of other Local Plans including Runnymede and Hart.

- 2.21 The Council accepts that it's proposed Plan-led targets will not meet objectively assessed needs of the District, and that neighbouring authorities are unwilling to meet any shortfall (which will be in excess of 3000 homes over the Plan period).
- 2.22 The Council seeks to argue however that the neighbouring authorities (in general terms) are able to evidence the ability to deliver housing consistent with their own objectively assessed need. This argument is used to infer that there is no structural issue arising in terms of any discord in housing supply within any reasonable housing market area.
- 2.23 This fundamentally conflicts with our understanding wherein it is plainly clear that the Plan-led targets for many of these neighbouring authorities (notably Hertsmere) are well below the objectively assessed need. It is therefore unsurprising that these neighbours feel unwilling to accept housing to meet WHBC's residual requirements.
- 2.24 It is this structural shortfall which feeds the supply-side market signals that the Council already recognises- the affordability ratio in the WHBC area is now at a very high level and thus the extent of the affordable housing need should not be under-estimated.
- 2.25 We also note that within the EX12 document there are several references to draft MOUs with third parties to deliver the secondary school provision which is so palpably necessary. We firmly welcome this and encourage the Inspector to draw a firm position from the Council in terms of whether and when these (up to three) new secondary schools will be delivered.
- 2.26 There is also a reference in the MOU with Hertsmere that there would be a tacit agreement to work together to address education provision. The fundamental point which arises is that the development potential of Welwyn village and other settlements has been impeded by the shortfall of secondary school places.
- 2.27 The Plan should set out ambitions to deliver necessary infrastructure and sites for housing to meet objectively assessed needs. Given the nature of local geography and the two-tier governmental system these matters will inevitably cross borders and require co-operation.
- 2.28 The DtC requires public authorities to engage constructively on an ongoing basis (which will include housing and employment land requirements. To do so, the Council needs to demonstrate that this process has been engaged and resolved properly over the period where the Local Plan has been prepared, and to show that this has happened in good time to inform

the content of the Local Plan. It is regrettable to note that the extent of recent dialogue in advance of the Examination sits in very stark contrast to the previous period of years. The dialogue which has plainly been had only since the Plan was submitted should have been ongoing and informed the Plan whilst it was being prepared.

- 2.29 To this extent, the Plan is unsound because it is not effective. The duty to co-operate is not met because it has not been underpinned on effective joint working which would have any opportunity to inform its content.

3.0 Summary

- 3.1 We trust that the above representations are clear. We do not seek to attend this stage of the Hearings in person, but would ask that the Inspector seeks that the Council provides robust responses to the questions that have been set.
- 3.2 We have reviewed the recent responses from the Council (notably EX04-EX10) and we welcome the emerging themes of greater co-operation with neighbouring authorities and a growing realisation of the need to tackle infrastructure issues. It is however a real frustration that this method of working has only emerged at the eleventh hour and (as it is post-submission) does not inform the Plan at all.
- 3.3 It is also plain that if more effective joint working had been ongoing for the duration of the period since the Plan work commenced, then the issues around resolving locations and funding for secondary schools and the realisation of the structural issues around housing supply could have been moved forward.
- 3.4 At this stage, the absence of a firm commitment to those infrastructure matters has very plainly resulted in the Council feeling unable to support a greater quantum of housing development that would have met its objectively assessed need.
- 3.5 Several opportunities to deliver more housing have been promoted to the Council in sites with no material impediment and rejected on the basis of infrastructural issues (notably HS20). Clearly the Stage 1 phase of the Examination is not the forum to go through site or settlement specific matters, but it is instructive to note that those opportunities do exist if deemed infrastructure issues are resolved.
- 3.6 Despite our comments above, we do not seek to impede the progress of this Plan and nor would we encourage a proposal to defer these matters to an almost immediate cycle of Local Plan Review. We would suggest that a pragmatic compromise would be to seek to identify further opportunities for housing to reflect the OAN within the Plan period, but with clarification that implementation would be subject to resolution of any necessary infrastructure matters.