

Welwyn Hatfield Borough Council – Submission Local Plan

Statement of Mr Alex Brooker MRICS

Stage 1 – Legal Soundness

1. The Inspector is proceeding with the Examination in Public based on four stages. This statement relates to the questions raised by the Inspector at Stage 1.
2. For ease of reference, the question posed by the Inspector will precede my response.

Question 1 – Has the Plan been prepared in accordance with the Local Development Scheme?

3. The Local Plan has taken far too long to reach the stage of submission and examination. However, there is no benefit in further delay.
4. The Local Plan was due to commence in 2011 and run for 20 years. The commencement has been moved forward to 2013 and now only runs for 19 years. Given the time that it takes Welwyn Hatfield Council to prepare and adopt a Local Plan, it seems futile to have a plan that will expire in 2032. The plan period should be extended to reflect the delivery of new housing, which is presently weighted towards the latter years of the plan period.

Question 2 – Is the DPD in general accordance with the Statement of Community Involvement and its public consultation requirements?

5. The Council has failed to properly consult in respect of sites to meet the Full Objectively Assessed Housing Need (FOAN) throughout the emergence of the Local Plan. Despite the various consultations, the strategy of the Council has been to delay the Local Plan and to minimise housing in the borough.
6. In 2012 the Council set a housing target of 6,800 new homes over the 20 year plan period despite knowing that its FOAN was in a range of 10,000 to 14,400 (the former being the East of England RSS assessment and the latter being the ONS assessment).
7. In October 2012 the Council resolved that it would not release Green Belt land to build any new homes in the four large excluded villages. This resolution was against the advice of its own officers and an independent consultant.
8. The Council did not have an up-to-date SHMA until the end of 2014 despite the requirement to do so in paragraph 159 of the NPPF. That SHMA identified a minimum FOAN of 12,500 new homes (625 per annum).
9. In January 2015 the Council undertook Regulation 18 consultation where it only consulted on sites that would provide a maximum of 10,000 new homes and it excluded all major sites in Brookmans Park from that consultation, despite the fact that three major sites in Brookmans Park had been found suitable available and deliverable in the updated SHLAA.

10. In April 2016 the SHMA was updated to provide a FOAN of 707 homes per annum (14,140 over a 20 year plan period).
11. In September and October 2016 the Council undertook Regulation 19 consultation where it set an arbitrary housing target of 12,000 new homes, again failing to include sufficient sites to meet its FOAN.
12. Regulation 19 consultation included three sites (Hat1/SDS5, Hat15/SDS6 and WGC5/SDS2) which all have significant obstacles to delivery. These sites are due to provide 4,000 new homes in the plan period.
 - 12.1 According to Hertfordshire County Council, Hat1/SDS5 has approximately ten million tonnes of mineral deposits to be extracted prior to development. There is also a bromate plume trapped in the subsoil, which could contaminate ground water. The Council has provided no information whatsoever as to how or when the mineral deposits will be extracted, the backfill, management of the bromate plume or the logistics to remove the minerals and to backfill the site. Regulation 18 and Regulation 19 consultation was therefore flawed.
 - 12.2 Hat15/SDS6 (Symondshyde new village) appears to be an ill-considered scheme to build a new village in the middle of nowhere, with no existing infrastructure, facilities or services. The Council admits that the delivery of Hat15/SDS6 is entirely dependent on infrastructure to be provided by Hat1/SDS5. The Council has not considered or consulted on any reasonable alternative locations within the borough for a new village, if that strategy is a serious part of the Council's housing delivery.
 - 12.3 WGC5/SDS2 is a landfill site where the Council has provided no information at all as to what is contained in the landfill site, any details of contamination or remediation that might be required or the environmental consequences to surface and ground water passing down from the topography of the site into the housing areas.
13. On 13 June 2016 The Council had resolved to include a site in the fragile gap between Hatfield and Welham Green (Hat11/HS11) despite the fact that the site is isolated from any existing settlement and beyond a permanent Green Belt boundary (South Way). The inclusion of Hat11/HS11 as a site allocation for Regulation 19 consultation was against the advice of the planning officers.
14. Regulation 19 consultation also included a site to the west of Brookmans Park (BrP4/HS22) which is outside of the existing village, in open countryside, with weak Green Belt boundaries and beyond the East Coast Mainline Railway, which is a strong and permanent Green Belt boundary. BrP4/HS22 had been repeatedly found "not suitable" for development in the five years leading up to Regulation 19 consultation but was suddenly and unexpectedly included in the Submission Local Plan. Other sites in Brookmans Park, which had been repeatedly found "suitable, available and deliverable" were excluded, without any clear reason for doing so.
15. The Council has treated Regulation 18 and Regulation 19 consultation as a nuisance to its strategy, to restrict housing delivery in the borough by advancing sites which are unlikely to be delivered within the plan period or which are wholly unsuitable, where

reasonable alternative sites are available but not allocated, for what appear to be political rather than planning reasons.

Question 3 - Has the DPD been subjected to Sustainability Appraisal? Are its conclusions sound and have they been taken into account in the DPD?

16. The most up-to-date SHMA (2017) identifies an FOAN of 800 new homes per annum. Sites identified as “reasonable alternatives” in the SA should be allocated to meet the FOAN.

Question 4 - Has a Habitat Regulations Assessment been prepared? Are its conclusions sound and have they been taken into account in the DPD?

17. No Comment.

Question 5 - 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?

18. The Council is required to submit a Local Plan for examination which it considers to be sound.
19. The Council has failed to allocate sites which it has found suitable, available and achievable to assist in meeting its FOAN. The Council is therefore suggesting an early review of the Local Plan, presumably with the intention to allocate further sites. It is illogical for the Council to declare that its Submission Local Plan is sound whilst requesting an early review of that Plan at the point of submission. The modifications necessary to make the plan sound should be made now.
20. There is no reason to withhold the allocation of sites which are presently known to be suitable, available and deliverable until a review of the Local Plan.
21. The Act requires the Council to have regard to Government guidance. The Council is failing to have proper regard to the NPPF which requires the Council to meet its Objectively Assessed Housing Need in full (unless there are significant and demonstrable adverse impacts) and to have a five year housing sites supply. The Council fails both of these tests whilst refusing to allocate sites which it has found to be suitable, available and deliverable.

Question 6 - Has the DPD had regard to appropriate national policy?

22. See paragraph 21 above.
23. The NPPF requires the LPA to be positive and to significantly boost the supply of housing. WHBC has done neither. It has railed against meeting its housing need and has failed to allocate sites which it has found to be suitable, available and deliverable.
24. The NPPF requires the Council to allocate sites which are deliverable. There is no evidence to support the delivery of Hat1/SDS5, Hat2/SDS6 or WGC5/SDS2 and no strategy in the Submission Local Plan to overcome the obstacles to delivery of those sites. These three sites do not meet the test in the footnote to NPPF paragraph 47.

The Council's evidence base is therefore incomplete and its Regulation 18 and Regulation 19 consultation was flawed.

25. The Council is limiting site allocations and housing delivery based on an alleged shortfall in the provision of school places for children within the borough. The Council is required to work with the County Council to identify and deliver infrastructure requirements to support housing growth. The purpose of a Local Plan is to plan for growth, including all necessary infrastructure. If the Council is allowed to constrain housing delivery in this borough due to an alleged lack of school facilities, every planning authority in the southeast will use that excuse, resulting in a massive under provision of housing in the areas of greatest need. This would undermine the very foundation of the NPPF, particularly paragraphs 14 and 47.

Remedy to questions 1 – 6 above

26. The Council should demonstrate to a reasonable degree that Hat1/SDS5, Hat15/SDS6 and WGC5/SDS2 can be delivered in the plan period and to consult with the public when that evidence is available.
27. The Council should remove Hat11/HS11 and BrP4/HS22 from site allocations within the Submission Local Plan. These sites are wholly unsuitable and unsustainable.
28. The Council should allocate sustainable sites in the four large villages, particularly Brookmans Park and Welham Green (which have schools, shops, train stations, access to the strategic road network and a wide range of local facilities), which it has found suitable, available and deliverable.
29. The Council should seek to maximise the capacity of the four large villages to accommodate new homes. All of the large villages are sustainable locations with significant facilities that are within walking distance of the housing sites being advanced.
30. The Council should work with Hertfordshire County Council and other agencies to deliver the necessary infrastructure, including education, to support housing growth.
31. The Council should allocate suitable sites which can be delivered in the first five years of the plan period.

Mr Alex Brooker MRICS
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