

20 December 2018

By email

Our ref C2/GALLIMOM/17221521  
Matter ref 156117/000002

Melvyn Middleton BA (Econ) Dip TP DipMgt  
c/o Louise St John Howe  
Programme Officer  
P O Services  
P O Box 10965  
Sudbury  
Suffolk, C010 3BF

Dear Sir

**AURORA PROPERTIES (UK) LIMITED/WELWYN HATFIELD LOCAL PLAN**

We act for Aurora Properties (UK) Limited (Aurora) concerning the Examination of the Welwyn Hatfield Borough Council (WHBC) submission Local Plan and, in particular the promotion of BrP1 and BrP12 in Brookmans Park, which form part of The Brookmans Estate.

On 18 December the Council posted a copy of its letter to you dated 14 December 2018 (EX96) on its website. That letter contains a vague programme prepared by the Council which proposes a very significant further delay to the progress of the Local Plan Examination caused by a new Call for Sites.

The Council states that it is an "ambitious programme" which does not give us any confidence that the programme will be met, particularly as there are no milestone dates, merely references to spring, summer, autumn and winter.

There is nothing to prevent the Council holding a Call for Sites as part of a review of an adopted Local Plan (particularly if the Housing Target fails to meet the FOAHN). However, such a Call for Sites should not be permitted to again delay the progress of the present Examination.

You had set the dates of 11 to 14 December 2018 for the Stage 6 Hearing Sessions (the villages and Symondshyde) but this was put back at the Council's request. The Council now proposes that the Stage 6 Hearing Session be put back until the Autumn of 2019, which based on the Council's past performance, is very likely to be pushed back by another 3 to 6 months.

The Local Plan was originally due to commence in 2011. That date was put back to 2013. Based on the Council's programme, it is now unlikely that the Plan will be adopted until the end of 2020 which would require the Plan to run until 2035, in order to have a 15 year horizon. That will change the FOAHN to 17,600 new homes (22 years x 800). In the meantime, the Council has clearly not got a five-year housing land supply and it is falling woefully short in the delivery of its annual housing need which is getting worse day by day.

Hogan Lovells International LLP is a limited liability partnership registered in England and Wales with registered number OC323639 and is authorised and regulated by the Solicitors Regulation Authority of England and Wales. Registered office and principal place of business: Atlantic House, Holborn Viaduct, London EC1A 2FG.

"Hogan Lovells" is an international legal practice that includes Hogan Lovells International LLP and Hogan Lovells US LLP, with offices in: Alicante Amsterdam Baltimore Beijing Birmingham Boston Brussels Colorado Springs Denver Dubai Dusseldorf Frankfurt Hamburg Hanoi Ho Chi Minh City Hong Kong Houston Johannesburg London Los Angeles Luxembourg Madrid Mexico City Miami Milan Minneapolis Monterrey Moscow Munich New York Northern Virginia Paris Perth Philadelphia Rome San Francisco São Paulo Shanghai Silicon Valley Singapore Sydney Tokyo Warsaw Washington, D.C. Associated Offices: Budapest Jakarta Riyadh Shanghai FTZ Ulaanbaatar Zagreb. Business Service Centers: Johannesburg Louisville.

The word "partner" is used to describe a partner or member of Hogan Lovells International LLP, Hogan Lovells US LLP or any of their affiliated entities or any employee or consultant with equivalent standing. Certain individuals, who are designated as partners, but who are not members of Hogan Lovells International LLP, do not hold qualifications equivalent to members. For more information about Hogan Lovells, the partners and their qualifications, see [www.hoganlovells.com](http://www.hoganlovells.com).

It is very clear that Welwyn Hatfield Borough Council submitted a Local Plan for Examination that was manifestly unsound. It is not plausible that professional planning officers or well-informed members could have considered that the Plan was sound prior to submission. As such, the submission of the Plan was unlawful under Section 20 (2) (b) of the Planning and Compulsory Purchase Act 2004.

We have given careful consideration to the options which are available in relation to the Local Plan and consider that there are two practical courses of action which comply with the Procedural Practice in the Examination of Local Plans – June 2016 (4<sup>th</sup> Edition v.1):

1. Require the Council to allocate those sites which it has assessed in its HELAA and its Sustainability Appraisal that are suitable, but are not presently allocated and then proceed with the Stage 6 Hearing Sessions in March 2019 with a view to adopting the Local Plan no later than September 2019;

or

2. Should the Council proceed on the basis of (i) a new Call for Sites, (ii) the significant modification of the Local Plan period and (iii) a substantial further delay to the Examination, the Plan should now be found to be so flawed that it is irreparable through the Examination process, without significant risk of Judicial Review when it is adopted. As such, the Plan should be withdrawn in accordance with paragraph 5.28 of the Procedural Practice in the Examination of Local Plans.

In the event that option 1 above does not meet the FOAHN, the Council should be required to undertake a review of the Plan at the soonest opportunity, but should not delay the expeditious adoption of the Plan with the best achievable Housing Target and best achievable five year land supply.

In the event that option 2 is pursued, we respectfully consider that the Secretary of State should use his powers to step in and take over the preparation of the WHBC Local Plan.

This Council does not need to hold a Call for Sites in order to progress the submitted Local Plan through the Examination or to meet most, if not all, of its FOAHN. It has identified numerous sites which are both suitable and sustainable (see EX33A) but it has not allocated those sites, without explanation. This is not a positive or justified position for the Council to adopt. The Examination should not therefore be pointlessly delayed, again, by an unnecessary Call for Sites.

We should be pleased to receive your considered response to this letter and we very much hope to receive confirmation that you will not support the Council radically altering the submitted Local Plan and/or continuing to find unnecessary reasons to delay the Examination.

Yours faithfully



Hogan Lovells International LLP

CC Sue Tiley - Welwyn Hatfield Borough Council