

EXAMINATION OF THE TUNBRIDGE WELLS BOROUGH LOCAL PLAN

EXAMINATION STATEMENT ON BEHALF OF B.YOND STRATEGIC LIMITED

*Stage 3 EiP Hearing Sessions
Matter 1 – Green Belt Assessment, Sustainability Appraisal and Local Plan Review*

Prepared by:

*David Neame BSc (Hons) MSc MRTPI
Director – Neame Sutton Limited*

May 2024

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28 May 2024*

1.0 **Introduction**

- 1.1 This Examination Statement provides a response on behalf of B.Yond Strategic Limited (previously known as Rydon Homes Limited), to those Questions raised by the Inspector (dated 03 May 2024), relating to the Principle of Green Belt Release in respect of the Tunbridge Wells Borough Local Plan ("the Plan") and its supporting evidence base including the Sustainability Appraisal.
- 1.2 This Statement has been prepared by Neame Sutton on behalf of B. Yond Strategic Limited ("B.Yond") and looks at all three issues raised by the Inspector.

2. **Matter 1 – Principle of Green Belt Release**

Issue 1 – Green Belt Study Stage 3 Addendum

Q1. Does the Stage 3 Addendum adequately address those concerns raised in the Inspector's Initial Findings that sites had not been considered on a consistent basis where harm to the Green Belt is concerned?

- 2.1 No.
- 2.2 The Addendum demonstrates that there is significant variation in the approach the Council took in assessing Green Belt, evident by the significant decrease in harm identified in nearly all sites considered in the Stage 3 Addendum, when compared with earlier assessments. This includes sites where the level of harm is significantly less than the "high" levels identified in the Council's largest allocation (Tudeley), and that, in B.Yond's opinion, are more aligned with the Council's Development Strategy set out in Policy ST1.

Q2. What is the list of reasonable alternative site options in Table 2.1 based on and have an appropriate range of options been tested?

- 2.3 This is a question primarily for the Council to answer. B.Yond does not therefore have any comments at this stage but may wish to comment at the Hearing on the answer provided by the Council.

Q3. How did the Council use the information from the Stage 3 Addendum to determine whether or not exceptional circumstances exist to alter the Green Belt boundary as proposed by the submission version Local Plan?

- 2.4 This is a question primarily for the Council to answer. As with Q2. B.Yond may wish to comment at the Hearing on the answer provided by the Council.

Q4. The Stage 3 Addendum found that some sites (around Five Oak Green) would only cause Low or Low-Moderate harm to the Green Belt. Given that the Plan seeks to meet housing needs in full, but will only provide for around 10 years' worth of housing land supply, why have these sites not been considered for allocation as part of the examination of this Plan?

- 2.5 This is predominantly for the Council to respond on, but as the promoters of SHELAA Sites 329, 330 and 331 (taken together as a single promotion site - Finches Farm), B.Yond fully support the Inspector's question and consider that the Council have failed in its duty to consider these sites appropriately, although reviewed in the Green Belt Stage 3 Addendum they have not been considered within the Sustainability Appraisal Addendum or the SHELAA update sheets despite the reduction in Green Belt harm level from Moderate to Low in the case of Forstal Field and from High to Moderate (Site Ref: 329).

- 2.6 It is of on-going concern for B.Yond that the promotion site "Finches Farm" has been split. This was raised in previous consultation events and most recently via email correspondence with the Head of Planning Carlos Hone (see copy attached at **Appendix 1**)). The promotion site encompasses SHELAA Sites 329, 330 and 331. The main housing elements would come forward in sites 329 and 331 (see draft Masterplan attached at **Appendix 2**). Access to the site is shown in the promotion material to be taken through Site 329 yet it has been discounted from any further assessment in the addendums.

- 2.7 The failure of the Council to properly consider its updated evidence base has resulted in a missed opportunity to allocate land at Finches Farm for residential development in a location that performs a low function in relation to the 5 Green Belt purposes.
- 2.8 It is important to note that the Council is fully aware of B.Yond's promotion site and has been in active dialogue on extensive pre-application discussions through its development management function. As set out in relation to Matter 3 this site offers the potential to address a number of infrastructure issues identified in Five Oak Green alongside the delivery of housing that would help the Council to address its significant shortfall.
- 2.9 Furthermore, since the publication of the Inspector's MiQs Neame Sutton has written to the Head of Planning Carlos Hone to request a meeting/discussion to explore the potential the site has to offer with a view to reaching common ground where possible ahead of the Examination Hearing session. At the time of preparing this Statement no reply has been received from the Council.
- 2.10 It is unfortunate that the Council has not taken the opportunity to engage on this site, which is probably the reason why the Council has not proposed to allocate the land. Put simply the Council has ignored its own evidence and attempts by site promoters to engage and assist Officers in bringing viable sites forward.
- 2.11 The Council is inconsistent in its approach in how it has sought to assess Green Belt and which sites would be suitable for allocation or a reasonable alternative.

Q5. Where relevant, have the findings in the Stage 3 Addendum been used to update the Strategic Housing and Economic Land Availability Assessment?

- 2.12 The short answer is no. As set out in relation to Q4. Above it would appear that the Council has ignored the findings in the Stage 3 Addendum along with detailed technical material submitted by site promoters and discussed with Officers in the Council's Development Management team. As the Inspector will note from Mr Hone's email of 17 November 2023 (**Appendix 1**) the Council has refused to entertain any discussion on the deficiencies in its evidence base including the SHELAA and instead have deferred to the examination process.
- 2.13 The Council's approach has unfortunately led to a position where questions are being raised regarding its evidence base in the context of the examination that could and indeed should have already been addressed. Had they been addressed the Council

may have been in a position at the Stage 3 examination hearings to have presented a spatial development strategy that meets more of the minimum LHN than is currently proposed.

Issue 2 – Sustainability Appraisal Addendum

Q1. Has the Sustainability Appraisal Addendum adequately considered the suggested spatial strategy (i.e. a Plan without Tudeley Village and reduced development in East Capel) against reasonable alternative spatial options?

2.14 No

2.15 The Sustainability Appraisal Addendum has not considered the plan's spatial strategy as a whole, only the removal and update of policies specific to Tudeley and the Stage 3 Green Belt Study. The Addendum does not draw sufficient conclusions on different scenarios with and without Tudeley as an allocation, or any other reasonable alternatives, as such the plan does not meet its own objectives and provide for sufficient housing to get anywhere near to meeting the minimum LHN.

Q2. If the Plan does not provide sites sufficient to meet the housing requirement, have the implications been considered against reasonable alternative options that would meet housing needs?

2.16 No, as set out above the Council have not considered sufficiently reasonable alternative options that would deliver the required housing needs to meet the needs of the plan. It is clear from the deficiencies in the evidence base, particularly the Green Belt Study and SHELAA, that the Council has missed opportunities to allocate sites that would have assisted in meeting the minimum LHN as a potential reasonable alternative to the option it has pursued. This is a fundamental failure on the part of the Council.

Q3. Have the suggested Main Modifications been subject to Sustainability Appraisal?

2.17 This is a question primarily for the Council to answer. B.Yond may wish to comment at the Hearing on the Council's answer to this question.

Issue 3 – Proposed Strategy and Early Review

Q1. What is the justification for suggesting Main Modifications to the Plan, and subsequently requiring an immediate Review, rather than seeking to meet housing needs as part of this examination?

2.18 In B.Yond's opinion there can be no justification for this strategy. The plan cannot be considered to meet its sustainability objectives and therefore be legally sound, and consistent with the Framework if there will only be 5 years remaining on a plan on the day it is adopted. This calculation is based on the fact that the base date for the Plan is 01 April 2020¹ and therefore at the point the Council envisages adoption 5 years will already have passed. Furthermore, this approach cannot be regarded as sound on the basis that it fundamentally alters the spatial strategy of the Plan and therefore strays beyond the scope of a main modification into a wholesale change to the Plan.

Q2. How would the Council's intended early review of the Plan be controlled? What would be the implications (if any) if an update to the Plan was either significantly delayed or not prepared at all?

2.19 If the Council was to adopt a 10 year plan, it is B.Yond's opinion that one reasonable way of controlling the Council's plan production would be to require it to report its progress and the Local Development Scheme to the Secretary of State, who under Section 15 of the Planning and Compulsory Purchase Act 2004 (As Amended), can direct the Council as appropriate in both its plan production and timetable.

2.20 Again, B.Yond would encourage the intervention of the Secretary of State with their powers under the Planning and Compulsory Purchase Act 2004 (As Amended) to intervene should the plan become delayed or not come forward, and anticipate any knock on effects this may have on major planning applications, especially for the delivery of housing allowing the flexibility to apply direct to the Secretary of State should the Applicant wish.

2.21 Notwithstanding the above and given the very short period of time that will remain on the Plan at the point of adoption it is not considered that an early review mechanism is the right or Sound approach to take in this case. The Council should rectify the shortcomings of the current draft Plan and ensure sufficient housing supply for at least 15 years rather than using an early review mechanism as a sticking plaster. In most instances

¹ See Paragraph 11.6 on Page 50 of PS_054

that Neame Sutton is aware of where early review mechanisms have been promised by Council's they have failed² leading to an exponential worsening of the housing supply and affordability situations.

Q3. The Development Strategy Topic Paper Addendum states that "...other distribution options that may provide the full 15 years' housing land supply were assessed as part of the formulation of the Pre-Submission Local Plan through rigorous consideration. However, there was not an obvious alternative strategy to the one proposed at the SLP stage."³ What is the justification, therefore, of seeking an early review to the Plan if options without Tudeley Village have already been considered and discounted?

2.22 This question supports B.Yond's view that the 10-year Plan period and early review mechanism is not the right approach. This is a question primarily for the Council to answer but B.Yond may wish to comment at the Hearing on the Council's answer in due course.

² Chichester District Council is just one example.