

EXAMINATION OF THE TUNBRIDGE WELLS BOROUGH LOCAL PLAN

EXAMINATION STATEMENT ON BEHALF OF B.YOND STRATEGIC LIMITED

*Stage 3 EiP Hearing Sessions
Matter 8 – Meeting Housing Needs*

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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 ("B.Yond"), to those Questions raised by the Inspector (dated 03 May 2024), relating to Meeting Housing Needs in respect of the Tunbridge Wells Borough Local Plan ("the Plan") and its supporting evidence base.
- 1.2 This Statement has been prepared by Neame Sutton on behalf of B.Yond.

2.0 Matter 8 – Meeting Housing Needs

Issue 1 – Housing Requirement and Meeting Housing Needs

Q1. Does the housing requirement and plan period from the submission Plan remain justified and up-to-date? If not, what changes are required to make the Plan sound?

- 2.1 Policy STR1 of the Submission Plan (CD3.128) sets out the housing requirement figure that the Council is intending to plan for, which equates to 12,204 dwellings (678 dpa) over the 18 year period 2020-2038. The requirement is correctly expressed as a minimum.
- 2.2 The figure of 678 dpa reflects the capped Standard Method figure applicable at the time of the submission of Plan for Examination and therefore accords with the advice set out in the PPG¹.
- 2.3 However, the PPG also confirms that the Local Housing Need ("LHN") calculated using the Standard Method may only be relied upon for a period of 2 years from the time

¹ Housing and Economic Needs Assessment section of PPG - Paragraph: 008 Reference ID: 2a-008-20190220 Revision date: 20 02 2019

that the plan is submitted for Examination. On the basis that the Plan was submitted for Examination in October 2021 it is necessary to update the LHN calculation to reflect the current position.

- 2.4 The current LHN calculated using the Standard Method rebased to 2024 and using the affordability ratio data published on 25 March 2024 equates to **660 dpa or 11,880 dwellings** over the **18 year Plan period 2020 - 2038**. This remains as a capped figure that continues to be the minimum starting point and does not produce the Housing Requirement².
- 2.5 As the Inspector will be aware in circumstances where the minimum LHN is the subject of a cap consideration can still be given to whether a higher level of need could realistically be delivered. The PPG advises that this may help prevent authorities from having to undertake an early review of the relevant policies³.
- 2.6 This is particularly relevant in Tunbridge Wells, which has experienced a worsening affordability over the last 10 year period with a median work place based affordability ratio rising from 9.94 – 12.57 (as at 25 March 2024).
- 2.7 This compares with a national average of only 8.26, which itself is a figure the Government regards as being too high and requires urgent action through the delivery of more housing.
- 2.8 Applying the uncapped Standard Method figure for the Borough of 724 dpa would therefore assist greatly in helping to manage the affordability crisis facing the Borough.

Q2. What Main Modifications are required to the housing trajectory and projected sources of supply as a consequence of the Council's suggested changes to the Plan? Are the suggested changes based on accurate and up-to-date information?

- 2.9 The Council sets out its proposed changes to the housing trajectory within the Updated Local Plan Housing Trajectory (December 2023)(PS_062).
- 2.10 Neame Sutton has undertaken a detailed analysis of the supply sources relied upon by the Council in PS_062, which is set out in the Housing Technical Paper that accompanied our Representations to the Council's Proposed Main Modifications in February 2024. Section 2 of the Housing Technical Paper explores each of the 7

² Housing and Economic Needs Assessment section of the PPG - Paragraph: 002 Reference ID: 2a-002-20190220
Revision date: 20 02 2019

³ Housing and Economic Needs Assessment section of the PPG - Paragraph: 007 Reference ID: 2a-007-20190220
Revision date: 20 02 2019

sources of supply relied upon by the Council in the context of the test of deliverability set out in Annex 2 of the Framework 2023 and the compelling evidence test in Paragraph 72.

- 2.11 It is clear from the analysis undertaken that the Council has taken an overly optimistic and unrealistic approach to delivery from its supply sources.
- 2.12 Table 2 in Appendix 1 of the Neame Sutton Housing Technical Note sets out the impact of the analysis in Section 2 and confirms the total supply from the Council's supply sources should be reduced from 10,933 dwellings down to 9,544 dwellings⁴.
- 2.13 This leads to an overall shortfall of **-2,336 dwellings** against the minimum LHN for the total 18 year Plan period (11,880 dwellings). The Council's comments in PS_077f are no answer to the key deficiencies highlighted by Neame Sutton in relation to the Council's supply sources.
- 2.14 For the Inspector's ease of reference an updated set of trajectory tables is attached at **Appendix 1** of this Statement that reflects the recent update to the affordability ratios published on 25 March 2024 and the consequent update to the LHN.

Q3. Does the total housing land supply include an allowance for windfall sites? If so, what is this based on and is it justified?

- 2.15 The Council seeks to rely on a total of 1,824 dwellings from windfalls at a rate of 152 dpa from 2026/27 through until the end of the Plan period. This is a substantial increase from the Council's starting point at the Regulation 18 stage where only 700 dwellings were identified and relied upon.
- 2.16 It is important to highlight that the compelling evidence test set out at Paragraph 72 of the Framework 2023 applies not only to the first five years of the Plan period but to any situation where an allowance is to be made for windfall sites as part of anticipated supply.
- 2.17 The simple point in this case is that the Council is seeking to rely on an inflated level of windfalls based primarily on historic trend data. That does not meet the compelling evidence test.

⁴ Table 3 on Page 9 of the Neame Sutton Housing Technical Note also refers

- 2.18 A detailed analysis of windfalls is set out in Section 2 (iv) of the Neame Sutton Housing Technical Paper including 4 specific points that the Council has not considered.
- 2.19 The Council's position in relation to windfalls is not based on compelling evidence and is not justified.
- 2.20 There is a case for a level of windfall provision within the Plan period but the Council has not supported its figure with any credible evidence. It is particularly relevant to note that the main brownfield sites in the Borough are the subject of allocations (and are not therefore capable of being windfalls). In addition the Council does not propose any amendments to the limits of built development to facilitate growth in other sustainable locations, which serves to constrain the ability to deliver completions from unidentified windfalls. In Neame Sutton's view the previous figure accepted by the Council of 102 dpa should be the ceiling level for windfalls. But further evidence is still required to meet the Paragraph 72 test and therefore to be justified.

Q4. Does the Plan identify specific, developable sites or broad locations for growth for years 6-10 and, where possible, for years 11-15 of the Plan? If not, how many years' worth of supply does it identify?

- 2.21 The Council's trajectory PS_062 does include delivery from sites in years 6-10 and 11-15 of the Plan period but the supply relied upon by the Council does not meet the minimum LHN for the Plan period.
- 2.22 In this respect the supply identified by the Council falls short of the minimum required across the whole Plan period, which is the reason the Council is seeking to reduce its Plan period down to 10 years. In other words, the Council's answer to an inadequate level of supply is to reduce the requirement, rather than allocate more sites. That is not positive planning.
- 2.23 The total supply the Council is relying upon 10,933 dwellings equates to 16.6 years. However, the evidence above and contained in our Representations confirms that the realistic supply is actually 9,544 dwellings, which equates to only 14.5 years. Neither figure includes any buffer, which would be a high risk strategy to pursue, bearing in mind the Council's completions since the start of the Plan period (2020/21) equate to only 614 dpa i.e. -46 dpa below the minimum annual LHN. The Council has therefore already accrued a shortfall of -138 dwellings or 7%. This demonstrates the need for a buffer of at least 10% to be added to the total minimum LHN now to reduce the

prospect for under provision and to rectify the shortfall that has already arisen in years 1-3.

- 2.24 In terms of whether the supply proposed in years 6-10 and 11-15 is developable, this is also unclear. None of the evidence suggested by the PPG⁵ appears to be present in the evidence base so it is not possible to interrogate the Council's delivery figures for this period to determine whether they meet the required definition of developable set out in Annex 2 of the Framework 2023.
- 2.25 At this point it is relevant to note that the Council is relying upon the comment made by the Inspector in the Initial Findings Letter (ID-012) and Paragraph 68 of the Framework 2023 that uses the words 'where possible' to justify its 10 year Plan period⁶.
- 2.26 Whilst it may be the case that Paragraph 68 refers to the 11-15 year period in terms of the identification of sites 'where possible' it does not automatically follow that a 10 year Plan period is a Sound strategy. In fact the PPG confirms that Local plans and spatial development strategies **may** be able to satisfy the tests of soundness where they have not been able to identify specific sites or broad locations for growth in years 11-15.
- 2.27 This comment leads onto the answer to Q5 below.

Q5.As modified, would the Plan be positively prepared? Would it provide a strategy, which, as a minimum, seeks to meet the area's objectively assessed needs?

- 2.28 In short – No the Plan is not positively prepared as proposed to be modified.
- 2.29 It is clear that the strategy would fail to meet the minimum LHN leading to a shortfall of at least **-2,336 dwellings** before any consideration of an uncapped LHN or a 10% buffer. This is a significant failure and the Council's proposal for an early review is no answer to this major Soundness failure because to 'kick the can down the road' now is not positive planning.
- 2.30 In fact the delay caused by the Council's failings in the original Submission version of the Plan has already lead to a 7% under provision against the current LHN, which is particularly poor bearing in mind the LHN has reduced since Submission. If the LHN included in the Submission Plan is taken into account (678 dpa) then the Council's delivery in years 1-3 has fallen short by 9.4%.

⁵ Housing Supply and Delivery section of PPG - Paragraph: 020 Reference ID: 68-020-20190722 Revision date: 22 July 2019

⁶ See specifically the response to Neame Sutton's Representations set out in the Table at PS_077f

Q6. If not, how could the Plan be modified to make it sound?

- 2.31 The simple solution for the Council is to revert back to the 15 year Plan period as required by the Framework 2023 and to allocate more sites. As the Inspector has noted in relation to Matter 1 (see our Matter 1 Statement) there is clearly scope for the allocation of further sites to meet the shortfall that the Council has created.
- 2.32 The housing delivery trajectory also needs to be revisited and properly interrogated as required by the Annex 2 definitions and the PPG to present a robust trajectory.
- 2.33 Further allocations for at least 2,500 dwellings are required to rectify the deficiencies in the Plan.

Issue 2 – Five-Year Housing Land Supply:

Q1. What will be the five-year housing land requirement upon adoption of the Plan?

- 2.34 Based on the latest Standard Method calculation of LHN for the District the five-year housing land requirement upon adoption of the Plan⁷ will be:

Five-Year Housing Requirement at Adoption	
Std Method LHN as at 25 March 2024	660 dpa
Requirement 01/04/25 – 31/03/30	3,300 dwellings

Q2. Based on the latest housing trajectory, how many dwellings are expected to be delivered in the first five years following adoption of the Plan?

- 2.35 The Council's latest trajectory set out in PS_062 expects delivery of 4,238 dwellings in the five year period 01/04/25 – 31/03/30. Neame Sutton's analysis (see Table 2a in **Appendix 1**) confirms that the deliverable supply during this period will actually be 2,271 dwellings.

Q3. Where sites have been identified in the Plan, but do not yet have planning permission, or where major sites have only outline planning permission, is there clear evidence that housing completions will begin within five years?

- 2.36 In short – No. Clear evidence has not been demonstrated. A detailed analysis is set out in the Neame Sutton Housing Technical Paper that accompanied our Representations in February 2024 (Sections 2 and 3 refer). The consequences of this analysis in terms of the actual deliverable supply are summarised in Paragraph 2.35 above and in Table 3 on Page 9 of the Neame Sutton Housing Technical Paper.

⁷ Anticipated by the Council to be in 2025 – Paragraph 3 of PS_062 refers.

Q4. What allowance has been made for windfall sites as part of the anticipated five-year housing land supply? Is there compelling evidence to suggest that windfall sites will come forward as expected in the first five years?

- 2.37 In the five year period 01/04/25 – 31/03/25 the Council anticipates delivery of some 456 dwellings from windfalls. As has been explained in detail in the Neame Sutton Housing Technical Note at Section 2 (Paragraphs 2.27 – 2.28) the Council has not met the compelling evidence test set out in Paragraph 72 of the Framework 2023 either for the inclusion of windfalls over the whole Plan trajectory (at the level identified by the Council) or within the 5-year period.
- 2.38 The fundamental failure the Council has made is to have no regard to likely future trends particularly in relation to the numerous matters identified at Paragraph 2.28.4 of the Neame Sutton Housing Technical Note. It is relevant to note at this point that these matters have been considered in detail in the context of a recent S78 Appeal Decision in Chichester wherein the Inspector reached the conclusion that the major windfall allowance (the matter in contention in that appeal) should be removed entirely from the 5-year housing land supply⁸.
- 2.39 The windfall allowance should therefore be removed from the first five years from the point of adoption.

Q5. Will there be a five-year supply upon adoption of the Plan? If not, is the Plan sound?

- 2.40 The Council's data in PS_062 purports to demonstrate a 5-year housing land supply of 6.13 years but that is relied upon the Liverpool method for spreading any shortfall over the whole plan period. There is no support in either the Framework or the PPG for the use of the Liverpool method. The Council is therefore wrong to apply this to its calculation.
- 2.41 Notwithstanding this the updated calculation reflecting the current (slightly lower) LHN indicates a supply of around 6.3 years. That too is incorrect.
- 2.42 When a robust analysis of the Council's 5-year housing land supply is undertaken having regard to the Annex 2 and Paragraph 72 tests the actual supply position is 3.4 years as set out in Table 2a attached at **Appendix 1**. The Inspector will note that

⁸ Paragraphs 115-120 in S78 Appeal Decision dated 29 August 2023 – PINS References: 3295000 and 3295004

position includes an allowance for windfalls in year 5 that arguably needs to be removed. The Council will not therefore be able to demonstrate anywhere near a 5-year housing land supply at the envisaged year of adoption.

2.43 That renders the Plan unsound. Paragraph 69 of the Framework 2023 is clear that the Council should identify a supply of specific, deliverable sites for five years following the intended date of adoption. The Council has not done that.

2.44 The position is made worse when the rolling 5-year housing land supply position is examined (see Table 2a in **Appendix 1**), which shows that the Council's supply will peak at 3.66 years and never reach the required 5-years. The development strategy set out in the proposed modifications to the Plan is therefore set up to fail from day one and cannot possibly be considered sound.

Issue 3 – Housing for Older People and People with Disabilities:

2.45 No comment.
