

EXAMINATION INTO THE TUNBRIDGE WELLS BOROUGH LOCAL PLAN

Response to the Inspectors Matters, Issue and Questions for Stage 3

Matter 1- Green Belt Assessment, Sustainability Appraisal and Local Plan Review

Site known as 'Land at Tolhurst Road', Tolhurst Road, Five Oak Green, Tunbridge Wells, TN12 6TN

On behalf of Fernham Homes

SHELLA SITE Reference 143

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Matter 1- Green Belt Assessment, Sustainability Appraisal and Local Plan Review

Issue 1- Green Belt Assessment, Sustainability Appraisal and Local Plan Review:

Q1 Does the Stage 3 Addendum² 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?

1. The Inspector's Initial Findings [ID-012, paragraph 6] sets out that development in the original Stage 3 Green Belt Study *"only considers sites allocated for development in the submitted Plan - i.e. sites which the Council has already determined are sound and concluded that exceptional circumstances exist to remove them from the Green Belt. If it is accepted that Green Belt land will be required, then why did the Council not carry out a comparative assessment of reasonable alternatives at Stage 3 in order to avoid, or at least minimise, harmful impacts where possible? This is especially relevant when the two largest allocations in the Plan (Tudeley Village and Paddock Wood) were found to cause "high" levels of harm to the Green Belt."*
2. We consider that the approach taken by way of production of a Stage 3 Addendum [PS_035] has provided a suitable and consistent assessment of sites which could provide harm to the Green Belt.
3. TWBC have identified a list of reasonable alternative site options (listed in Table 2.1), which were then assessed by way of establishing an overall rating of potential harm to the Green Belt that could result from release of the site or parcel.
4. The assessments of suitable alternative sites, has applied "the same methodology as it did to the original Stage 3 work so that comparisons can be made (in Green Belt terms) between the proposed allocations and all reasonable alternatives. [PS_035, paragraph 1.10]". This means that the approach has been transparent and consistent and carried through the Staged Assessment process.
5. However, despite considering that the assessment approach is sound, we continue to have concerns relating to how the results of the Stage 3 Addendum study have been managed and dealt with by TWBC. The conclusions of the work [PS_035] have been

disregarded and ignored and have not been reflected in the final version (post Main Modifications) of the Submission Local Plan (SLP).

6. An example of this, is the site we promote, 'Land at Tolhurst Road, Tolhurst Road, Five Oak Green, Tunbridge Wells, which was given a low harm rating to the Green Belt, but is not proposed to be included as a site allocation in the SLP.

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?

7. We believe that TWBC has not utilised its own evidence base, including the outcomes of the Stage 3 Addendum [PS_035], to help them inform the proposed final version of the SLP.
8. It is acknowledged that TWBC has revisited the potential harm of sites in the form of Green Belt Stage 3 Addendum Assessment of Reasonable Alternative Sites [PS_035]. This assessed the sites by establishing an overall rating of potential harm (to the Green Belt) that could result from release of the site or parcel.
9. This study has identified several sites that have a 'low-harm' rating to the Green Belt, as above, the Site at Tolhurst Road has the lowest harm rating of all of these sites in Five Oak Green.
10. However, the conclusions of this study have not been reflected in the proposed final version of the SLP; with 'low-harm' sites seemingly being ignored for inclusion as site allocations, with no justifiable evidence to identify why this is the case.

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?

11. In accordance with the Town and Country Planning (Local Planning) (England) (Amendment) Regulations 2012, as amended, the reasonable alternative sites have not been considered to be included in the final SLP, even though the Sustainability Appraisal has considered them to be suitable.
12. Paragraph 60 of the NPPF say *“To support the Government’s objective of significantly boosting the supply of homes, it is important that a sufficient amount and variety of land can come forward where it is needed”*.
13. Paragraph 69 of the NPPF says *“Planning policies should identify a supply of; a) specific, deliverable sites for five years following the intended date of adoption³⁵; and (our emphasis) (b) specific, developable sites or broad locations for growth, for the subsequent years 6-10 and, where possible, for years 11-15 of the remaining plan period”*.
14. It appears that the Council, by overlooking sites such as that at Tolhurst Road, failed to appropriately identify a supply of deliverable sites, which could, in culmination, otherwise contribute towards providing a supply of homes for the years 11-15 of the remaining plan period, as required by the NPPF. It is submitted that, in addition to those sites previously identified in the earlier Local Plan procedure, following the omission of the strategic site at Tudeley from the development plan, there should have been an allocation of the sites that were identified within the SHELAA as having a low and low-moderate impact on the Green Belt, and which are deliverable and adjacent to Five Oak Green.
15. The omission of such sites is also contrary to the recognition for this type of site attributed by Paragraph 70 of the NPPF, which says *“Small and medium sized sites can make an important contribution to meeting the housing requirement of an area, and are often built-out relatively quickly”*. Further commentary on this aspect is provided below.
16. As set out in our previous response to the Inspector’s Initial Findings Letter on the Examination of the Submission Local Plan (SLP) (Rep No. PIFC_153), reproduced below, we submit that TWBC has failed to provide any justification why the ‘suitable’ Five Oak Green sites have not been taken forward as site allocations in the proposed final version of the SLP.

17. The site, Land at Tolhurst Road, has been identified in this Stage 3 assessment, as a site having a 'RA/FG1-A Low-Moderate' harm to the Green Belt, if released for development. Furthermore, it was identified in PS_054, paragraph 2.25, that "Notwithstanding this general finding, there are some sites at Five Oak Green where the harm, using the stage three methodology, is Moderate to Low, which is comparable in Green Belt harm terms to the allocated sites (Pages A-16 to A-57)". The omission site subject to this SLP representation falls within this group of sites.
18. Although the Addendum of Assessment of reasonable alternative sites in the Green Belt [PS-035, Table 3.1] identifies seven sites that have a low harm to Green Belt, the 'Land at Tolhurst Road' is the only site that is considered to have a low harm rating in Five Oak Green. The site is entirely within the area identified as low harm. It is therefore considered to be the most suitable of all of the sites subject to the Addendum of Assessment of reasonable alternative sites in the Green Belt [PS-035, A33-site summary].
19. Furthermore, the sustainability appraisal sets out that the site subject to this representation, is considered to fall in an area which 'makes a Relatively Weak contribution to safeguarding the countryside from encroachment. The impact of its release on the adjacent Green Belt will be Minor. Harm resulting from the release of the parcel will be Low'.
20. The additional Green Belt assessment [PS_035] does not provide a basis for concluding that other previously rejected "omission sites" should not come forward and be included in the SLP. The only reference currently referred to for their non-inclusion is [PS_054, paragraph 2.23], which sets out that an important factor in reaching these conclusions is that there are often other reasons or combinations of reasons, sometimes including Green Belt harm, that led officers to conclude a site was not suitable as a potential allocation in the SLP. As detailed above and in Appendix 1, there are no reasons to conclude that the site is not suitable for allocation at this time.
21. The implications of the SA findings [PS_037] of the Stage 3 Green Belt Study for reasonable alternative sites in Capel parish, is that the site, Land at Tolhurst Road, had its Green Belt harm score revised from 'Moderate' at Stage 2 to 'Low' at Stage 3. The implications for the SA are considered to have the potential 'to be significant'.

22. Paragraph 13.2 (PS_037) notes that, while the Green Belt Stage 3 Addendum does not rule out some smaller housing sites at Five Oak Green, there are also other factors to be taken into account in determining their suitability; hence, it is proposed that they are further considered as part of the early Local Plan review”.
23. The TWBC position is objected to, because there is no clear justification, or explanation, why the background documents [PS_035, PS_036 and PS_037] and their conclusions and recommendations have been ignored by TWBC setting out why sites considered as at low harm to the Green Belt cannot be considered for inclusion in the emerging SLP.
24. Paragraph 69(a) of the NPPF sets out that local planning authorities should: “identify, though the development plan and brownfield registers, land to accommodate at least 10% of their housing requirement on sites no larger than one hectare”.
25. The site at Tolhurst Road is 0.7ha, smaller than the prerequisite one hectare as proposed by the NPPF at paragraph 69. On this basis, it is considered that the site would provide a positive addition to the site allocations within the Tunbridge Wells SLP, which would in turn enable the LPA to meet the 10% target of smaller sites.
26. Due to its size, limited constraints to development and the positive track record of the Developer to bring forward quality development in a timely fashion. The site would be available for immediate delivery.

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

27. Following the Local Plan examination hearings and in response to the Inspector’s subsequent initial findings in November 2022, a further SHELAA Addendum was produced for Reviewed Alternative Green Belt sites (October 2023) [PS_036], along with updated Sustainability Appraisal options SHELAA sheets (January 2024) [PS_038].
28. We consider that the SHELAA updates, resulting from the work undertaken post the Inspector’s initial findings, do not accurately reflect the additional evidence undertaken in the final SHELAA documents.

29. Firstly, the assessment of the SHELAA sheets for all reviewed Green Belt sites [PS_036] are not considered to accurately reflect the findings on the Stage 3 Addendum [PS_035], especially in respect of the Land at Tolhurst Road site, site Reference 143.
30. Following the Stage 3 Addendum, the SHELAA sheet for site 143 has been updated with new text under 'Suitability' and 'Reason'. This sets out that the 'The site could be considered again if Tudeley Village is removed from the Development Strategy (as part of a Local Plan Review)'.
31. This is an inconsistent approach with how sites were dealt with prior to the Stage 3 Addendum being undertaken. Sites that identified as suitable for allocation earlier in the process were allocated as development sites in the SLP. On this basis, there is no justifiable reason why the site at Tolhurst Road should not have been identified or included in the proposed final version of the SLP but TWBC has alternatively been put forward as a site that could be considered as part of a future review. There is no justification for the site not being allocated now, given that TWBC has determined to not carry forward the Tudeley allocation through the SLP.
32. Secondly, and in furtherance to the site assessment sheets, the Tolhurst Road site, and indeed Five Oak Green as a location for further development, has not been considered in the [PS_038] Sustainability Appraisal options SHELAA sheets and the only reference as to why this is the case is set out in [PS_037], "5.1.3. *Therefore, the further Green Belt assessments do not provide a basis for concluding that other previously rejected "omission sites" should come forward into the Local Plan, save for a couple of possible exceptions. Hence, it does not suggest any significant new development strategy options. 5.1.4. Notwithstanding this general finding, there are a few sites at Five Oak Green where the harm is Moderate to Low, which is comparable in Green Belt harm terms to some allocated sites*".
33. We continue to maintain that the Site at Tolhurst Road should be allocated in the SLP, as there is no justifiable reason not to include it. The Council's own evidence acknowledges that the site has a low-harm rating (in Green Belt terms) and is comparable to some allocated sites.

34. There is an identified inconsistent approach with how sites were dealt with prior to the Stage 3 Addendum [PS_035], being undertaken. Sites that have been identified as suitable for allocation earlier in the process were allocated as development sites in the SLP. On this basis, there is no justifiable reason why the site at Tolhurst Road should not have been identified or included in the SLP.

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?

35. Paragraph 6.1.2 of the Sustainability Appraisal Addendum [PS-037] states “The sustainability appraisal of Tudeley Village will be reviewed in light of the further work, but the further investigations are generally not regarded as challenging earlier evidence”. It then follows in paragraph 6.1.3, with the potential early identified areas that will need to form part of this review, i.e. housing objective, air objective, landscape objective etc.

36. However, it has been very difficult in the evidence base work to establish whether this ‘further work’ was ever produced and in which background document it forms. What can be identified is that the Tolhurst Road site and indeed Five Oak Green has not been considered in the [PS_038] Sustainability Appraisal options SHELAA sheets.

37. Which is considered to be an unsound approach, as these would form reasonable alternatives to the SLP without Tudeley Village and the reduction in housing numbers in East Capel.

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?

38. In accordance with PPG guidance Paragraph: 037 Reference ID: 61-037-20190315 “The Sustainability Appraisal plays an important part in demonstrating that the local plan reflects sustainability objectives and has considered reasonable alternatives”.

39. The plan, as written and proposed to be taken forward through Main Modifications, does not provide sufficient numbers to meet the housing requirement for the plan period. The Council identifies that its objectively assessed need for housing, calculated via the Standard Method, equates to 667 dpa over the period 2020 – 2038, which is a minimum total of 12,006 dwellings. However, as confirmed at Appendix C [PS_054, Table 4], the SLP is now proposing to allocate sites that will provide at the upper limit of only 4,595 dwelling units.
40. The Council does not however intend, through the Main Modifications, to meet, or even get close to, this minimum total by way of considering reasonable alternative sites.
41. In accordance with the Town and Country Planning (Local Planning) (England) (Amendment) Regulations 2012, as amended, the reasonable alternative sites have not been considered to be included in the final SLP, to help meet this shortfall, and there is no evidence supporting this position from the Council.
42. This remains an unsound approach.

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?

43. In accordance with [PPG Paragraph: 064 Reference ID: 61-064-20190315], the review process afforded to Local Plans, “...is a method to ensure that a plan and the policies within remains effective”. National Policy does not advocate the early review of a Local Plan as a way of playing ‘catch-up’ with a plan that did not start the process up-to-date and valid.
44. It is imperative that the SLP should, as much as possible, meet its housing targets, and this could be achieved in the latter plan making phases including through the examination process. This would ensure that the plan is as accurate and up-to-date as possible on the day of its adoption, and in order that the Government objective to significantly boost the national supply of housing is met.

45. In order to meet the shortfall in housing numbers being provided in the SLP, an obvious opportunity would be to allocate sites that have already been identified as suitable and appropriate through TWBC's own sustainability appraisal and SHELAA exercises.
46. It must therefore follow that the LPA has failed in its legal obligation to prepare and maintain an up-to-date Development Plan, which is of course fundamental to the Plan led system.

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?

47. National Policy is clear that strategic policies should be prepared over a minimum 15 year period and a local planning authority should be planning for the full plan period [PPG Paragraph: 064 Reference ID: 61-064-20190315]
48. NPPF Policy Paragraph 22 confirms that *"strategic policies should look ahead over a minimum 15 year period from adoption, to anticipate and respond to long-term requirements and opportunities, such as those arising from major improvements in infrastructure"*.
49. In addition to this, NPPF Paragraph 68 confirms that planning policies should identify a sufficient supply and mix of sites to deliver a) a supply of specific deliverable sites for years 1-5 of the plan period; and, b) specific developable sites or broad locations for growth for years 6-10 and, where possible, for years 11-15 of the Plan.
50. PPG, Paragraph: 068 Reference ID: 61-068-20190723], says that an LPA may need to gather new evidence to inform their review. Proportionate, relevant and up-to-date evidence should be used to justify a decision not to update policies. We expect authorities to have due regard to the Duty to Cooperate when undertaking a review to assess if they need updating.
51. Updates to a Local Plan or certain policies within it must follow the plan-making procedure; including preparation, publication, and examination by the Planning Inspectorate on behalf of the Secretary of State.

52. There is major concern that there could be a delay in the production of an early review of the Local Plan, because the Council has not suggested how they would prioritise its delivery. With a potential delay in Local Plan delivery there is a real risk that this approach would not meet the need identified by the Council and would result in significant delay in the delivery of much needed homes across the Borough.

53. This approach does not comply with the Framework 2023 nor the PPG and consequently fails the tests of Soundness in respect of being Effective, Positively Prepared, Justified or Consistent with National Policy. Furthermore, the Council fails in its statutory duty to prepare a Development Plan covering the full Plan period.

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?

54. The key point when assessing this paragraph 10.1 [PS_054] is the word 'may'. The Council acknowledges that there 'may' have been other options to deliver the spatial strategy for the Borough.

55. In recognition of the PS_035 Green Belt Stage 3 Addendum report, it seems that an option which proposed further growth at Five Oak Green (in the absence of strategic development at Tudeley) should be explored, now allowing additional suitable sites to come forward. The site at Tolhurst Road is considered to be a site that could have formed part of a Five Oak Green option.