

Representor number
PSLP_2048 to PSLP_2052

EXAMINATION OF THE TUNBRIDGE WELLS BOROUGH LOCAL PLAN

INSPECTOR'S MATTERS, ISSUES AND QUESTIONS FOR STAGE 3

MATTER 1 – EARLY REVIEW

Prepared by Pro Vision on behalf of Cooper Estates Strategic Land Limited

May 2024

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TUNBRIDGE WELLS LOCAL PLAN

STAGE 3 HEARING STATEMENT - MATTER 1 - EARLY REVIEW
PROJECT NO. 2133

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1.0 Introduction

- 1.1 As the Inspector will be aware through correspondence¹ on behalf of Cooper Estates Strategic Lane (“CESL”) Limited, Pro Vision has long been concerned that plan making by Tunbridge Wells Borough Council (“TWBC”, “the LPA” or “the Council”) has failed to robustly identify needs, and then plan positively to meet those needs in full.
- 1.2 Despite having now identified a need for older persons housing, the Modified Local Plan at this Stage 3 Examination continues to plan for a shortfall against that need. This is not positive planning and in our view this plan should not continue through the Examination process.
- 1.3 In particular, CESL remain concerned that there is a critical need for Older Persons’ housing, and this Council still fails to allocate sufficient sites to meet that need. This is despite there being a suitable and available site as promoted by CESL adjoining the settlement boundary of Royal Tunbridge Wells at Sandown Park² for a development which would assist the Council in ensuring that the identified need for specialist housing for older persons³ is met.
- 1.4 This Matter Statement focuses on the Council’s proposal to proceed with a plan which fails to meet the identified needs and fails to comply with Paragraph 22 of the National Planning Policy Framework and concludes that this approach is not ‘sound’ having regard to Paragraph 35 of the Framework.

¹ Representation [PSLP_2048](#), full document at [SI_140](#)

² Regulation 22 version of the SHELAA (Jan 2021) – [Core Document 3.77n - Site 114](#)

³ Specifically “Extra Care accommodation” as a category of specialist housing for older people, as defined by the [Planning Practice Guide at Paragraph: 010 Reference ID: 63-010-20190626](#)

2.0 Stage 3 - Matter 1: 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?

- 2.1 There is no reasonable justification for this approach.
- 2.2 The Inspector set out his initial findings in November 2022. The Council took 12 months to consider the options before inviting the Inspector to conclude that the Plan should proceed on the basis that it only covers a 10-year period from adoption and so fails to meet for objectively assessed needs for housing in full. This is not compliant with the Framework.
- 2.3 The Council's current published Housing Land Supply position from December 2023 based on the revised National Planning Policy Framework is that it has a 4.5-year supply (with no 5% buffer as the Council claims benefit from the Paragraph 226 protection). The Housing Delivery Test results show delivery at 96%.
- 2.4 Since the introduction of the Standard Method, the Council has failed to achieve the housing requirement in any single monitoring year, and therefore has a persistent undersupply of housing.
- 2.5 Housing Need is not being met now. There is no justification to accept a Local Plan that will at the outset also fail to meet housing needs in the future.

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?

- 2.6 The Council do not propose any mechanism to control an early review.
- 2.7 Dealing with the second part of the question first, and observing the thrust of Government Policy is for the planning system to be genuinely plan-led, the implications of a delayed review, or no review at all, would be:
- A persistent shortfall in the provision of sufficient homes to meet identified needs for housing, including the critical need to provide housing for older persons and the significant

unmet need for affordable housing. This also leads to persistent social housing waiting lists, overcrowding and families living in sub-standard conditions.

- A failure to plan positively for housing, which will also have impacts on society, with young people unable to get onto the property ladder due to a shortage of available properties, and/or paying high-rents and therefore unable to save for a home of their own.
- A reduction in investment in construction, resulting in fewer direct construction jobs in the locality and reduced indirect spending from construction having a negative knock-on impact on the local economy.
- Less Council Tax revenue for the Borough as fewer homes would be built, resulting in reduced investment in public services.
- A lack of the benefits to the wider population of the Borough which typically arise from new developments. New development will typically bring in investment and can include or provide funding towards new schools and health centres, provide new and/or improved open spaces and leisure/recreation opportunities. New developments can also bring forward transport improvements.
- An increase in commuting, with workers having to travel greater distances to employment as they are unable to find suitable housing closer to work. Also, businesses may be unable to attract and retain employees due to a lack of living accommodation options.
- A reduced / delayed growth in the population of the Borough would also result in reduced spending in the town centres, local shops and services.

2.8 Turning then to the first part of the question, whilst we do not agree that an early review is sound, if this is taken forward, we consider there is a need for a robust control mechanism to ensure that a sound Local Plan that meets needs, and which plans positively for the future of the Borough, is put in place swiftly.

2.9 We cited several examples in our representations to this proposal of where an Inspector's requirement through a Local Plan Examination for an early review has failed to subsequently deliver a timely Local Plan update. A further example of where this mechanism has failed is set out below:

At the London Borough of Havering Local Plan Examination, the Inspectors Report (Oct 2021)⁴ at Paragraph 13 accepted that *"The Plan includes a commitment to an immediate update and it is considered pragmatic to allow this Plan to proceed to adoption on this basis"*. The specific circumstances in that case which lead to the requirement for an immediate review was the Adoption of the Local Plan in November 2021⁵.

Paragraph 14 of the Inspector's Report into the Havering Local Plan continued:

"In order to ensure that the Plan is effective therefore, a FMM (FMM1) is necessary to explain the relationship of the Plan to the LP2021. It also sets out the need for an immediate update of the Plan, in accordance with specified timescales, in order to ensure that the Plan has full regard to the LP2021 and latest Government guidance. I have made a minor alteration to this FMM to reference the 2021 NPPF which was published after the consultation on the FMMs began."

This FFM, was contained within Paragraph 1.1.7 of Adopted Local Plan which stated:

"The Council recognise the importance of an immediate update of the Local Plan in the context of the new London Plan and the National Planning Policy Framework 2021 which have both been published since the Local Plan was submitted for Examination. The immediate update of the Local Plan will also take account of the Town and Country Planning (Use Classes) (Amendment) (England) Regulations 2020 that came into force on 1 September 2020. The timetable for the update of the Local Plan is set out below and will be reflected in the Council's Local Development Scheme.

Preparation of evidence base – throughout 2021 and 2022

Regulation 18 consultation – summer 2022

Regulation 19 consultation – spring 2023

Submission to the Secretary of State – late summer 2023"

⁴ https://www.havering.gov.uk/download/downloads/id/5227/havering_inspectors_report_october_2021.pdf

⁵ https://www.havering.gov.uk/download/downloads/id/5821/local_plan_2016_-_2031_adoption_statement_2021.pdf

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It is noted that whilst a timetable is provided within the policy, there is no mechanism to control adherence to that timetable, and no consequence to the Council for any slippage / non-compliance.

Consequently, Havering published an updated Local Development Scheme 2023-2025, which updated the timetable for the update of the Local Plan as follows:

*“Preparation of evidence base – throughout 2023
Regulation 18 consultation – Autumn 2023
Regulation 19 consultation – spring 2024
Submission to the Secretary of State – summer 2024”.*

At the time of writing this Hearing Statement, and according to the London Borough of Havering’s website⁶, no consultations pursuant to a Local Plan update have commenced.

The most recent Annual Monitoring Report⁷ states: *“Preparation of evidence base is underway and will continue throughout 2023” (pg34)*. The timescale has once again been updated as follows:

*“Reg 18 consultation = early 2024
Reg 19 consultation = winter 2024
Submission to SoS = Spring 2025”*

We are now in summer 2024, and there is still no evidence of the consultation on the Havering Local Plan Review, and it is now a year since the Update should have been completed and submitted to the Secretary of State for Examination.

The consequence of this for the London Borough of Havering is that it currently has a sub-5-year housing land supply, and its Housing Delivery Test result is at 55%. This will be placing pressure on the Council in terms of speculative applications, but also the failure to have an up-to-date Local Plan that meets needs will be having socio-economic consequences on the Borough, its population, businesses, and infrastructure.

⁶ https://www.havering.gov.uk/downloads/20142/local_plan

⁷ https://www.havering.gov.uk/downloads/file/6511/authority_monitoring_report_2022_to_2023

2.10 The London Borough of Havering example provides clear evidence of where a commitment to an early review fails, and particularly where there is no control or consequence to the Council of a failure to carry out the immediate review in a timely manner.

2.11 We also draw attention to the Breckland Local Plan Review⁸, which sought to replace the plan adopted in 2019. The 2019 Plan included Policy INF03 which required the Council to conduct an immediate partial review of the Plan with regard to “*housing, non-travelling gypsy and travellers, accessibility standards (by reviewing the technical design standards) and economic development*”. In this case, a mechanism to control the timely preparation of a new Local Plan was favoured by the Inspector. Policy INF03 in the Adopted Breckland Local Plan stated as follows:

“The Partial Review of the Plan will be submitted for examination 3 years after the date of adoption of this Plan or by November 2022, whichever is soonest. In the event that the review is not submitted for examination by this time, then the Council’s policies that relate to the supply of housing, economic development and gypsy and travellers will be deemed to be out-of-date.”

2.12 Without prejudice to our general view that it is not effective or positive planning to seek to delay meeting identified needs, and such a delay would not be compliant with the Framework, we consider a mechanism such as that used in Breckland could be used to control an immediate review of the Tunbridge Wells Local Plan as follows:

POLICY XX – Commitment to an Immediate Review

The Council will undertake an immediate review of this Plan with regard to identifying housing need for a minimum 15-year plan period and shall plan positively to bring forward a strategy which ensures those identified needs are met in full.

The Council’s immediate review will be submitted for Examination within 30 months of the date of the Adoption of this Plan, or by XXX [*Insert date 30 months from the date of Inspector’s final report*], whichever is the sooner.

In the event that the review is not submitted for examination within the stated timeframe, the Council’s policies that relate to the supply of housing, and those policies most important

⁸ <https://www.breckland.gov.uk/local-plan-review>

to determining applications for planning permission, shall be deemed to be out of date. The Council shall subsequently take a positive approach to determining applications applying the presumption in favour of sustainable development.

- 2.13 The 30-month time period is proposed above in order to tie in with the recent Government consultation⁹ that Local Plans should take no longer than 30 months to produce.
- 2.14 It should however be noted that in the case of Breckland, the Inspector's timescale and process was not followed in any event. Instead, the Partial Review submitted for Examination sought to vary Policy INF03 by deleting the requirement in favour of the production of a full review of the Local Plan due to be submitted by the end of 2024. The current timescale for adoption of a full review of the Local Plan is now 2026, far later than envisaged by the 2019 Local Plan Examination, however, it is fair to say that Breckland's proposal to amend the Policy in this way was itself tested at Examination. That Council also had, as at August 2023, at least a 6.6-year housing land supply¹⁰.
- 2.15 In conclusion, we do not support the suggestion of an early review. We have cited examples of where such a proposal has been ineffective elsewhere and does little to ensure that an area's needs are met and planned for in a timely and sound way. But notwithstanding our concerns, if this is the Inspector's recommended approach, we consider it is essential that the plan includes a tightly controlled policy that (a) compels the Council to undertake the review immediately and (b) has clear consequences for the Council should that timescale not be met. This is necessary to ensure that the Borough's development needs are met.

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?

- 2.16 This is a question for the Council, but we would point out that the Council's statement within the Topic Paper Addendum gives no confidence that a requirement for an early review would

⁹ <https://www.gov.uk/government/consultations/plan-making-reforms-consultation-on-implementation/levelling-up-and-regeneration-bill-consultation-on-implementation-of-plan-making-reforms>

¹⁰ https://www.breckland.gov.uk/media/19425/5-Year-Housing-Land-Supply-Statement-2022/pdf/Statement_of_Five-Year_Housing_Land_Supply_ADA7.pdf?m=638270039591370000

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be capable of being carried out in a timely and efficient manner to deliver the housing and other allocations necessary to meet the socio-economic needs of the Borough.