

EXAMINATION OF THE TUNBRIDGE WELLS BOROUGH LOCAL PLAN

EXAMINATION STATEMENT ON BEHALF OF RYDON HOMES LIMITED

Matter 9 – Housing Land Supply

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1.0 Introduction

- 1.1 This Examination Statement provides a response on behalf of Rydon Homes Limited (“Rydon”), to those Questions raised by the Inspector (dated 22 April 2022), relating to the Housing Land Supply in respect of the Tunbridge Wells Borough Local Plan (“the Plan”) and its supporting evidence base.
- 1.2 This Statement is accompanied by a Technical Paper dealing with the detail of the housing trajectory and 5-year supply evidence presented on behalf of Rydon. The attached Technical Paper is an update to the document previously submitted at the Regulation 19 consultation stage to reflect, as far as is possible, the updates to the Council’s evidence based since that consultation closed.

2.0 Matter 9 – Housing Land Supply

Issue 1 – Total Housing Supply

Q1. How has the housing trajectory in Figure 9 of the Plan been established? What factors were considered in arriving at the figures in the trajectory and are they accurate and robust?

- 2.1 The housing trajectory in Figure 9 is not explained in the Plan. The supporting evidence is contained in the Housing Supply and Trajectory Topic Paper – February 2021¹ (CD3.74). It is evident from the information contained in the Topic Paper that the Council has not applied the test of Deliverability to its supply sources as set out in Annex 2 of the Framework 2021 nor has it presented the compelling evidence required by Paragraph 71 of the Framework 2021 in respect of windfalls. As a consequence the figures in the trajectory are not robust.

¹ See pages 29-33

2.2 Additionally, the Topic Paper applies data to a base date of 01 April 2020. The Council has subsequently published a 5-year housing land supply update to a base date of 01 April 2021, which has itself been tested through two S78 Inquiries. At the time of writing this Statement we are also now into a new monitoring year to the base date of 01 April 2022. The figures contained in the trajectory cannot therefore be considered to accurately reflect the current position.

2.3 In fact at the time the Council submitted the Plan for Examination (01 November 2021) it was already aware that the trajectory in Figure 9 was out-of-date and inaccurate because it has published the 5-year housing land supply update (base date 01 April 2021) in July 2021. That update directly contradicted the evidence underpinning the Figure 9 trajectory.

2.4 Section 2 of the attached Technical Paper explains this in further detail.

Q2. Does the total housing land supply include an allowance for windfalls sites? If so, what is this based on and is it justified?

2.5 Yes. The Council's supply includes an allowance for windfalls equating to a total of 1,670 dwellings². This is a substantial increase from the windfall provision included at the Regulation 18 consultation stage, which equated to only 700 dwellings over the Plan period.

2.6 Whilst the Topic Paper does contain evidence in an attempt to justify the inclusion of such a high level of windfalls it is important to note the following points³:

- The Council's evidence is based on historic trend data in the context of not having an up-to-date Local Plan;
- There is no evidence to justify inclusion of windfalls in the current 5-year period let alone compelling evidence; and,
- The Council concedes that the high level of windfalls will reduce and considering that its position at Regulation 18 stage was even lower there is no justification at all for a provision above 102dpa to be included in the trajectory from years 6 onwards.

2.7 The windfall contribution should therefore be reduced as show in Table 2 in Appendix 1 of the attached Technical Paper.

² See Section 2 (iv) in the attached Technical Paper and Table 1 in Appendix 1.

³ See Section 2 (iv) in the attached Technical Paper for more detail.

Q3. Paragraph 4.54 of the submission version Local Plan states that there is a 'buffer' of approximately 1,000 dwellings (based on the mid-point of dwelling ranges) over and above the minimum housing requirement across the plan period. Is the projected supply of housing justified and has sufficient land been identified to ensure that housing needs will be met?

- 2.8 It is entirely correct that the Council should be including a buffer within the overall housing land supply in order to ensure that the minimum housing requirement can be met and that a rolling 5-year supply of deliverable housing land can be maintained. This is necessary to ensure that the Plan remains robust in circumstances where sites do not deliver as much or at the time envisaged by the Council in the housing trajectory.
- 2.9 The inclusion of a buffer is therefore fully justified and supported by National policy particularly Paragraph 74 of the Framework 2021.
- 2.10 The buffer the Council has included of 1,000 dwellings equates to only 8.6% of the total supply projected over the Plan period. This is insufficient to provide the necessary comfort that the Plan will be able to weather changes in its supply particularly given the heavy reliance on strategic sites within the trajectory, the fact the majority of the Plan Area is either Green Belt or AONB and that to achieve even 1,000 dwellings of buffer the Council needs 100% delivery from all supply sources including Windfalls, which the recent S78 Appeal Decisions have demonstrated is simply unrealistic.
- 2.11 Rydon considers that a minimum buffer of 10% should be applied to the overall supply but there is clear evidence to support a buffer of at least 20% particularly given the unmet need arising from neighbouring authorities and the fragility of the Council's current housing delivery strategy.
- 2.12 When the Council's supply is properly tested it is clear that there is insufficient land identified/allocated to meet even the minimum housing requirement across the Plan period⁴. The Council needs to allocate land for at least a further **400 dwellings** in order to meet the minimum housing requirement by the end of the Plan period. That is without provision of any buffer.
- 2.13 The evidence underpinning this conclusion is contained in Section 2 and Table 2 of the attached Technical Paper, which has explored all of the Council supply sources in the context of the Annex 2 and Paragraph 71 tests updated to reflect the core conclusions from the recent S78 Appeal Decisions concerning the deliverability of specific sites.

⁴ See Table 2 in Appendix 1 of the attached Technical Paper.

2.14 Taking this into account and applying a 20% buffer to the housing requirement over the Plan period the Council needs to allocate a minimum of a further **2,800 dwellings**⁵ in order to provide a robust housing delivery strategy of the Plan period to meet the minimum housing requirement and to ensure the Plan can weather changes to its supply during its life.

Q4. In the event that new housing is delivered as expected, what is the justification for the size of buffer proposed?

2.15 As explained above in relation to Q3 the Framework 2021 requires the inclusion of a buffer within the overall housing supply. The size of buffer proposed by the Council is not however justified and Rydon has set out above and in the attached Technical Paper the reasons for why a larger buffer is required.

Q5. Paragraph 69 of the Framework states that in order to promote the development of a good mix of sites, local planning authorities should (amongst other things) identify land to accommodate at least 10% of their housing requirement on sites no larger than 1 hectare, unless there are strong reasons why this cannot be achieved. What proportion of the housing requirement will be met from sites no larger than 1 hectare in Tunbridge Wells?

2.16 The Council will answer the detail of this question.

2.17 From a headline review of the allocations made by the Council as set out in the Topic Paper and looking only at the total quantum of development the Council is seeking to achieve from each allocation rather than a detailed review of site area and site constraints, it would appear that only 21 sites equating to 467 dwellings would fall to be considered within this category. This equates to a mere 3.8% of the minimum housing requirement over the Plan period of 12,204 dwellings.

2.18 This is of no surprise given that nearly 70% of the Council's supply is derived from two strategic allocations.

2.19 The requirements of Paragraph 69 of the Framework 2021 have not been met and the Council has not explained why.

Issue 2 – Five Year Housing Land Supply

⁵ See Table 4 on Page 11 of the attached Technical Paper.

Q1. Taking into account completions since the base date of the Plan, what will be the anticipated five-year housing land requirement upon adoption of the Plan?

2.20 The answer to this question is based on the assumption that the Plan could be adopted in the currently monitoring year 01 April 2022 – 31 March 2023. However, for the Inspector's information, the trajectory set out at Table 2 in Appendix 1 of the attached Technical Paper shows the rolling 5-year land supply position for every year of the Plan period.

2.21 Based on the current available information and noting that the Council has not sought to update its trajectory evidence to match the base date of its latest 5-year housing land supply calculation i.e. 01 April 2021⁶ the 5-year requirement as at 01 April 2022 will equate to 3,480 dwellings or 696 dpa including a 5% buffer.

Q2. How does the five-year housing land requirement compare to previous rates of delivery in Tunbridge Wells?

2.22 The Council provides completion data from the monitoring year 2006/07 to the present within its Annual Monitoring Report. That data confirms an average across the period 2006/07 – 2020/21 of 369 dpa with a 5-year average 2014/15 – 2020/21 of 542 dpa⁷.

2.23 The current 5-year housing land requirement based on the minimum requirement set out in the plan (678 dpa) equates to 696 dpa as at 01 April 2022.

2.24 Whilst this requirement is higher than both of the averages set out in the Annual Monitoring Report it is achievable providing the Council allocates the right amount of land in the Plan that is deliverable within the context of the Annex 2 definition.

Q3. Based on the housing trajectory, how many dwellings are expected to be delivered in the first five years following adoption of the Plan?

2.25 The Council's trajectory as illustrated in Figure 9 expects a 5-year supply of 4,322 dwellings following adoption of the Plan, assuming adoption takes place in the monitoring year 2022/23.

2.26 As set out above in relation to Issue 1 the trajectory in Figure 9 is already out of date and not reflective of the more recent evidence including the Council's own 5-year housing land supply update. When the more up-to-date evidence is taken into account including testing the supply against the Annex 2 test of deliverability and

⁶ There is therefore a mismatch between the supply information available with the allocations having been considered in the Topic Paper to a base date of 01 April 2020 and the latest 5-year supply and completion data to a base date of 01 April 2021.

⁷ See Table 19 on Page 39 of 2020/21 AMR – PS_018

applying the compelling evidence test to windfalls (Paragraph 71) the 5-year supply falls to 3,403 dwellings⁸. In other words the Council will not be able to demonstrate a 5-year supply of deliverable housing sites at the point of adoption of the Plan.

Q4. What evidence has the Council used to determine which sites will come forward for development and when? Is it robust?

2.27 In the context of the 5-year housing land supply the Council's evidence base appears to be limited to the information set out in its latest Supply Statement PS_020. That document contains a limited level of deliverability evidence for the Category B sites relied upon by the Council in the 5-year housing land supply. The evidence comprises:

- Discussions with site promoters/applicants – None of which is documented;
- Assessments made by Officers of the deliverability of allocations – This assessment has not been tested against empirical data either from sources such as Lichfields (see Appendix 2 of the attached Technical Paper) or from data collected by the authority of completions within the District; and,
- Additional information from developers – None of which is documented.

2.28 In short the Council's evidence is not robust and certainly not sufficient to meet the test of 'clear evidence' set out in Annex 2 of the Framework 2021.

2.29 The evidence relied upon for windfalls comprises past trend data only, which given the characteristics of the authority is not reliable. The Council itself accepts that the level of windfall provision will reduce yet a higher level of delivery is included than the Council itself applied at the Regulation 18 consultation stage. This goes nowhere near to meeting the test for 'compelling evidence' set out in Paragraph 71 of the Framework 2021.

2.30 Even taking all of this into account the Council's latest Land Supply Position Statement (PS_020) concludes that the Council cannot demonstrate a 5-year housing land supply. This position has been further updated by two S78 Appeals and as a consequence the Council's position has become materially worse. It is therefore clear that the evidence the Council seeks to rely upon to demonstrate a 5-year housing land supply is not robust. Furthermore the Council's latest concluded 5-year housing land supply directly contradicts the data in the housing trajectory (Figure 9) of the Plan thereby confirming that is inaccurate as well.

⁸ See Table 2 in Appendix 1 of the Housing Technical Paper accompanying this Statement

Q5. Where sites have been identified in the Plan, but do not yet have planning permission, is there clear evidence that housing completions will begin within five years?

- 2.31 The short answer to this is no. The Council has simply included the allocations within the 5-year housing land supply without presenting any evidence they are deliverable. This matter is explored in detail in Section 2 of the attached Technical Paper.

Q6. How have the projected rates of housing delivery been established for the strategic sites at Tudeley Village and Paddock Wood and East Capel? Are the figures realistic when taking into account the need for supporting infrastructure?

- 2.32 The housing delivery rates identified by the Council are not realistic.
- 2.33 The evidence base that underpins the delivery rates relied upon by the Council is set out in the Strategic Sites Topic Paper (March 2021) and a range of other documents⁹.
- 2.34 Nowhere in the evidence base does the Council provide detail to support its housing delivery trajectory for the two sites. In fact the Topic Paper confirms that the delivery is only anticipated and the figures relied upon 'could' be delivered. The Topic Paper also confirms the Council has no direct experience of dealing with sites of this scale.
- 2.35 The Council has not sought any independent advice in relation to delivery from these sites and the Topic Papers note that any build out evidence from the actual site promoters is 'to be confirmed'¹⁰.
- 2.36 Neame Sutton has undertaken an assessment of the delivery rates proposed by the Council in the context of the site constraints and having regard to empirical evidence produced by Lichfields. Updated trajectories for the two strategic sites are set out in Tables 1 and 2 on Pages 8-9) of the attached Technical Paper.
- 2.37 It is clear that the two strategic sites will not deliver when the Council expects them two and consequently will not contribute as many dwellings to the total housing supply over the Plan period. This will lead to a shortfall in provision that needs to be rectified via the allocation of further sites now.

⁹ Strategic Sites Master planning and Infrastructure Main Report and Appendices, Infrastructure Delivery Plan, Local Plan Viability Assessment and Appendices and the SA.

¹⁰ Table 8 on Page 25 of the Housing Supply and Trajectory Topic Paper – CD3.74

Q7. 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 over the plan period, as required by Paragraph 70 of the Framework?

- 2.38 The trajectory in Figure 9 includes an allowance of 366 no. dwellings (taking the monitoring year 2022/23 as the year of adoption) within the first 5-year housing land supply.
- 2.39 The Council's Housing Land Supply Position Statement (PS_020) includes an allowance of 244 no. dwellings within the 5-year period as at 01 April 2021.
- 2.40 Whilst the Council does set out some evidence in the Housing Supply and Trajectory Topic Paper it does not go anywhere near to meeting the compelling evidence test set out in Paragraph 71 of the Framework 2021. Neame Sutton's analysis of the Council's windfall evidence is set out in Section 2 (iv) of the attached Technical Paper.

Q8. Having regard to the questions above, will there be a five-year supply of deliverable housing sites on adoption of the Plan?

- 2.41 In short no. The rolling 5-year housing land supply position across the plan period is set out in Table 2 of Appendix 1 to the attached Technical Paper that confirms the Council cannot demonstrate a 5-year housing land supply and is only likely to achieve a marginal supply in one year across the whole Plan period.

Q9. What flexibility does the plan provide if some of the larger sites do not come forward in the timescales envisaged?

- 2.42 Currently the Plan provides no meaningful flexibility to cover this eventuality. As discussed in Issue 1 above the buffer included by the Council is inadequate and because nearly 70% of the Council's supply is to be delivered from just two strategic sites the housing delivery strategy is consequently at high risk of failure. The simple fix to this situation is that further non-strategic site allocations are required to ensure early delivery in the Plan period and to provide the necessarily flexibility that is currently lacking.

Q10. Is it necessary to have a review mechanism in the Plan to consider progress against these, and other sites, and to identify any appropriate steps to increase supply if required?

2.43 In short no. The Plan should deal with the issue now and should make sufficient allocations in the correct locations and at the correct scale to ensure it is robust and flexible enough to respond to change. Given the constrained nature of the District and the extent of Green Belt in particular it would not represent positive planning to anticipate the need for a review if the delivery strategy were to fail.

2.44 The Council could include safeguarded land alongside allocating further sites, which would be a more appropriate and dynamic solution than a review mechanism enabling quick release of more land if monitoring indicated a need. The inclusion of safeguarded land should however be in addition to allocating more sites to rectify the current deficiencies in the housing delivery strategy identified by Neame Sutton.
