



Hearing Statement on behalf of Wainhomes (North West) Ltd

In relation to: Matter 2 – Housing Land Supply

Land off Wardle Gardens, Leekbrook

Project : 17-204
Hearing : Matter 2 – Housing Land
Supply
Client : Wainhomes (North West)
Ltd
Date : January 2020

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1. Introduction

- 1.1 Emery Planning is instructed by Wainhomes (North West) Ltd to attend the Staffordshire Moorlands Local Plan Examination. We have previously submitted representations to the submission version in April 2018, and we attended the examination hearings in October 2018. We also submitted representations to the consultation on the Housing Implementation Strategy in February 2019.
- 1.2 This statement summarises our client's position in response Matter 2: Housing Land Supply. It should be read in conjunction with our previous representations and hearing statements.

2. Response to the Matters and Issues

1. Housing Supply Position

1.2 Are any further modifications required to Policy SS4 and MM9 e.g. in relation to the application of the 10% lapse rate?

- 2.1 The Inspector's post hearing advice note (EL6.004) indicated that a precautionary slippage allowance of 10% should be applied to commitments and factored into the trajectory. However, the lapse rate does not appear to have been applied by the Council.

1.3 Is the likely shortfall in supply against the overall requirement justified taking into account paragraph 47 of the Framework?

- 2.2 No.
- 2.3 It would be a misinterpretation of national planning policy to rely upon Paragraph 47 of the 2012 NPPF or paragraph 67(b) of the 2019 NPPF, which require the identification of specific sites for years 11-15 'where possible'. That means that if it is possible to identify specific sites, then they should be identified and allocated. In this case it is eminently possible to identify specific sites, as this is a whole Local Plan dealing with allocations of all scales, and there are no good environmental or policy reasons for not identifying sites in years 11-15. The Council is not relying upon (and nor has it identified) broad locations, and no further Site Allocations DPD is to follow.
- 2.4 Furthermore, in Staffordshire Moorlands, much of the district is designated as Green Belt and this plan is reviewing Green Belt boundaries. The Framework requires that Authorities must have regard to their Green Belt's intended permanence in the long term, so that they should be capable of enduring beyond the plan period. This means identifying a sufficient supply of allocations for the entirety of the plan period, and then safeguarding land for development beyond the plan period.
- 2.5 It should also be noted that:
- This plan is the early review of a previously failed Core Strategy, which has abjectly failed to meet the housing needs of the district;

- One of the key purposes of the early review was to provide a 15 year horizon with site allocations¹; and,
- This plan is now not even going to provide a 15 year horizon. Due to the ongoing delays in the Local Plan process, even if the plan is adopted by the end of 2020 it will only cover a period of 12 years.

2.6 We therefore cannot see how there is any justification in adopting a plan which does not identify enough housing land over the plan period.

2.7 As discussed in our previous representations, additional housing land should be allocated within this plan. This is not an impossible task; there are over ready allocations which should be considered. We refer to our previous representations in relation to our client's site at Leekbrook, which is promoted for residential or employment development.

1.4 How would the Council envisage that the shortfall would be made up over the Plan period?

2.8 There are no plans in place to make up that shortfall. This is a whole Local Plan, with no Site Allocations DPD or subsequent Green Belt review to follow. The plan would need to be immediately reviewed. This would necessitate another review of the Green Belt. In the meantime, the Council would operate under paragraph 11(d) of the Framework. Every aspect of the situation is unacceptable and fundamentally contrary to the Government's objectives of the planning system being genuinely plan-led, and significantly boosting the supply of homes.

2.9 It should also be noted that the only reasonable conclusion to draw from the housing land supply evidence before this examination is that the shortfall is much greater than the shortfall of 271 dwellings identified in the HIS.

¹ See Core Strategy IR, paragraph 38

2. Housing Implementation Strategy (HIS)

2.1 Are the assumptions which underpin the housing trajectory justified?

2.10 No.

2.11 We refer to the Inspector's response to the HIS of 11 April 2019 (EL9.001). The Inspector stated:

"Updating the housing land supply position will also enable:

- The assumptions that the Council made about delivery in 2018-19 to be sense checked to allow adjustments to take place to lead-in times, build-out rates and delivery from specific sites going forward;*
- The Council to take into account comments about the delivery of specific sites made in the response to the focused consultation on the HIS and supporting documents in adjusting the five-year HLS position and the trajectory. Particular regard should be had to the conclusions of Start to Finish: How Quickly do Large-Scale Housing Sites Deliver? (Nathaniel Lichfield & Partners, November 2016) referred to in representations and during the hearings."*

2.12 The HIS does not address these points. It simply rolls forward the trajectory to a new base date without presenting any substantive new evidence.

2.13 The Inspector also made a series of specific points regarding the assumptions in the trajectory and the contribution of specific sites, particularly in relation to lead-in times. One of points was to adjust start dates to reflect progress such as pre-application discussions and other information, or indeed lack of activity. Again, the HIS does not address these points.

a. Past performance in terms of completions

2.14 There have been numerous trajectories before this examination. The lack of realism in the trajectory is underlined by actual performance:

- The trajectory at Appendix 7 of the Submission Version anticipated that 313 dwellings would be completed in 2017/18, and 419 dwellings in 2018/19. However only 142 dwellings were completed in 2017/18 and 165 in 2018/19. Therefore, actual completions in the first 2 years have been 58% less than the trajectory in the submitted plan.

- The updated trajectory submitted by the Council during the examination (EL7.003, dated January 2019) anticipated that 291 dwellings would be completed in 2018/19. Actual performance in that year was 43% less than the trajectory.

2.15 The Council's assumptions have consistently proved to be wrong. If the Council cannot even predict housing delivery in the forthcoming year, then we cannot see how the Inspector can have any confidence in its ability to predict housing delivery over the course of the plan period. This is not surprising given the absence of evidence underpinning the trajectory.

b, c & d. Anticipated lead-in times, start dates and build-out rates

2.16 There was significant discussion at the previous hearings in relation to build rates and lead-in times, and it was apparent that the Council had not undertaken any assessment of the local delivery record to underpin its assumptions. The Inspector requested further information from the Council. The Council's response is set out in its letter to the Inspector dated 9 November 2018 (EL5.005), and these 6 sites are mentioned in Appendix 2 of the HIS. We responded to this in our representations to the HIS in February 2019. In summary:

- The Council has only provided information on 6 sites. This is not a representative assessment of the local delivery record.
- No context is provided as to how these 6 sites have been selected.
- The information provided by the Council does not even provide an accurate or full picture for each site.
- The 6 sites are not reflective of the scale of the allocations proposed in the Council's plan.

2.17 There are numerous sites in Staffordshire Moorlands which have significantly longer lead-in times than those set out in the table. We provided several examples of sites listed in the HIS at paragraph 7.6 of our representations to the HIS in February 2019. The Council has never responded to those examples. Instead it continues to rely on only the 6 cherry-picked examples listed in the HIS.

2.18 In terms of the Council's record in bringing forward allocations, the Wharf Road Strategic Development Area is already identified as a broad location for 280 dwellings in the existing Core

Strategy (adopted in March 2014). However, no tangible progress has been made to bring the site forward in the 6 years since adoption of that plan.

- 2.19 To conclude on lead-in times, the Council's own evidence indicates that larger sites / sites with outline planning permission take significantly longer to come forward than the Council currently anticipates in the housing trajectory.
- 2.20 On build-rates, as the Council has not provided any detailed breakdowns of past completions it is impossible to corroborate the purely anecdotal evidence provided in the Council's viability assessment on build rates. On several sites, the build rates anticipate 2 developers, when in practice there is no evidence that 2 developers will be involved.

f. Site specific evidence (or lack of it) about particular sites

- 2.21 Whilst this plan is being assessed under the interim arrangements set out in paragraph 214 of the 2019 Framework, the onus has always been on the Council to demonstrate that sites without planning permission (i.e. the draft allocations) are deliverable if they are to be included within the five-year housing land supply, and furthermore that realistic lead-in times and build-rates are applied. Paragraph 3-031 of the previous NPPG stated:

“Deliverable sites for housing could include those that are allocated for housing in the development plan and sites with planning permission (outline or full that have not been implemented) unless there is clear evidence that schemes will not be implemented within 5 years.

However, planning permission or allocation in a development plan is not a prerequisite for a site being deliverable in terms of the 5-year supply. Local planning authorities will need to provide robust, up to date evidence to support the deliverability of sites, ensuring that their judgements on deliverability are clearly and transparently set out. If there are no significant constraints (eg infrastructure) to overcome such as infrastructure sites not allocated within a development plan or without planning permission can be considered capable of being delivered within a 5-year timeframe.

The size of sites will also be an important factor in identifying whether a housing site is deliverable within the first 5 years. Plan makers will need to consider the time it will take to commence development on site and build out rates to ensure a robust 5-year housing supply.”

- 2.22 The Council has failed to produce any robust, up-to-date evidence to support the draft allocations and sites with outline planning permission. Numerous sites have not progressed as the Council said that they would. In response the Council has amended start dates for sites within

the latest housing trajectory without any documentary evidence being provided to support the latest assumptions. Where there has been landowner contact, this appears to date back to 2017. The evidence is not transparent, robust and up-to-date. Furthermore, the Council's own viability evidence identifies that development on these sites is not currently viable. There is insufficient evidence to conclude that the sites can be viably delivered during the plan period, let alone included in the five-year supply.

2.23 We provided a table which summarises the changing positions on the sites within the supply, and a comparison with the evidence provided to support the trajectory (i.e. Appendix 1 of the HIS) at Appendix **EP1** of our representations to the Main Modifications. The progress suggested by the Council on many sites has clearly failed to materialise, and yet no new evidence is provided to support the latest assumptions.

2.24 In relation to the land at Wharf Road, Biddulph, the Council published a committee report which fundamentally contradicts the Council's own position at the Local Plan. A copy of the committee report is appended at **EP2** of our representations to the main modifications. The key points from this report were:

- Several landowners have failed to participate in the masterplanning process;
- There is unregistered land which needs to be investigated and potentially acquired;
- There is a need for joint working and the need for a joint venture agreement or similar- this may take years to negotiate even if all landowners were participating in the masterplanning process; and,

2.25 The report therefore recognises that there are numerous stages involved before an outline application can even be submitted. These stages are extremely complex and provide very significant levels of uncertainty.

2.26 The recommendation of the Council's officers was as follows:

“Officers recommend that no further work is commissioned to consultants at the present moment in time. This maybe [sic] reviewed at a later date once the Local Plan is adopted and market demand for the site has been established. In the mean time [sic] officers will proactively work with landowners to understand and explain the findings of the masterplan and the implications this will have on development potential and expected land values.”

- 2.27 The only reasonable conclusion from the committee report is that the site will not start delivering for at least several years and must be pushed back significantly in the trajectory to reflect the above issues. However, the HIS continues to include the site in the five-year supply. The Council's approach to delivery is simply not credible. It should be noted that there are other sites included in the supply in multiple ownership where similar issues may well arise (see our Matter 4 hearing statement of).
- 2.28 We have also commented specifically on the Blythe Vale site in our representations to the main modifications. The position set out in the 2019 HIS is clearly flawed. The response of officers is that the landowner's latest comments should be taken at face value and the supply from this site should actually be increased, rather than decreased to reflect a more realistic start date. The Council has failed to apply its own judgement having regard to the local delivery record, or the fact that this landowner has been consistently been over-optimistic (and incorrect) in its delivery assumptions².
- 2.29 We therefore maintain the position set out in our Matter 4 hearing statement (October 2018) in relation to which sites clearly do not meet the definition of deliverable and should not be included within the first 5 years of the trajectory. As the base date is now 1 April 2019, the earliest that these sites could be considered to start delivering under the definition in the Framework is 2024/25. However, the reality is that several the allocations do not even meet the test of developable, let alone deliverable, as there are significant land ownership constraints and the Council's own evidence demonstrates that the sites are not viable. There is also a need for flexibility within the supply to deal with the very real prospect that the site may not deliver any units at all during the plan period. The plan as draft is clearly unsound, as it is not justified by the evidence base and it is inconsistent with national policy.

² In their Matter 4 statement, Turley (on behalf of St Modwen) claimed that 25 dwellings would be completed in 2018/19. Incorrect delivery assumptions were also set out in their representations to the submission version.

2.2 Does the HIS demonstrate that a five-year supply of housing land is likely to be maintained through the Plan period?

2.30 Significant amendments to the trajectory are needed. This would result the supply being significantly less than 5 years on adoption, and most likely throughout the entirety of the plan period. Additional site allocations are needed.

In our view the trajectory should be providing a substantial flexibility allowance to cater for potential non-delivery of sites, but instead it shows a shortfall against the overall requirement. The absence of flexibility is clearly contrary to the Framework's requirement for plans to be sufficiently flexible to adapt to rapid change.

3. Five-year housing land supply

3.1 Will there be a five-year supply of deliverable housing sites on adoption of the LP?

2.31 No. The LPA has not provided anywhere near enough evidence to justify the inclusion of draft allocations and sites with outline planning permission in the five-year supply, or its proposed lead-in times or build-rates. We refer to our previous Matter 4 hearing statement of October 2018 and our representations to the HIS and the main modifications.

3.2 What are the implications, if any, of the revised definition of 'deliverable' within the 2019 Framework for the five-year supply?

2.32 Whilst the examination is taking place under the transitional arrangements, the revised Framework and NPPG are material considerations. Planning applications will ultimately be determined in the context of the revised Framework.

2.33 The Council's housing trajectory does not meet the tests set out under the 2012 Framework and the previous NPPG. Notwithstanding, the revised Framework requires 'clear evidence' to be demonstrated in relation to all sites that do not have full planning permission if they are to be considered deliverable. What constitutes a deliverable site is set out at paragraph 68-007 of the NPPG. The very limited evidence that supports this plan does not come close to fulfilling any of the examples given in the NPPG. To the contrary, there is clear evidence in the form of the land ownership issues and the Council's own viability assessments that numerous draft allocations should not be included within the five-year supply, or even the plan period supply.

2.34 There is absolutely no prospect of the Council being able to demonstrate a five-year housing land supply under the terms of the new Framework.

3. Conclusions

- 3.1 There remain significant unresolved issues in relation to housing land supply. Additional site allocations are needed in this plan. As set out above, this is not an impossible task; there are open ready allocations which should be considered.
- 3.2 The land off Wardle Gardens, Leekbrook is currently located within the settlement boundary of Leekbrook, has previously benefitted from planning permission for employment use, and a previous planning application for residential development was refused only on employment land policy and technical grounds, which are not insurmountable. However, through this plan the Council proposes to re-designate the site as open countryside. This is not justified, particularly considering that there is an identified housing land supply shortfall. In our view the site should be allocated for residential development. Alternatively, the site could be allocated for employment purposes. This would be consistent with the historic commitment and appropriate in light of the deletion of site DSR3.
- 3.3 We also maintain our concerns in respect of the conflicting and contradictory policies with specific regard to the settlement of Leekbrook and the approach to development in the smaller villages. The Inspector stated that in his post hearings advice that *“the effects of the new approach are uncertain”*. That being the case we cannot see how there is any justification for the approach to be taken forward alongside a significant housing land supply shortfall.