

Welwyn Hatfield Borough Council Local Plan Examination in Public 2017: Stage 2

Matters 6, 7, 8 and 9: Spatial Strategy, Targets for Growth and Housing Land Supply

Representations prepared by Lichfields on behalf of Mariposa Limited and the Homes and Communities Agency

1.0 Introduction

- 1.1 This Statement responds to matters raised by the Inspector ahead of public hearings on the Overarching Strategy of the Plan. Our clients, Mariposa Limited and the Homes and Communities Agency, are the promoters of Land to the North East of Welwyn Garden City (WGC4).
- 1.2 This Statement deals specifically with the Inspector's questions on spatial vision and settlement strategy, housing targets and housing land availability. We deal with the Inspector's questions in turn below.
-

2.0 Matter 6: Spatial Vision and Settlement Strategy

Do they reinforce the Garden City and New Town heritage of the Borough, whilst maintaining the area's distinctive character?

Is the strategy being advanced consistent with the Borough's GB location?

Is the strategy now being advanced really one that seeks to maintain the existing pattern of settlements?

- 2.1 In principle, it is considered that the Vision and Strategy reinforce the Garden City heritage. By way of an example, Settlement Policy 18 for WGC4 reinforces the Garden City principles of the Borough, whilst maintaining the area's distinctive character. The site is a logical extension to the Welwyn Garden City and, being on the edge of the town, is an opportunity to deliver an exemplar landscape-led development that meets a 21st Century interpretation of Garden City principles, creating a new neighbourhood, integrated into the wider landscape setting. The owners have presented a draft masterplan to an independent Design Review Panel, in accordance with the requirements of Settlement Policy 18 and following two years of discussions with both WHBC and Hertfordshire County Council. It is considered that the site provides an opportunity to deliver an exemplar new neighbourhood that meets a 21st Century interpretation of Garden city principles.
- 2.2 The strategy is broadly consistent with the Boroughs GB location. To meet the housing requirement, it is necessary to release Green Belt land, but before doing that it is necessary to consider alternatives. The allocated site to the north east of Welwyn Garden City was removed from the Green Belt in the adopted Plan to meet the longer term needs of the Borough. However, land to the north of that is located within the Green Belt but the Council's objective assessment of the Green Belt and Sustainability Appraisal confirm that is sustainably located and considered to contribute the least to the Green Belt purposes. It is therefore considered to be highly suitable location for increased housing growth, which would help to remove pressure on other smaller settlements and more sensitive Green Belt land. It is therefore strongly suggested that the Green Belt boundary is extended to include the additional land to the north (in accordance with the figure at Appendix 1), taking the total housing number for the site to 750 dwellings (25dph). This is addressed in more detail in the Green Belt Matter.
- 2.3 Welwyn Garden City is defined as a Main Town within the settlement hierarchy (Proposed Submission) and it is, therefore, appropriate to allocate a significant amount of growth at the

town to maintain the existing pattern of settlements. In this regard, for example, Settlement Policy 18 (WGC4) is considered to a sustainable extension to the existing settlement of Welwyn Garden City. This approach is also considered to be consistent with the Borough's Green Belt location, as it accords with the findings of the Green Belt Assessment.

- 2.4 By way of an example, the proposed development at Land to north of NEWGC (WGC4) is one that seeks to maintain the existing pattern of settlements by providing a sustainable urban extension. The Sustainability Appraisal (examination document SA/5) assesses WGC4 at Annex 1 as being a sustainable site with 9 out of 23 scoring 'significant positive effect likely', two as 'minor positive effect likely', and three as 'significant negative effect likely/likely effect uncertain' therefore requiring mitigation. Of the 23 criteria, five were N/A or no impact. The three within uncertain effects, include open space (4.4), conserving and enhancing the Borough's character and historic environment (4.5) and protect and enhance biodiversity and geodiversity (4.6) to which the Sustainability Appraisal correctly confirms can be addressed through future development confirming to Local Plan policies. The Sustainability Appraisal therefore concludes at 4.110 that

"The likely sustainability effects of the Welwyn Garden City sites are generally consistent and positive across all sites with regards to the economic and social objectives. The effects for the environmental objectives are less consistent and generally less positive with sites located on the edges of the town more likely to give rise to significant negative effects on biodiversity and landscape objectives, and sites closer to the town centre more likely to score positively for the re-use of previously developed land. Minor and significant negative effects identified in the appraisal will require mitigation and at this stage it is assumed that this will be realised through adherence to relevant strategic, site specific or development management policies."

- 2.5 Increasing housing numbers on the site would meet the spatial vision and settlement strategy and would also, as detailed under the Green Belt Matter, provide a stronger and more defined Green Belt boundary, in accordance with the requirements of the NPPF.

3.0 Matter 7: Targets for Growth

Are they appropriate for Housing?

- 3.1 No, the housing requirement is substantially below the latest OAHN figure of 800dpa in the June 2017 SHMA. The requirement figure should be thoroughly reviewed in light of this new evidence on housing need, published after the Plan was submitted for examination.
- 3.2 It is evident that the need for housing in the Borough is high and that every effort should be made through the Plan to allocate enough land to meet this need at sustainable locations.
- 3.3 Paragraph 84 of the NPPF clearly states that when drawing up or reviewing Green Belt boundaries local planning authorities should take account of the need to promote sustainable patterns of development. They should consider the consequences for sustainable development of channelling development towards urban areas inside the Green Belt boundary, towards towns and villages inset within the Green Belt or towards locations beyond the outer Green Belt boundary.
- 3.4 In addition, the Housing White Paper clearly states in paragraph 1.39 that the Government proposes to amend and add to national policy to make clear that authorities should amend Green Belt boundaries only when they can demonstrate that they have examined fully all other reasonable options for meeting their identified development requirements, including:
- making effective use of suitable brownfield sites and the opportunities offered by estate regeneration;
 - the potential offered by land which is currently underused, including surplus public sector land where appropriate;

- optimising the proposed density of development; and
- exploring whether other authorities can help to meet some of the identified development requirement.

3.5 It is considered that there are options to increase the amount of suitable land to meet the requirement, for example as an extension to the non-Green Belt housing allocation at Land to the North East of Welwyn Garden City

Are the Constrains imposed by infrastructure requirements fully justified?

3.6 WHBC is citing infrastructure delivery and past completions rates as a reason to reduce its housing requirement for the period to 2013-22. We do not consider this is justified.

3.7 By way of an example, Land to the North East of Welwyn Garden City (WGC4) is not scheduled to come forward until 2022 in WHBC's trajectory. However, a planning application is being prepared for the site (as land that is not constrained by the Green Belt Land - as a Reserve Site) and no overriding constraints to development have been identified. It can, therefore, be brought forward, ahead of Green Belt land, in the first five years of the plan period.

3.8 WGC4 could also deliver in excess of the allocated 650 dwellings if an area of land to the north was made available and not sterilised by requirements to explore the opportunity for an airfield, which is not essential infrastructure. The 2016 Sustainability Appraisal assessed an increased allocation of 725 dwellings at WGC4 and found that

“WGC4 (Scenario 3) would deliver 725 homes (as opposed to 650 homes in the proposed allocation for this location), which is over 5% of the Borough’s target for new housing, and would result in a significant positive effect in terms of its contribution to meeting the housing target.” (para. 6.246).

3.9 Taking the SA objectives as a whole, this larger allocation *“did not perform more positively than the allocated sites.”* (para. 6.254). However, it also scored no worse than existing allocations and so the basis for discounting this option which would deliver a *“significant positive effect”* in meeting the housing target is unclear.

3.10 This serves to demonstrate the reduced requirement is a choice made by WHBC and alternative decisions could yield a greater number of homes in the first five years of the plan and over the plan period as a whole.

3.11 There is no evidence to substantiate that infrastructure constraints justify the reduced housing requirement.

4.0 Matter 8: Five Year Land Supply

Are the Council’s Assumptions Sound?

4.1 No, the assumptions underpinning the Council’s five year land supply are unsound. Firstly, the ‘housing requirement’ is substantially below the latest OAN figure and, as set out below, the split trajectory is unjustified and unsound.

4.2 However, even if these fundamental issues are put to one side and the Council’s proposed Housing Requirement (498) is used, WHDC would not have five years’ land supply upon adoption of the Local Plan.

Figure 1 WHDC Housing land Supply upon Adoption

Housing land supply calculation – Figures frozen as of 31/09/2016

A	Annual housing target to 2021/22 – see paragraph 5.20 above	498
B	Actual completions within plan period to date (2013/14 to 2015/16)	1,057
C	Projected completions for current year (2016/17) in Appendix 3	556
D	Target completions to current year ($A \times 4$ years from 2013/14 to 2016/17)	1,992
E	Resultant shortfall in completions against target ($D - B - C$)	379
F	Housing target over next five year period (498 per annum to 2021/22)	2,490
G	Annual build rate required ¹ ($E + F$, divided by 5)	574
H	Annual build rate required with NPPF 5% buffer adjustment ² ($G \times 1.05$)	603
I	Resultant five year supply housing land requirement ($H \times 5$)	3,015
J	Projected supply of sites in five year period (2017/18 to 2021/22) in Appendix 3	2,855
K	Allowance for planning applications awaiting determination ³	60
L	Windfall assumption for 2020/21 and 2021/22 (70 per annum ⁴ , $\times 2$)	140
M	Non-implementation rate ⁵ for permitted dwellings awaiting construction (829×0.025)	21
N	Actual projected five year supply ($J + K + L - M$)	3,034
	Number of years supply (N divided by H)	5.03 years

¹ Calculated using the more stringent 'Sedgefield' method, where past undersupply is met within the five year period rather than being spread across the whole plan period.

² The NPPF requires either a 5% or 20% buffer to be added depending on whether an area has seen 'persistent under-delivery' of housing. Because the 2005 District Plan housing target was comfortably exceeded and the 2012 Emerging Core Strategy target would also now be being exceeded, it is not considered that there has been 'persistent' under-delivery and a 5% buffer is therefore appropriate.

³ Based on applications for sites expected to deliver dwellings within the five year period at the point the trajectory was frozen – most of these had subsequently been approved at the time of publishing the AMR.

⁴ The rate calculated in the 2016 Housing and Employment Land Availability Assessment – no windfall is expected in years 1-3 as the sites to be delivered in those years are likely to already be known about.

⁵ The historic proportion of dwellings granted permission but never built is 2.5%.

Source: Source: WHDC Annual Monitoring Report 2015/16 (January 2017)

Completions

- 4.3 WHDC's latest position is summarised in its January 2017 Annual Monitoring Report (Figure 1). Firstly, it is noted that a projected figure is used for 2016/17. As completions data for this period should now be available these should be made available so an assessment can be made on the basis of evidence rather than projections.

The Buffer

- 4.4 The use of a 5% buffer is not appropriate and a 20% buffer should be used for the reasons explained below.
- 4.5 The use of the 2012 Emerging Core Strategy requirement figure (which was never adopted or examined) (Figure 1, footnote 2) in justifying a 5% buffer is incorrect. Delivery should be assessed against the OAN figure for this period instead. The table within Appendix 1 shows that the Borough has under-delivered against the relevant target for the previous seven years in a row. Furthermore, the cumulative deficit for 2010–16 is greater than the cumulative surplus for 2001-10.
- 4.6 The *Cotswold DC Vs SoSCLG* (2013 EHCW 3719) case makes clear that considering whether 'persistent under-delivery' had occurred was a matter of judgement with the decision-maker looking at evidence over "a reasonable period of time measured over years rather than looking at one particular point, to ensure that the situation was one of persistent under delivery rather than a temporary or short lived fluctuation". In the Cotswold case under-delivery in 7 of the previous 10 years was deemed to constitute persistent under-delivery.
- 4.7 Even if WHDC's proposed requirement figure was used for the period 2013-16, and as it has not been through examination we do not consider it to be robust, WHDC would still have failed to meet its relevant housing target in each of the last 7 years.

4.8 WHBC has failed to meet its relevant target for housing completions in each of the last 7 years. Furthermore, in seeking to adopt a stepped trajectory, it would suggest that this situation is likely to persist over the next few years.

4.9 Overall, seven years in a row of substantial under-delivery is not a temporary or short-lived fluctuation and accordingly a 20% buffer should be applied.

Lapse Rate

4.10 Analysis by Lichfields within Appendix 1 shows that WHBC has a record of overestimating future delivery. Accordingly, we would request that the evidence referred to on non-implementation in footnote 5 of Figure 1 is made publically available. It also serves to demonstrate the importance of ensuring that five years' supply is exceeded upon adoption of the Plan so that it is less vulnerable to non-implementation or slower build rates.

Conclusions

4.11 If a 20% buffer is used then even when WHBC's 498 requirement figure is used there would not be five years' supply upon adoption (Table 1). A c. 423 dwelling shortfall would exist.

4.12 However, as set out under *Is the proposed split housing trajectory sound?* we consider the requirement figure is unsound as such the housing land supply figure is lower than that calculated in Table 1.

Table 1 Housing land supply calculation using WHBC housing requirement figure

Shortfall	
Requirement 2013 - 2017	1992
Completions 2013-17*	1613
Shortfall	379
Requirement	
Annual Requirement X 5	2490
Shortfall	379
<i>Subtotal</i>	2869
20% Buffer	574
Five Year Requirement	3443
Supply	
Commitments	941
Awaiting determination	79
Small HELAA	18
Allocations	1863
Windfall	140
Less non-implementation rate	-21
Total Supply (2017-22)	3020
5 Year Land Supply	4.39
Shortfall	423
* Includes projection of 556 for 2016/17, Draft Local Plan Figure 17	

Source: 2015/16 AMR (January 2017)

Is the proposed windfall allowance appropriate?

4.1 No, it is not supported by the evidence. The assumed delivery rate for the period 2020 – 2032 from windfall sites is 1,315 dwellings or an average of 110dpa. The average delivery from windfall sites over the period 2001 – 2016 was 106dpa (Table 12, June 2016 HELAA). From our experience and as accepted by most Inspectors the windfall rate is most likely to decrease going forward rather than increase as this source of sites diminishes. Office – residential conversions are also unlikely to continue to deliver after the initial surge of approvals following its introduction, reflected in the recent windfall totals.

- 4.2 Windfalls are completions on unallocated sites and so the level of detail within the Plan is also pertinent. The Plan preparation included an extensive assessment of available brownfield land. Unlike other plans which primarily allocate larger strategic sites, the Draft Plan includes 14 allocated sites with a net yield of 20 dwellings or fewer and additional allocations for sites below the HELAA threshold. Development of these sites would likely have qualified as windfalls previously and upon adoption of the plan will not.
- 4.3 It is agreed that windfall completions will not come forward until three years after the Plan is adopted. However, the anticipated delivery after this point is higher than the long term average for windfall completions and is wholly unrealistic, as this source of sites naturally diminishes, the Plan includes a substantial number of small urban allocations and as WHDC is washed over by Green Belt.

Is the proposed split housing trajectory sound?

- 4.4 No, it is not considered that this approach is sound. To be considered sound, the NPPF states that a Plan must be “consistent with national policy” (para. 182) and “be consistent with the principles and policies set out in this Framework, including the presumption in favour of sustainable development” (para. 151). In the context of housing delivery, this means to “boost significantly the supply of housing” and meet objectively assessed need (paragraph. 47).
- 4.5 LPA’s can only require a level of housing which is lower than the objectively assessed need where Footnote 9 constraints, such as Green Belt policies, exist (*Hunston Properties v Secretary of State* [2013] EWCA Civ 1610). The split trajectory is inconsistent with this as it has been applied after already reducing the proposed housing requirement significantly from the latest OAN figure of 800dpa (Turley SHMA, June 2017) due to Green Belt constraint.
- 4.6 Paragraph 47 of the NPPF is clear that in boosting significantly the supply of housing LPAs must meet their objectively assessed need in full and identify five years' supply of housing to meet that requirement. It is clear that the plan-making process and identification of deliverable and developable sites must be led by the requirement to meet objectively assessed need. It is not an appropriate or acceptable approach to allocate sites and then to adjust the housing requirement to match anticipated delivery.
- 4.7 Further, the PPG is clear that LPAs should plan to meet any existing shortfall in the first five years of the plan period rather than through the plan period as a whole (ID 3-035). The Local Plan approach is the reverse of this, setting a target of just 498dpa between 1 April 2013 and 31 March 2022, and 752dpa from 1 April 2022. There is no sound rationale to take this opposite approach.
- 4.8 It is noted that a split housing trajectory (or stepped approach) has been adopted in a handful of instances but there are a number of instances where such an approach has been rejected. By way of an example, on the Pendle Local Plan the Inspector concluded that “*In view of the above evidence and the need to boost the supply of housing at both local and national levels a stepped approach to housing delivery is not justified.*” (Inspectors Report, 26 October 2015, para. 62).
- 4.9 Significantly, in the overwhelming majority of adopted local plans, a stepped approach is not used. Such an approach requires rigorous justification. For instance in the case of the Herefordshire Core Strategy, which sought to meet its housing need in full, a stepped trajectory was considered acceptable due to the combination of large strategic sites and a “*market which [has] been depressed with a shortfall of over 900 dwellings as of April 2014 identified*” (para. 47 Inspector’s Report, September 2015).
- 4.10 The Inspector of the East Staffordshire Local Plan (which adopted a stepped trajectory) was clear that a stepped trajectory should not be used simply to produce the necessary numbers to demonstrate a five year supply of housing “*Clearly, such a measure [a stepped trajectory] can never properly be used simply as a device to create an impression of soundness in order to circumvent planning law and guidance.*” (Para. 106, Inspectors Report, October 2015)

4.11 It is considered that the Council has not fully justified the case and there argument is not sufficiently robust. For instance, in the response to the Inspector’s questions on Matter 2 (EX11) the response does not respond to NPPF guidance.

“Whilst it does represent a boost to the supply of housing, and is considered to be realistic taking the above into account, it is recognised that the lower initial target of 498 dwellings per annum does not in itself represent a major step-change from the average 412 dwellings per annum completed between 2001 and 2015 (Footnote 18 on p38 of the Plan).” (para. 23 (d))

The objective of the NPPF is to use the evidence base to ensure that the Local Plan meets the full, objectively assessed needs for market and affordable housing in the housing market area and to boost significantly the supply of housing not to propose the same rate as in previous years. The NPPF represents a radical policy change in respect of housing provision in particular the requirement of paragraph 47 to “boost” housing supply “significantly” (*Solihull Metropolitan Borough Council v Gallagher Estates Limited, Lioncourt Homes* [2014] EWCA Civ 1610). In this context it is wholly inappropriate to reduce the housing requirement figure to better align it with past delivery rates under a pre-NPPF plan.

4.12 Further, WHBC state that the split trajectory reflects the Council’s “need to have a five year supply of housing land at the point the plan is adopted” (23(a)). This approach is not acceptable or appropriate as Council’s are meant to work hard to identify suitable sites to meet the identified need and not to amend the requirement to accord with the delivery of sites. By way of an example the council could have gone further to allocate more land at Land to the North east of Welwyn Garden City and to work with the landowners to bring this forward in the first five years of the plan. Instead they have set up unjustified hurdles to development and limited the extent of suitable land for development.

4.13 It is, therefore, considered that the split housing requirement is unsound. It is contrary to national policy and the departure from this policy has not been justified. The justifications which have been offered are supply focused and inconsistent with the NPPF and relevant case law.

Could the proposed housing development strategy result in five years’ supply of housing?

4.14 No, the development strategy would not result in a five year land supply, for the following reasons:

- 1 The housing requirement should be reviewed thoroughly in light of the higher OAN set out in the June 2017 SHMA;
- 2 WHBC has calculated its five year supply of housing using the incorrect buffer, it should be 20% to reflect persistent under-delivery;
- 3 The split trajectory is contrary to national policy, its use is not justified and the reasons given for its use are incompatible with the NPPF;
- 4 The windfall assumptions are over estimated.

4.15 Beyond the five year horizon we have concerns that the plan has insufficient flexibility to meet its suppressed requirement figure of 12,000 dwellings over the plan period. Figure 17 of the Draft Local Plan identifies 12,004 dwellings, a surplus of just 4. The NPPF requires Local Plans to have “flexibility to adapt to rapid change” (para. 14), this approach is insufficiently flexible and would result in the housing requirement being missed if delivery of sites expected to come forward later in the plan period was slightly delayed.

5.0 Matter 9: Is the overall development strategy being advanced by the Council sound?

5.1 The development strategy being advanced by the Council is unsound as it is not positively prepared. Existing allocations should be reviewed to ascertain whether they could contribute more to meeting the housing requirement.

5.2 By way of an example, it is considered that land to the North East of Welwyn Garden City (WGC4) could make a greater contribution to meeting the housing requirement.

Appendix 1: Housing Delivery 2001 - 2016

	01/02*	02/03*	03/04*	04/05*	05/06*	06/07*	07/08*	08/09*	09/10*	10/11*	11/12*	12/13*	13/14**	14/15**	15/16**
Net Completions	82	478	812	642	709	684	747	327	59	204	293	148	295	354	408
<i>Relevant Targets</i>															
Welwyn Hatfield District Plan 2005	280	280	280	280	280	280	280	280	280						
SHMA, 2014										625	625	625			
SHMA, 2017													800	800	800
Annual Surplus / Deficit	-198	198	532	362	429	404	467	47	-221	-421	-332	-477	-505	-446	-392
Cumulative	-198	0	532	894	1323	1727	2194	2241	2020	-421	-753	-1230	-369	-679	-935

Source: *AMR 2012-13 (December 2013) / ** AMR 2015-16 (January)

Appendix 2: Projected Completions and Actual Completions (2007 – 2016)

Forecast Completions (AMR)	07/8	08/9	09/10	10/11	11/12	12/13	13/14	14/5	15/16	Projection for period	Actual completions*	Difference
2006/7	732	560	372	538						2202	1337	-865
2007/8		332	582	477	454	300				2145	1030	-1115
2008/9			80	212	320	617	741	332	273	2575	1760	-815
2009/10				205	246	254	392	434	343	1874	1701	-173
2010/11					273	205	382	484	256	1600	1497	-103
2011/12						159	223	468	654	1504	1204	-300
2011/12/13							213	194	312	719	1057	338
2013/14								375	358	733	762	29
2014/15									546*	546	408	-138
Actual Completions	747	327	59	204	293	147	295	354	408			

* Over the forecast period

Source: Annual Monitoring Reports listed above and *2015/16 AMR (January 2017)

