

## **Examination of the North Hertfordshire District Council Local Plan 2011-2031**

### **Hearing Statement by Save our Green Belt in Rural North Hertfordshire (SOGB) for Matter 22 – the supply of land for housing.**

#### **Introduction**

1. Save Our Green Belt in rural North Hertfordshire (“SOGB”) is an unincorporated association comprising the following groups or parishes, which are all affected by the proposed release of Green Belt for housing, including: Save Rural Codicote, Ickleford Parish Council, Graveley Parish Council, Wymondley Parish Neighbourhood Plan Forum, Knebworth Parish Council, Offley Parish Council, including the village of Cockernhoe.
2. SOGB is supported by a number of members of the public across North Hertfordshire.
3. Each objector has raised concerns about Green Belt release in their individual objections. Given the overlap of issues affecting their localities, they have come together to make their case that the release of the Green Belt for housing is not justified, and therefore the proposed plan is not justified or consistent with national planning policy set out in the National Planning Policy Framework (2012) (“the NPPF”) and is therefore unsound.
4. These submissions should be read together with SOGB’s Hearing Statement in respect of Matter 23.

#### **Analysis**

5. The Starting point is that exceptional circumstances must be demonstrated not just for Green Belt release in principle but also the exact quantum of Green Belt release.
6. Until recently, North Hertfordshire District Council (“NHDC”) has justified the extent of land to be released from the Green Belt primarily on the grounds that there is an acute housing need, which cannot be delivered without the release of land from the Green Belt: see, in particular, HOU1 at 4.58.
7. SOGB’s case in relation to this has been set out at the previous hearings, and in our hearing statement in respect of Matter 23.

8. However, even if the Inspector is satisfied that exceptional circumstances existed to justify the extent of Green Belt release proposed in the submitted plan, NHDC's updated position - as set out in Papers ED191A and ED191B - represents a fundamental change in circumstances:

(1) As submitted, Policy SP8 of the Local Plan set out a housing requirement for the period 2011 to 2031 of 15,950 homes (14,000 to meet the needs of North Hertfordshire and 1,950 homes to meet unmet needs arising from Luton).

(2) That housing requirement is now to be reduced to 13,000 homes, in light of revisions to the objectively assessed need for housing following the publication of the 2018-based household projections in June 2020.

(3) However, notwithstanding this significant reduction to the housing requirement, NHDC does not propose to remove any of the housing sites included within the plan.

(4) As Paper ED191B explains, this means that 13,250 homes would be delivered in North Herts, despite the fact that the need for housing arising from the district is only for 11,600 homes: an overprovision (or "buffer") of 14%.

(5) Overall (taking into account housing to meet the unmet need arising from Luton), 14,650 homes would be delivered through the Local Plan despite the fact that the housing requirement for the plan is only 13,000: an overprovision/buffer of 13%.

(6) It appears to be NHDC's position that exceptional circumstances still exist for the Green Belt land that is to be released over and above the housing requirement. This is on the grounds that a "buffer" is needed to ensure that the housing requirement is met (i.e. it is a buffer against under-delivery).

(7) The justification for this approach is contained in six short paragraphs in Paper ED191B.

9. This is, with respect, a woefully inadequate basis on which to justify extensive Green Belt release (the overprovision through the “buffer” is in the order of 1,650 homes, all of which can be assumed to be from the Green Belt).
10. The argument appears to be derived from the recent High Court judgment in Compton Parish Council v Guildford BC [2019] EWHC 3242 (Admin) (“Compton”), where it was found that exceptional circumstances can lawfully exist even when more housing is delivered than is required to meet the objectively assessed need.
11. However, the fact that such an approach has been found to be lawful does not mean it should be adopted here. The High Court in Compton was only concerned with the lawfulness of such an approach – rather than its merits. The Inspector here is fully entitled to reach a different view based on the particular circumstances of this plan.
12. In this respect, there are significant differences between the approach of Guildford and the approach of NHDC. In particular:
  13. First, the approach taken by Guildford of having a significant buffer against under-delivery was the result of “*prior and careful consideration by Guildford BC*” (see Compton at para. 78). In particular, the Sustainability Appraisal for the submitted plan had considered a range of buffers above OAN and assessed the environmental consequences (see Compton at para. 79).
  14. On the other hand, here the justification for a significant buffer has been put forward for the first time by NHDC in Paper ED191B. The submitted plan had a buffer of only 6%, and this has fluctuated between 4% and 7% over the course of the examination: see ED191B at para. 26. At no point until now has the Council said that a buffer of 13-14% is required and neither has it formed part of its exceptional circumstances case.
  15. Second, there were a whole range of reasons why exceptional circumstances were found in Guildford notwithstanding the fact that the supply of housing exceeded the housing requirement. These reasons went well beyond the need to ensure against under-delivery. Paragraphs 22-62 of Compton (in particular, paragraph 44) set out these considerations, but in summary: (i) the “over provision” was largely the result of the allocation of three large

strategic sites. Removing one of these sites from the plan was not sustainable in light of the integrated nature of the proposals. In particular, there were significant inter-connections between the allocated sites, including contributions to a wider sustainable movement corridor (J/44); (ii) the over-provision of housing allowed a geographic spread of housing and employment across the district (J/48); (iii) the size of the strategic allocations facilitated the delivery of infrastructure that would not come forward through delivery on a number of smaller sites (J/49).

16. The circumstances in Guildford were therefore significantly different to those here. This plan includes a number of small sites that are proposed to be released from the Green Belt. These allocations could be deleted without affecting the overall spatial strategy of the plan.
17. In any event, NHDC has not rigorously assessed the option of deleting some of the smaller Green Belt sites in order to reduce the size of the buffer. The implications of this in terms of compliance with the Environmental Assessment of Plans and Programmes Regulations 2004 (SI 2004 No 1633) ("the SEA Regulations") is addressed below. But, in any event, as things stand now there is insufficient evidence from NHDC to explain how and why deleting some of the proposed Green Belt releases would affect the sustainability of the overall spatial strategy.
18. As such, the only reason put forward by NHDC to justify the 13-14% overprovision of housing is the need to prevent under-delivery of housing. In this respect, paragraphs 27-32 of ED191B sets out some banal platitudes about the need to ensure "flexibility" and a rolling five-year housing land supply. However, none of this is new. It did not require a buffer of 13-14% at the submission stage, so why now? If anything, the case for a buffer has reduced since the plan was submitted since the Council is now committed to an early review (which could address any slippages in the early years of the plan).
19. Further, there is no robust or reasoned analysis to explain why the smaller green belt releases in the villages represented by SOGB are required to deliver a rolling 5-year housing land supply. The revised housing trajectory does not suggest these releases are necessary to maintain a five-year supply across the plan period. This is a significant and material difference from the Guildford situation, where such a reasoned explanation did exist (see paragraph 32 of Compton).

20. In reality, what has happened here is that the Council (eager to adopt a plan) does not want to undertake the exercise of considering which sites to remove from it in light of the reduced housing requirement. Rather than face up to this fact, it has sought to argue (for the first time) that significantly more housing should be delivered than is required. In doing so, it has seized upon a High Court case to justify its approach, even though circumstances there were entirely different – not least the fact that a significant buffer had been an integral part of the development of that plan, and not simply a last-minute justification.

21. Overall, therefore, to address the Inspector's questions:

(1) The buffer of 13% is not justified. As the Council accepts "*there has never been a policy decision to pursue a buffer of any particular percentage or size*" – see ED191B at para. 25. The buffer is simply the difference between (i) the quantum of housing planned for when the Council thought that the housing requirement would be higher and (ii) the housing requirement today. There is no planning reason behind it; no reason why it is 13% rather than, say, 7% or 18%. The buffer is simply a relic of previous decisions made in the preparation of this plan.

(2) This may be excusable in normal circumstances, but not where the "buffer" is made up of Green Belt land. Exceptional circumstances do not exist for the release of land from the Green Belt that forms part of that buffer. The only justification put forward for such release is contained in six short paragraphs in Paper ED191B at paras. 27-32. For the reasons set out above, this is a woefully inadequate justification for Green Belt release.

22. In addition, SOGB wishes to raise an issue of legal compliance at this stage. There has been no update to the Sustainability Appraisal ("SA") since 2018. Clearly, the current proposal of providing a buffer of 13-14% represents a change from the submitted plan which had a buffer of only 6%. A reasonable alternative at this stage would be to remove sites from the plan such that the buffer remains at only 6%. Failure to assess this option through the SEA process would amount to an error of law: see Save Historic Newmarket Ltd v Forest Heath DC [2011] J.P.L. 1233.

23. SOGB assumes that the Council will publish an addendum to the SA in due course. However, the fact that this addendum has not yet been published makes it impossible to answer the question posed of how the supply of housing in the plan should be reduced. This is ultimately a question for the Council to consider in the SA, through assessment of the sustainability implications of providing for a buffer of 6% rather than 13-14%.
24. SOGB reserves the right to make further submissions on both the contents and the lawfulness of any SA addendum published by NHDC in due course. However, it would plainly be inappropriate for that addendum to rely on new evidence and justifications that have not been raised by NHDC as part of these resumed hearings. As matters stand, there appears to have been no consideration at all by NHDC of the wider sustainability implications of continuing to provide for a buffer of 6% and removing some sites from the plan. If there has been, that evidence should be put before the examination now rather than for the first time through an addendum to the SA.