



Gladman Developments Ltd

Swale Borough Council Local Plan Examination

Matter 9: Monitoring and delivery of housing supply

Question 9.2: Do the implementation and delivery plan and the monitoring arrangements provide for collection of the necessary information to recognise the triggers for a review of the plan?

- 1 No. As referenced in our Matter 2 statement with reference to MM42 the trigger points for the review of the plan are unclear, loosely defined and subjective. For such monitoring arrangements to be robust they should be developed in accordance with refined triggers as discussed in our previous statements.

Question 9.3: Does the modified Plan include sufficient sites to enable the Council to demonstrate that there is a 5 year supply of sites that are available and deliverable?

- 2 No. Gladman contend that the Council cannot demonstrate a 5 year land supply, when all aspects of the calculation are objectively considered. It should be noted that Gladman have undertaken assessments considering the Council's proposed housing requirement of 776 dwellings per annum however, as outlined in our Matter 2 statement, we consider this to be an underestimation. Using the OAN calculated by Barton Willmore of between 900-930 (or

1,020-1,080 to support the job growth aspiration), the 5 year land supply position would be markedly worse.

Shortfall – Liverpool vs Sedgfield

- 3 The Council’s latest evidence within SBC/PS/113 and SBC/PS/113a outlines that using the Liverpool approach and an annualised trajectory they can demonstrate a supply of 5.4 years. They also consider that using a stepped trajectory this figure rises to 6.1 years.
- 4 The Inspector’s commentary in her interim findings is noted with respect to an indication of the acceptability of using the Liverpool methodology. However, Gladman would contend that such an approach is not appropriate.
- 5 Firstly, as the Council outline, the PPG considers that the shortfall should be made up within the first 5 years of the plan period. It states:-

“Local planning authorities should aim to deal with any undersupply within the first 5 years of the plan period where possible. Where this cannot be met in the first 5 years, local planning authorities will need to work with neighbouring authorities under the Duty to Cooperate.”¹

This paragraph indicates therefore that the choice is not between Sedgfield and Liverpool, but between Sedgfield and redistribution to other authorities where it cannot be met within the first 5 years. This process does not seem to have been undertaken.

- 6 Secondly, the Council list both viability and infrastructure constraints as reasons for not using the Liverpool methodology. It is noted in paragraph 16 of SBC/PS/113 that the Council indicate fresh viability work was published in November 2016, however Gladman have not been able to find a copy of this on the examination website, it is presumed its final publication remains pending. Whilst it is not disputed that there are sites and areas within Swale, particularly on the Isle of Sheppey, which are likely to be challenging in terms of viability, the question must be asked as to what and exactly how much further the market must rise in order for such development to be considered deliverable in the short term, and not act as a justification for pushing delivery targets backwards.
- 7 Kent County Council publish evidence on average house prices across Swale. The House prices and transactions 2013 document² (published February 2014) indicates in Table 1(a) that the

¹ ID 3-035-20140306

² http://www.kent.gov.uk/_data/assets/pdf_file/0003/7347/House-prices-and-sales-2013.pdf (Retrieved 13/01/17)

average house price in Swale in 2013 had increased to £191,491 already above the 2008 peak of £190,626. Since that time further increases have occurred. According to Table 1 of the House prices and sales 2016 q3 report³ (published by Kent County Council in November 2016) the average house price sale recorded in Swale had increased to £244,316. This indicates significantly improved market conditions, even from the 2008 peak. Gladman question how much further the market must improve to allow for viability not to be considered a constraint by the Council. Or are there simply sites where there is no realistic prospect of the market improving to allow delivery?

- 8 In terms of the infrastructure needs of the plan to meet its development needs, as we have set out in our Matters 3 and 4 statements, it is unclear what development levels can be achieved before major transport schemes are required and indeed who and what is paying for the indicated infrastructure. Indeed paragraph 17 of SBC/PS/113 clearly shows that the Council are not entirely certain of the level of constraint that the infrastructure poses. It states:-

“There is no current formal change in the anticipated commencement and completion of the improvements to J5 of the M2. Although this does not act as an embargo on any development ahead of the improvement, the full realisation of sites associated with the A249 corridor are likely to require, at least, the commencement of the improvement. Additionally, other junctions on the A249, whilst also not preventing the commencement of relevant development sites, do have a bearing on what can be achieved and when. These infrastructure issues are currently being further explored and evidence is to be provided to the examination.” (Our emphasis)

- 9 Gladman therefore fail to see the justification for using the Sedgefield methodology. It should be remembered that dealing with the shortfall upfront is clearly the position advanced by the PPG. It is not a penalty against the Council, it is simply dealing with housing needs of Swale now. As advanced by Gladman and others, there are sites available which can readily contribute now.

Stepped Trajectory

- 10 The Council also propose to use a stepped trajectory, indeed one calculation put forward by the Council seems to be a combination of both a stepped trajectory and the Liverpool methodology. The reasons discussed above, with regard the Liverpool methodology, apply equally to the use of a stepped trajectory. The risk for the Council in a stepped trajectory is that as well as being contrary to paragraph 47 of the NPPF (because the plan would be failing

³ https://www.kent.gov.uk/_data/assets/pdf_file/0003/28353/House-prices-and-sales-4th-quarter-2014-15.pdf (Retrieved 13/01/17)

to meet the objectively assessed needs on an annual basis on the early part of the plan period), and its aim to boost significantly the supply of housing, it has the potential to build up a serious backlog of development needs towards the end of the plan period.

- 11 It is also questionable as to why the Council would need to both backload its trajectory, and spread any shortfall over the remainder of the plan period using the Liverpool methodology. Such an approach shows the fragility of the position put forward by the Council, it is our suggestion that using both methods together is a type of double counting to engineer the 5 year land supply position. It is not considered to be sound.
- 12 In conclusion Gladman believe that there is no justification for either the Liverpool methodology or for a stepped trajectory. However, should the Inspector accept the Councils justification for the use of the Liverpool methodology it is not considered a sound and reasonable approach to use this in conjunction with a stepped trajectory.

Buffer – 5% vs 20%

- 13 Gladman consider that a 20% buffer should be applied as Swale has persistently under delivered in terms of housing delivery. The Council accept in paragraph 28 of SBC/PS/113 that there are “indications of persistent under-delivery”, but that a 5% buffer is justifiable because of (i) recessionary trends and (ii) the supply of deliverable sites.
- 14 In terms of recessionary factors, as referenced in paragraph 5 of this statement, in 2013 average house prices had already recovered to above 2008 peak levels. However, the Council’s housing delivery has continued to be below target since this time, and this is projected to continue for the next couple of years. Whilst recessionary factors may well have been an issue in some years, they cannot have been reasonably assessed as having been post 2013.
- 15 In terms of the supply of deliverable sites, the Council argue that a ready supply of available sites is present, which could have been developed out to increase delivery rates. In paragraph 35 of SBC/PS/113 the Council confirm that the Swale land supply was dominated by a series of strategic long-term allocations. This is a trend which will continue under the plan as currently proposed. Whilst strategic sites clearly have an important role to play in delivering housing needs they are only part of a solution. In order to meet housing demand, the housing market needs to be open to large, medium and small housebuilders, offering a range of sites in a range of locations. Gladman have previously pointed out such failings with the current plan now under examination, and it seems likely from the Council’s own statement that such issues were also prevalent in previous plans. Given such circumstances it is hardly surprising that building rates didn’t meet necessary need. Gladman however would argue this was because of a strategy choice pursued by the Council. This is also the explanation for the Council’s stated inability to

bring more sites forward from later in the plan period (see para 47 of SBC/PS/113): because large strategic sites have more constraints, involve greater infrastructure requirements and have longer lead in times, there is limited scope for bringing them much further forward. The solution is a better mix of small and medium size sites, with shorter lead in times and fewer constraints. These could be commenced much earlier and make a real difference to the five year supply. The Council could achieve this by making use of smaller allocations in sustainable rural areas, which would also be consistent with national policy on rural communities.

- 16 Both of the issues raised by the Council in respect of the buffer (recessionary factors and the supply of deliverable sites) are intended to demonstrate that the acknowledged “indications of persistent under-delivery” have not been caused by a lack of deliverable sites, but by factors outside the Council’s control which affected the actual delivery of housing.
- 17 This distinction was the subject of some discussion in the *St Modwen* judgment SBC/PS/112. It should be noted that this judgment is the subject of an appeal, which is due to be heard by the Court of Appeal on either 7 or 8 June 2017. It is important to appreciate that St Modwen was a s. 288 application, challenging the Inspector’s assessment of the 5 year land supply in the context of a s. 78 appeal. This is of course quite a different task to that which needs to be undertaken for the purposes of a local plan examination.
- 18 The Council is in essence saying that it should not be ‘punished’ (see para 49 of SBC/PS/113) for poor housing delivery which was caused by factors outside its control and was not its ‘fault’. However, this misses the point that the purpose of the 20% buffer is “to provide a realistic prospect of achieving the planned supply and to ensure choice and competition in the market for land” (para 47 NPPF, emphasis added). The 20% buffer is a response to the fact that the actual delivery of housing has fallen short of the target. The reasons why this has happened, and whether this is the ‘fault’ of the local authority for failing to identify an adequate deliverable supply or attributable purely to market factors, is of little importance. Regardless of the reasons, there has been a persistent failure to meet the housing needs of the population, and a mechanism is needed to mitigate the risk of that pattern continuing into the future (whilst obviously recognising that the local authority can only do so much).
- 19 It follows that the fact that there were sites which “could have been developed” (see para 33 of SBC/PS/113) is not an adequate response to the problem of past under delivery and does not justify failing to take steps to address the risk of future under delivery. The key point is

that, despite the Council’s best intentions, even if those sites were thought to be deliverable at the time, they were in reality not delivered and therefore development needs were not met.

20 The 20% buffer seeks to respond to persistent under delivery by boosting the supply of deliverable sites. This makes the plan less reliant on the actual delivery of all of the (deliverable) sites, and less fragile as a result. It is not a question of ‘punishing’ the Council for market performance outside its control (see para 49 of SBC/PS/113), but of identifying where there is an increased risk of future under-delivery based on past performance and taking steps to mitigate against that risk, even if some issues are outside of the Council’s control.

21 The Council also argue that if a 20% buffer is required, the resulting annualised housing target of 958 dpa will be unrealistic. A similar point is made in paragraphs 18-19 SBC/PS/113 in the context of the annual targets which would be required if the Sedgfield method were used. However, at the same time as suggesting such rates are unrealistic, the Council suggests that the 3,364 dwellings will be ‘deliverable’ in years four and five on the basis of a “significant leap” in supply. It is difficult to see how these positions can be reconciled. Again, this may simply come down to the Council’s strategy of relying heavily on large strategic allocations, which preclude appropriate delivery rates in the first years of the plan, rather than a more appropriately balanced – and therefore sound – strategy of allocating a range of smaller sites which could come forward more quickly.

22 The Council’s justification for the use of the 5% buffer, in circumstances where it acknowledges that there are indications of persistent under-delivery, do not withstand scrutiny. It is clear that there has been under delivery in both years of the current plan period, both 2014/15 and 2015/16. Further under delivery is expected in each of the next 3 years. Under delivery also occurred between 2010/11 – 2013/14, there has therefore been 5 consecutive years of under delivery with 3 more projected. In fact targets have only been exceed in 3 of the past 10 years, one of which was post the 2008 recession in 2009/10. Gladman therefore conclude that-a 20% buffer is required.

Site Discounting

23 It is noted from the Council’s Appendix A and B that the Council expect all extant planning permissions to be implemented and delivered in full. Gladman consider that such a position is unrealistic. It is highly likely that at least some sites will fail to come forward for a variety of reasons, and it would be prudent to include a 10% discount to ensure a realistic approach is taken. DCLG has recently presented some notable research findings in terms of the non-implementation of permissions and lead-in times. A presentation given by a DCLG Planning

Director (Ruth Stanier) to the HBF Planning Conference in September 2015⁴ made reference to DCLG research which suggested that 10-20% of permissions do not materialise into a start onsite. As the DCLG termed it, these permissions simply 'drop out' for a number of potential reasons such as the landowner cannot get the price for the site that they want, a developer cannot secure finance or meet the terms of an option, the development is later not considered to be financially worthwhile or there are supply chain constraints hindering a start. Clearly, the application of a lapse rate would be commensurate with these findings and ensure a robust supply at any given point in time.

Site comments

- 24 Document SBC/PS/113 sets out a comprehensive list of the sites which are considered to form part of the 5 year land supply position. Gladman would make the following comments, which should be read in conjunction with our Matter 3 and Matter 4 hearing statements in which we consider that the viability and infrastructure costs of development sites have not been adequately considered:-

North West Sittingbourne - The previous trajectory considered delivery of 60dpa in the first year and 120dpa thereafter. Delivery rates have now increased, with the Site delivering 100 units in the first year (20/21), steadily increasing to 160dpa in 23/24, and reducing to 90-100dpa thereafter. Delivery at the rates envisaged will potentially require up to 5 developers delivering on Site simultaneously. However the Council's assessment considers that 2 (maximum of 3) developers will be active at any one time. Slippage to the developers programme has already meant 180 dwellings will now be delivered outside of the Plan period. Any further slippage or under delivery of this strategic Site will significantly impact upon the Plan's ability to meet the housing requirement.

Crown Quay - The HLS Statement provides that CPO powers may be required of some minority landownerships to secure matters such as open space and biodiversity enhancements. As it is yet unclear whether CPO powers would be required to achieve delivery of this Site, it would be prudent for the Council to exclude Crown Quay from the initial five year period.

Lydbrook Close - The Site had previously been subject of a planning permission from 1997 which has since expired. It is unclear why this Site is now considered deliverable - when the

⁴ <http://www.house-builder.co.uk/documents/Plan15-RuthStanier.pdf> (Retrieved 13/01/17)

Site has not delivered even with the benefit of a planning permission and allocation from the previous Local Plan.

Former Istill Mill - The Site has changed ownership since the previous pre application activity. At present it is unclear the new owners intentions with the Site. There is no application for this Site, a significant amount of demolition and remediation is required before building can commence, without the involvement of HCA it is unclear whether this Site is deliverable within the Plan period.

Barton Hill - Delivery rates have increased from 40/60dpa to 80dpa. The Council have supplied little evidence to support the increase in delivery rates, as this will likely require at least two developers on Site delivering simultaneously.

Conclusions

- 25 The Council's assessment in Table 1 of SBC/PS/113 shows a claimed 5 year land supply, this involves the use of a 5% buffer and use of the Liverpool methodology. As outlined above Gladman contest both the level of buffer and the methodology for dealing with the backlog. Even accepting the Councils evidence in Table 1, there is only headroom of 300 units. Furthermore this calculation does not consider the comments discussed above on the individual site locations or any discounting for the non-implementation of planning consents in line with a reasonable assumption for non-delivery.
- 26 It is noted that Tables 7 and 8 show a range of scenarios using both 5% and 20% buffers, Liverpool and Sedgefield methodologies and a stepped trajectory. Of these the 5 year land supply, using the Councils figures and with no deduction for non-implementation, the position is tight on all scenarios bar the stepped trajectory with a 5% buffer.
- 27 As discussed Gladman consider there to be no evidence to demonstrate the use of the 5% buffer or merit to the use of a stepped trajectory and/or the Liverpool methodology. It is therefore considered that the plan is not able to demonstrate a 5 year land supply.