



Gladman Developments Ltd

Swale Borough Council Local Plan Examination

Matter 2: Overall approach: development targets the settlement strategy and the distribution of development

Question 2.1: Does the modified Plan set out a strategy to deliver the area's development needs over the Plan period?

1. No.

OAN Issues

2. The modified Plan makes provision for an additional 776 dwellings per annum (dpa) over the period 2014-2031. This level of housing need was first identified in the September 2015 SHMA (SBC/PS/025a) and is presented as being the full objectively assessed housing need (OAHN) for Swale Borough.
3. Representations were submitted to Matter 4 of the initial Examination hearings in November 2015 (respondent number 877722) outlining why OAHN of 776 dpa was considered to be an underestimate of housing need in Swale. To summarise:
 - i) OAHN of 776 dpa was lower than the most recent starting point available at the time - the DCLG 2012-based household projections (873 dpa, 2014-2031, according to BW once 5.54% rate for vacancy and second homes has been applied to household projection of 824 households);
 - ii) OAHN of 776 dpa is based on an alternative long-term migration (LTM) trend from the period 2004-2014 incorporating an adjustment for Unattributable Population Change (UPC). A UPC adjustment is not considered appropriate;
 - iii) OAHN of 776 dpa offers no remedy for suppressed household formation;
4. Addressing these points, Barton Willmore (BW) presented full OAHN for Swale as 942 dpa (2014-2031).

5. Furthermore, SBC/PS/025a considers OAHN of 776 dpa would support 'policy on' economic growth of 643 additional jobs per annum. BW consider OAHN would need to increase to 1,034 dpa to support this level of economic growth.
6. Since publication of SBC/PS/025a, the Office for National Statistics (ONS) have published the 2014-based Sub National Population Projections (SNPP) and the DCLG have published the accompanying 2014-based household projections. Both data sets provide a new starting point for assessing housing need according to PPG (ID 2a-015). In addition ONS 2015 Mid-Year Population Estimates (MYPE) have been published by the ONS.
7. BW considered the implications of the new starting point in a focused review in July 2016 (submitted as part of our August 2016 representation). Our analysis identified that the 2014-based starting suggests a need for 814 households per annum (2014-2031). Once an allowance for vacancy and second homes has been applied this indicates a starting point of 859 dwellings per annum. Although slightly lower than the 2012-based starting point, the 2014-based starting point is again already higher than the Council's full OAHN before consideration of further adjustments as outlined by PPG (ID 2a-017).
8. Analysis of the 2014-based population and household projections re-enforces the point BW submitted to the initial Examination Hearings - that SBC/PS/025a was wrong to present full OAHN below the official starting point by making an adjustment for UPC.
9. The 2014-based starting point draws trends from the five-year period 2009-2014 for internal migration and six-year period 2008-2014 for international migration. As such, the trend period underpinning the 2014-based starting point includes an additional 2-years not affected by UPC in comparison to the 2012-based starting point. The result is again, a starting point in the region of 860 dpa – just falling short of the 2012-based starting point of 873 dpa (2014-2031). Therefore the last two series of SNPP have indicated a starting point for Swale Borough within the same ballpark despite including a period with two additional years not affected by UPC.
10. Furthermore, BW's July 2016 focused OAHN Review considered the implications on housing need of the latest 10-year LTM trend drawing trends from the period 2005-2015. Without an adjustment for UPC this trend indicated a need for 860 dpa, with an adjustment for UPC need fell marginally to 830 dpa over the period 2014-2031 (before adjustments to address suppressed household formation).

11. BW's analysis therefore indicates that UPC may have affected migration trends for Swale Borough (assuming UPC is attributed to migration). However, the effect of UPC is not considered to be as significant as presented in SBC/PS/025a. New research outputs from ONS also confirm this position.
12. On 17 November 2016, the ONS published administrative population estimates for local authorities in England and Wales. Although these are not currently official statistics, they have been published by ONS as part of their continued research into alternative sources of population estimates to the 10-yearly national Census.
13. The new administrative estimates give a population of 136,581 for Swale at 2011 (Census day). This is higher than the official 2011 Census count of 135,835 and closer to the rolled forward 2011 MYPE (before adjustment) for Swale of 136,969. This suggests that the 2011 Census may have undercounted the population of Swale and the downward revision made to the rolled forward MYPE following release of the 2011 Census may have been too great for Swale. If these new administrative estimates are correct, then this would mean UPC in Swale is in fact lower than currently estimated by ONS because less of an adjustment is needed to match the rolled forward MYPE and the 2011 administrative estimate.
14. To summarise, BW's July 2016 focused OAHN Review has identified that the 2012-based starting point, the 2014-based starting and the most recent 10-year LTM trend (with or without UPC) all suggest housing need for Swale Borough of between 830 and 870 dpa (2014-2031) before addressing suppressed household formation which would increase housing need further. Nonetheless, all evidence suggests higher OAHN of 776 dpa identified in SBC/PS/025a.
15. The 'Swale Council - October 2016 OAN Advice Note' by PBA (SBC/PS/116) also considered the implications of the 2014-based ONS SNPP and DCLG household projections, along with the 2015 MYPE, on housing need in Swale. The Note acknowledged that a 10-year LTM trend from the period 2005-2015 generated slightly higher housing need but the overall conclusion is that the new evidence does not suggest a meaningful change that would render SBC/PS/025a out of date.
16. BW accept PPG (ID 2a-016) states housing assessments are not rendered outdated every time new projections are issued. However, the release of the 2014-based projections and most recent 10-year LTM trend serves to re-enforce our belief that OAHN of 776 dpa is an underestimate of full OAHN for Swale Borough.

17. PPG (ID 2a-016) states a meaningful change in the housing situation should be considered in this context. Although there is no substantial change between the 2012-based, 2014-based starting point and most recent LTM trend, all of the evidence suggests a substantially higher housing need figure than 776 dpa. For example:
 - 2012-based starting point of 873 dpa = +13%;
 - 2014-based starting point of 859 dpa = +11%;
 - LTM trend (2005-2015) without UPC adjustment of 860 dpa = +11%; and
 - LTM trend (2005-2015) with a UPC adjustment of 830 dpa = +7%
18. The level of difference averages a magnitude of 10% which is equivalent to over 1,300 additional dwellings over plan period. BW consider this a meaningful change and on this basis planning for an additional 776 dpa as outlined in the Modified Local Plan is not considered to meet the development needs of Swale Borough.
19. To adhere to NPPF's requirement to significantly boost housing supply (paragraph 47) and to plan positively (paragraph 157), BW consider housing provision in Swale Borough should be increased.
20. BW's July 2016 focused OAHN Review suggests OAHN of at least between 900 and 930 dpa (2014-2031) to also address the issue of suppressed household formation amongst younger residents, increasing to between 1,020 and 1,080 dpa to support the Council's economic aspiration of creating an additional 641 jobs per annum within the Borough.
21. In light of the above it is contended that the plan is unsound, because it is not based on a strategy which seeks to meet OAN. It is not positively prepared and is not consistent with national policy. The plan should be amended to reflect the true OAN, as set out above.

Overall Settlement Strategy

22. Gladman understand the reasoning for the split between the two areas, and acknowledge the benefit of urban regeneration. However, this should not be at the expense of allowing reasonable and proportionate growth in sustainable rural locations. In order to ensure that settlements are able to have sustainable growth, and to prevent what can become a loss of services and a decline in settlement vitality it is important to allow appropriate levels of sustainable development. At present the strategy prevents this from happening.
23. As part of our representations in response to the main modifications consultation we submitted a report by Rural Solutions which considers the implications for rural settlements which are

prevented from growing in a sustainable manner. The result can be negative demographic trends and a loss of existing services, such as shops, pubs, community facilities and education facilities. Gladman acknowledge that growth will not be appropriate in every location, but it is important to consider that some settlements will require growth to sustain their services and populations. There is some recognition of this fact within MM48 and MM56 (para 4.3.17), but in practice the wording of MM50 (policy ST3) will make it very difficult to achieve. In particular, the proposal to remove para. 5 from policy ST3 is not justified. The inclusion of para. 5 would enable modest development which would help to address the concerns arising from the Rural Solutions report, without compromising the settlement pattern or character of the settlement. The proposal to remove it does not arise from any of the interim findings and is not necessary to make the plan sound. In fact, MM50 makes the plan less sound, because it seeks to prevent a potential source of sustainable development and makes the plan less flexible, as well as limiting its ability to enhance the vitality of rural communities in accordance with para 55 NPPF. As such this aspect of MM50 is not justified or consistent with national policy for the purposes of para 182 NPPF. It should not be recommended as a main modification.

Question 2.2 Is the introduction of an indicative percentage split in MM40 justified and does it provide a clear and realistic guide for managing growth across the two planning areas?

24. Whilst the strategy of directing the majority of growth to the Thames Gateway area is understood, it is unclear why the Council has decided to replace the submission version of the table, which showed the rounded numbers of dwellings to be provided in the two areas, with a percentage split. If it is simply intended to act as a comprehensible visual representation of the general strategy it is unobjectionable (although arguably unnecessary to make the plan sound). However if MM40 is intended to be a tool to manage growth (i.e. by providing a reference in order for the Council to monitor progress against targets in each area) then it would seem preferable for the table to contain numbers rather than percentages. Developments may come forward at different rates in the two areas and therefore an analysis of whether the percentage split is being delivered, particularly earlier on in the plan period, may give a misleading impression. It is considered that progress towards the housing target set out in MM42 can be monitored more simply and effectively by consideration of numbers of completions against the targets at any given time.
25. The same point could be made about MM56, however the wording of para 4.3.16 makes clear that here the percentages are provided only as a "guide to the broad distribution of growth in

the Borough” and it is therefore clear that the percentages are not intended as a tool to manage development.

Question 2.3 Do MM41/MM42 provide a clear and flexible approach to monitoring delivery across the borough as a whole?

26. Gladman note the changes made through MM41, and it is clearly correct to consider the 5 year land supply position for Swale as one calculation, and not as separate entities for the Thames Gateway and rest of Swale areas.

27. What is of concern, however, is that the main modification still attempts to introduce a policy which may conflict with the requirements of paragraph 49 of the NPPF. The NPPF clearly states that in the absence of a 5 year housing land supply, relevant policies for the supply of housing will be considered to be out of date. The recent judgement in Hopkins Homes v SSCLG [2016] EWCA Civ 168 has confirmed that the remit of what is considered a policy for the supply of housing is a wide one. The text states:-

“when a borough shortfall in this supply occurs as a result of significant non-delivery within the Swale Thames Gateway area, the variances in policy emphasis between the two sub-areas will need to be considered alongside the need to improve housing land supply”

28. The policy therefore would become relevant should there not be a 5 year land supply in place, Gladman would wish to point out to the Inspector two key issues.

29. Firstly in this scenario the housing policies, including the settlement strategy allocations which reflect the percentage split between the sub-areas would in any event be out of date. That does not mean that the ‘variances in policy emphasis’ should be given no weight, the policies will still form part of the local plan and will have to be taken into account, the weight to be given to them will be a matter of judgment for the decision maker on a case by case basis. To that extent, MM41 adds nothing to the position following Hopkins Homes because decision makers would still need to consider the intentions of the Local Plan even if relevant policies were out of date. However, MM41 could be seen as going further and seeking to preserve the primacy of the housing policies notwithstanding para 49 NPPF, and if so Gladman consider the modification to be inconsistent with national policy.

30. Secondly, and perhaps more importantly, if there is no 5 year housing land supply then this will indicate that the strategy may not be working as intended, because housing developments set out in the trajectory are not proving to be deliverable as anticipated, for whatever reason. In the event that the shortfall is occurring due to viability/market related issues in the Thames

Gateway area, entrenchment of the situation via MM41 would exacerbate the issue and lead to a further lack of flexibility within the plan, sustainable developments outside that sub-area from coming forward to meet development needs. It may be necessary, in order to remedy the 5 year land supply position for a more flexible approach to be taken to planning applications outside of the Thames Gateway. In this regard we reiterate our previous comments about the restrictive approach which is currently proposed for rural areas.

31. Turning to MM42, the Council proposes to shift the base date of the plan to 2014-2031. It is recognised that this is in line with the Inspector’s interim findings, however Gladman continue to express concern as to how this influences how the backlog is dealt with and the way in which the 5 year land supply is calculated.
32. MM42 also sets out 7 ‘triggers’ for an earlier commencement of a review of the Local Plan. Whilst these are useful they are loosely defined and subject to a large degree of subjective judgement (and potential for disagreement) on the part of the Council. The clarity and certainty which the NPPF expects in relation to development management policies (see para 154) must apply equally to policies which relate to plan-making. At present policy ST2 as modified does not promote certainty. It is unclear what levels of shortfall in housing land supply, for example, would be considered to “seriously compromise” the plan, or what level of delay in the Junction 5 works would be sufficiently “significant” to trigger an early review. It is clear from MM 313 that the Council intends to monitor indicators which are relevant to the 7 triggers; it should therefore be possible to define the points at which the triggers will be pulled. The wording of MM42 should be amended to address this issue and bring the policy into line with the expectations of the NPPF.
33. In order for any review mechanism to be of value it would be advantageous to include not only a timeframe for the beginning of the review but also a time for any review to be concluded. Gladman note in this regard the Inspector’s Interim Findings into the Maidstone Local Plan,¹ where the Inspector has requested the plan review policy contains an adoption date, rather than simply will be commenced by date.

Question 2.4 Is the allocation of additional development sites in MM58 (Policy ST4) based on detailed and objective assessment of potential sites?

34. No. As Gladman outlined in the comments to the consultation in August 2016 (and in the Matter 1 statement) the assessment is not based on a and reasonable assessment of sites. The SA comparison effectively considers the merits of the allocation of sites in Sittingbourne additional

¹ http://www.maidstone.gov.uk/_data/assets/pdf_file/0008/134873/ED-110-Inspectors-interim-findings-on-our-Local-Plan-22-December-2016.pdf (Retrieved 4/1/17)

land on the Isle of Sheppey, additional land at Iwade or the allocation of a site to the south east of Sittingbourne. In our Matter 1 statement we have outlined flaws with the SA process, but in addition we would make the following comments on site assessment.

35. Whilst the site assessment of South East Sittingbourne in the SA references a number of potential problems with the site, in reality the issues to which the Council consider the site should not be allocated boils down to purely an assessment of its impact on the landscape character of the area. Appendix 2 of our August representation undertook a comparison of the factors known to the Council in making their assessment. Gladman discuss in detail as part of our Matters 1 and 3 statements concerns with the Councils approach to selecting the site at South West Sittingbourne in preference to our site at South East Sittingbourne.
36. The increase of provision of housing on the Isle of Sheppey at Barton Hill Drive represents a reinsertion of a site previously taken out of the plan by the Local Authority. Our Matter 4 statement considers the difficulties in delivering this site, we also note the large infrastructure costs and poor market performance of the Isle of Sheppey, both of which are likely to have impacts on the deliverability of the site (this is also dealt with in our Matter 1 statement).
37. The final proposed location we wish to comment on is further development of Iwade. The development in this location is further expansion of a small settlement, which is already one which has been allocated considerable growth given its existing size. Gladman again note in our Matter 4 statement the level of required infrastructure works needed within the Local Plan period to allow development to go forward without impinging on the highway network and creating severe constraints, we explain in our Matter 4 statement how the funding for such improvements is unclear and question if the developments in Iwade and north west Sittingbourne could fund the required improvements.
38. Given the above there are a number of crucial points Gladman would wish to make.
 - 1) Sittingbourne is the principal settlement in Swale and the focus of growth;
 - 2) The site at South East Sittingbourne has, through the application process, identified and remedied a wide number of issues;
 - 3) The issues which cover the site at South West Sittingbourne are similar to those at South East Sittingbourne, but as stated above, at South East

Sittingbourne they have been clearly addressed and necessary mitigation identified;

- 4) The remaining issues therefore, if it were a choice between the two, relates purely to landscape and the Council's decision on that basis is flawed as outlined in our Matter 3 statement;
- 5) The sites added on the Isle of Sheppey have questionable viability, have similar landscape concerns (according to the Council REF) and have already been removed and rejected from the Local Plan once;
- 6) Development at Iwade requires a significant amount of infrastructure funding to be deliverable, and represents a further concentration of housing in a small settlement outside of Sittingbourne.

39. Gladman therefore contend that the Council's failure to allocate the Gladman proposed site at South East Sittingbourne renders the plan unsound, because the selected allocations are not the most appropriate strategy when considered against reasonable alternatives, are not backed up by evidence in front of the examination or through the SA to justify them, and in the case of Sheppey and Iwade, are questionable in terms of their deliverability and therefore effectiveness. The SE Sittingbourne site can readily deliver housing to meet the OAN and is eminently deliverable and without the question marks which sit above the other new allocations discussed above. In order to make the plan sound, the SE Sittingbourne site should be allocated for housing within policy ST4.

40. Of course Gladman would also contend that, given the true scale of housing need required in Swale (as discussed in our answer to question 2.1), there is need to allocate additional sites beyond those that the Council consider appropriate and deliverable. Indeed the local authority themselves hint at the fragility of the housing land supply, notably within the LDF Panel Report (SBC/PS/08) at paragraph 3.201. Furthermore the overall supply of housing land also remains fragile with just a 7% buffer of supply over the plan period. Given the fragility of the market on the Isle of Sheppey in particular, which is set to deliver 7,500 units, the risk of failure is high.