

**MAIDSTONE
BOROUGH LOCAL
PLAN EXAMINATION
IN PUBLIC**

Session 5A – Housing Supply

Wednesday 12th October 2016 AM

STATEMENT PREPARED BY:



On behalf of:

Taylor Wimpey UK Ltd.

Respondent ID. R19206

SEPTEMBER 2016

5.9

Is there a need for reserve allocations in case anticipated supply is not forthcoming and if so:

- a. How much reserve supply would be needed?***
- b. Should such sites be allocated now or in a review of the local Plan?***
- c. How would sites be selected?***
- d. What would trigger their release.***

1. The current Local Plan was adopted in 2000. The Council in their submission Local Plan refer to commencing a review of the submitted Local Plan by 2022 (para 1.3). Given the length of time that MBC have taken to update their existing Local Plan and the Council not committing to the commencement of a Local Plan Review until 2022, it follows that it could be ten years until the adoption of a reviewed Local Plan occurs. It is therefore apparent that the emerging Local Plan (if found sound) would remain the adopted development plan for a long period of time.
2. It is the Council's intention to adopt a Plan that will not be reviewed for a long period of time it is essential that flexibility is built into the document in order to ensure it is sufficient to serve for a number of years. We refer to our response to Q5.10 below and note that at times of greater housing need being identified (as has been the case over the past few years), the existing outdated Local Plan has not been in a position to respond to these greater levels of need (hence recent under delivery).
3. A logical and appropriate way of introducing such flexibility into the Plan is through the allocation of additional reserve sites that are available to meet housing needs within the plan period, should a 5 year housing land supply deficit emerge or the overall dwelling requirement across the plan period be identified as unlikely to be achieved. The latter scenario being for example a fundamental constraint being identified at one of the plan's strategic sites at the development management stage.
4. In the event of one of the above circumstances occurring, allocated reserve sites enables a proactive 'plan led' response. The Council can identify the issue and release a reserve site (already identified as appropriate for housing) in response. The alternative scenario (i.e. where reserve sites are not available for release) comprises a reactive approach, predicated upon

developers submitting hostile applications in order to rectify the deficit and often arguing their case at Section 78 appeals. Such an approach has occurred in MBC over the past few years and does not ensure the most appropriate sites come forward or the infrastructure to support them. Instead, the likely outcome is that the sites first to an appeal will rectify the HLS deficit, potentially at the cost of better available site alternatives.

5. We refer to the recently adopted Stratford on Avon District Core Strategy (adopted July 2016), that includes the following wording in its core housing policy CS.16:

‘The Site Allocations Plan will identify Reserve Housing Sites providing flexibility to ensure that the District can meet in full its agreed housing requirement (the share of the housing needs arising in the Coventry and Warwickshire Housing Market Area to 2031) and/or to respond to the need to meet housing need arising outside the Coventry and Warwickshire Housing Market Area (HMA). The location of any reserve sites will take account of the settlement pattern and the overall balance of distribution of development set out in Policy CS.15. Reserve sites will have the capacity to deliver up to 20% of the total housing requirement to 2031.

Reserve sites will be released in the following circumstances:

- **To rectify any identified shortfall in housing delivery in order to maintain a 5 year supply of housing land in Stratford-on-Avon District;**
- **To contribute to meeting any identified additional need for housing in relation to a net growth in jobs at Jaguar Land Rover arising from development of the employment allocation at Gaydon Lighthorne Heath;**
- **To contribute to meeting within the District any identified shortfall in housing across the Coventry and Warwickshire HMA as demonstrated through the agreed outcomes of ongoing joint working between the Coventry and Warwickshire local planning authorities;**
- **To contribute to meeting any housing needs arising outside the Coventry and Warwickshire HMA that it is accepted through co-operation between the relevant councils as needing to be met within the HMA and most appropriately being met within the District’.**

6. We further refer to the supporting Stratford Inspector’s Report that states as follows in relation to the above reserve site policy:

‘The Council has sought to quantify its share of the unmet need from Coventry and Birmingham. It says, based on the current approach, the Council: “*would be expected to take 5.9 % of Coventry’s unmet need of 890 dpa, or 53 dpa, and 2.1 % of Birmingham’s unmet need of 1,895 dpa, or 40 dpa*”¹¹⁷. Over the 20-year life of the Plan this equals 1,860 dwellings¹¹⁸. On the basis of the Council’s own calculation it is therefore evident that a 10 % reserve would be inadequate to meet the obligations that might arise from iii) and iv). Crucially this is without building in a reserve to meet: i) any shortfall in housing supply due to unforeseen circumstances; and, ii) the potentially very significant implications of bringing forward the 100 ha JLR allocation. Acknowledging that a very modest component¹¹⁹ of the OAN might contribute towards the unmet needs of others, there can be no question that it is necessary to increase the scale of the reserve to 20 % to provide a positive and effective mechanism. Ultimately there would be no jeopardy from adopting this approach. If reserve sites are not needed to fulfil these roles they do not need to come forward, but they would be available to provide a flexible response to any identified need’ (paragraph 68) (Our emphasis).

7. The relevant extract from the Stratford Core Strategy and supporting Inspector’s Report is appended to these representations as Annex A.
8. We concur with the Stratford Inspector’s comments. Ultimately the inclusion of a reserve site policy will not result in any jeopardy, whilst ultimately enabling a more flexible, effective and plan led response in the event the Council fall into a position of housing land supply deficit in the future.
9. We recommend that a reserve site ‘pool’ is identified comprising up to 20% of the overall housing requirement, similar to the Stratford example.
10. Given, the Local Plan Review is not to commence until 2022, we consider that reserve sites should be identified at this stage. The sites could be selected via a thorough assessment of the omission sites to be considered later in the EiP process.
11. In terms of the triggers for releasing the sites we would suggest the following criteria:
 - To rectify an identified 5 year housing land supply shortfall;
 - To contribute to meeting any housing needs arising in the HMA where it is accepted through co-operation between the relevant Councils that this need is most appropriately met within the Borough; &

- The overall housing requirement set out in Policy SS1 is unlikely to be achieved.

5.10

Is the Council's 5 year supply calculation accepted or disputed and, if so, why?

12. The most recent evidence of housing need in the Borough comprises the emerging Local Plan period covering the period 2011 to 2031. This document as the most recent available suggested housing requirement, forms the relevant requirement to be applied back to its base date when assessing delivery. Consequently the period 2011 to 2016 is applied in Table 1 below.
13. Such an approach has been supported by an appeal Inspector (Medstead decision) (Annex B) where the matter of 'persistent under delivery' was considered at paragraphs 29 to 31:

'The SoCGHLS records four years of under delivery since the start of the plan period in 2011. The first three years were all of a similar though slightly diminishing level (257, 251, 229 dwellings per annum), around 40% of the requirement each year. In 2014/2015 there was a marked lowering of this annual shortfall to 42dpa. However, despite this, cumulatively there is a significant shortfall of 779 to be made up; around 33% of the 2,368 requirement. Although the Council regards it as not legitimate to apply the JCS requirement retrospectively (to the period from 2011 to 2014 when it was adopted), and it is apparent that from their perspective the housing requirement 'goal posts' appear to be constantly increasing, nevertheless the Framework aim is to significantly boost the supply of housing and the housing requirement set in the JCS clearly relates to the plan period from 2011. There has been clear and persistent under delivery of housing over the last four years.

Looking further back, for the two years before the start of the plan period completions were lower than for the later four years; 266 and 272 (compared to 335, 341, 363 and 550). While these completions met the requirement of 260dpa set for those years in the South East Plan, the Council accepted at the inquiry that the requirement in the plan had not been based on objectively assessed need – this basis for establishing the requirement was brought in by the Framework, after it had been set. As also documented in the SoCGHLS, the plan was based on 2006 population projections whereas the 2008 population projections, for these years, were for 400 dpa, well in excess of the completions.

In this case there is clear under delivery against the adopted minimum requirement for the last four years and realistically there is also under delivery against the published population projections for the previous two years also. In my view this is a record of persistent under delivery' (Paragraphs 29-31).

14. The above suggests that it is reasonable to apply a housing requirement retrospectively when assessing housing delivery in the context of whether a 20% buffer is necessary. It also suggests that a 4 to 6 year period is an entirely reasonable period over which to assess whether a Council has persistently under delivered against the defined housing needs. This accords with the NPPF's objective to significantly boost the supply of housing and the need to identify a full (unconstrained) objectively assessed housing need for each Council.

15. The aim of the buffer is not to punish LPA's but simply ensure that a flexible supply of housing is provided in order to enhance the prospects of an LPA promptly responding to historic under delivery and thus boost the supply of housing. For these reasons the approach set out in Table 1 below is justified.

16. Table 1 provides a summary of historic completions compared to the emerging Local Plan housing requirement. It illustrates that over the past 5 monitoring years completions have failed to deliver at a rate compliant with the proposed housing requirement in any year. This is clear evidence of persistent under delivery, in the most recent 5 year period, set against the most recent assessment of housing need.

17. The deficit over this period comprises 1,780 dwellings of a total requirement figure of 4,640 dwellings. This deficit equates to 38% of the requirement over the period 2011 to 2016. This level of under delivery is comparable to and actually exceeds the 33% level referenced in the Medstead case.

Table 1: Comparison between MBC's Proposed LP Housing Requirement Requirements & Actual MBC delivery

Monitoring Year	Proposed Local Plan Requirement	Net Completions	Surplus (+) or Shortfall (-)
2011/12	928	873	-55
2012/13	928	630	-298
2013/14	928	423	-505
2014/15	928	413	-515
2015/16	928	521	-407
Total	4,640	2,860	-1,780
Average per annum	928	572	-356

18. Whilst there is no NPPF or PPG definition of “persistent under delivery”, an authoritative view on this issue was provided by an Inspector in a South Cambridgeshire appeal at Waterbeach (Annex C) (paragraphs 36 and 37). In judging what “persistent under delivery” meant in the context of paragraph 47 of the NPPF the Inspector concluded:

‘This conclusion is consistent with the approach of my colleague in the Three Pots appeal and the position recorded in paragraphs 48 and 49 of Cotswold DC v SSCLG and others [2013] EWHC 3719 (Admin). In both cases under-delivery in 50 % or more of the years in the periods considered were found to comprise persistent under delivery; Lewis J. did not interfere with that finding’. (Paragraphs 36-37). (Our emphasis)

19. The Waterbeach case suggests that where under delivery has occurred in 50% or more of the years in the period considered, under delivery can confidently be considered ‘persistent’ and a 20% buffer applied, especially where the total requirement over the period has not been achieved. Furthermore, the Medstead case confirms that a housing need figure should be applied retrospectively when assessing whether persistent under delivery has occurred.
20. On the basis of Table 1, in the case of MBC persistent under delivery is identified both on a year by year basis and cumulatively across the most recent 5 year period that takes in the relevant up to date assessment of housing need.
21. The Council argue that when one assesses delivery over a longer term period, persistent under delivery is not demonstrated. We have assessed the position over a longer 10 year period that takes in the most recent development plan requirement preceding the proposed Local Plan figure (the South East Plan) in table 2 below.

Table 2: Comparison between MBC's Proposed LP Housing Requirement & South East Plan Requirements & Actual MBC delivery

Monitoring Year	Proposed Local Plan Requirement / South East Plan	Net Completions	Surplus (+) or Shortfall (-)
2006/07	554	714	160
2007/08	554	992	438
2008/09	554	441	-113
2009/10	554	581	27
2010/11	554	649	95
2011/12	928	873	-55
2012/13	928	630	-298
2013/14	928	423	-505
2014/15	928	413	-515
2015/16	928	521	-407
Total	7,410	6,237	-1,173
Average per annum	741	624	-117

22. If one considers the period 2006 to 2016, i.e. applies the South East Plan 2006-2011 and the proposed Local Plan 2011-2016, under delivery of 1,173 units still results and under delivery still occurs in more than 50% of the individual years. It follows that even if one is to consider a longer period, a 20% buffer is still justified.
23. A second and highly relevant point is that it is an assessment of the most recent period that is most relevant (i.e. the table 1 approach), given this period is assessed against the most up to date assessment of housing need. Ultimately, the 20% buffer has been introduced by Central Government to boost the supply of housing in the short term, assist in solving the national housing crisis and ultimately enable previous under delivery in a Council area to be rectified as soon as possible. All such scenarios apply in MBC given the identified under delivery in the first 5 years of the plan period and the pressing needs for affordable housing.
24. We note that 1,461 applicants were listed on the Council's housing register in the 2016-2020 Housing Strategy, whilst the number of people approaching the Council as homeless increased from 80 in 2010/11 to 604 in 2014/15¹.
25. Finally, we refer to the existing Local Plan that covered the plan period 1991 to 2006 and identified housing for this period. Despite being time expired for a

period of 10 years, a subsequent plan has not come forward. Ultimately it is the Council's responsibility to put in place an up to date plan. The result has been a period of housing land supply deficit and under delivery against defined needs. The application of the 20% buffer will enable the Council to rectify this failure to plan for and meet needs in a quicker manner upon adopting a new Local Plan. Such an approach is consistent with the NPPF's requirement to 'boost the supply of housing' and is entirely reasonable given the Council's failure to adopt an up to date plan since the existing Local Plan became time expired in 2006.

26. Consequently and in accordance with the approach set out in Medstead and Waterbeach, our assessment identifies that the application of a 20% buffer is justified. If the 20% buffer is applied, the Council's position falls to 4.48 years (a shortfall of 808 units). Notwithstanding any other amendments necessary to the overall housing requirement, it is necessary that this deficit is rectified through modifications to the submitted plan, prior to it ever being found sound.

¹ Figures taken from MBC Housing Strategy 2016-2020