

## **Examination of the Elmbridge Local Plan**

**Inspector - C Masters MA (Hons) FRTPI**

**Programme Officer - Charlotte Glancy**

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Dear Ms Tagliarini

### **Examination of the Elmbridge Local Plan**

#### ***Introduction***

1. Further to the close of the stage 2 hearings at the end of June 2024, I set out below my interim findings in connection with the Elmbridge Local Plan. This letter sets out my views on certain matters and what could be done to address these issues of soundness. It does not attempt to cover every matter in relation to the topics which have been covered at the hearings to date as these will be addressed within the final Inspector's Report. As this is a Plan which is being examined under the existing transitional arrangements, all paragraph references contained within this letter to the National Planning Policy Framework (the Framework) are in relation to the 2021 Framework.
2. In the first instance, I would like to thank the Council for facilitating the Stage 1 and Stage 2 hearings and for the work so far in seeking to address the matters raised throughout the examination. During these hearings, the Council have commenced a log of some of the issues relating to soundness matters that have been identified throughout the examination and upon which the Council will need to prepare additional evidence on. These matters include, but are not limited to:
  - Undertake a comprehensive call for moorings exercise and provide options for meeting the needs of boat dwellers over the plan period;
  - Update evidence on employment floorspace needs over the plan period, including having clear understanding of employment floorspace requirements as well as the impact of prior approvals on the supply of existing employment floorspace within the borough. Assess and provide options for meeting this need once it is clear what the need is and allocate sites accordingly.
3. This letter does not intend to duplicate those matters already highlighted, however it does set out my most significant concerns in relation to other matters arising, most notably the provision of and approach to housing over the plan period.
4. Since the close of the Stage 2 hearings, two important documents have been published. The first of these is the proposed consultation on the National Planning Policy Framework: draft for consultation. The consultation period for this document extends until the 24 September 2024. At this stage, the document does not constitute Government Policy or Guidance. Secondly, on the 30 July 2024 a Written Ministerial Statement (WMS) was published entitled 'Building the homes we need'. The WMS is

an expression of Government policy and is therefore capable of being a material consideration in relation to this examination. I have had regard to both of these documents in setting out my views below. In addition to these two documents, you will also be aware that the Ministry of Housing, Communities and Local Government wrote to the Planning Inspectorate on the 30 July 2024, setting out the Government's expectations in relation to local plan examinations, the approach to pragmatism and pauses to undertake additional work. This new approach applies to all plans with immediate effect. I shall return to this matter below.

5. My view is that the Plan as submitted is unsound. The Plan may be capable of being made sound through main modifications (MM's). The Council have already commenced a schedule of potential MM's which covers matters we discussed during the Stage 2 Hearings to date and the Council also have a number of action points arising from the Stage 2 Hearings. The Council should, in light of the content of this letter, reflect on the actions I have identified as necessary to make the plan sound, the timeframe for completing these additional pieces of work and the implications of this in terms of the next steps which I have set out at the end of this letter.

### ***The Housing Requirement and policy SS3***

6. As submitted, the Plan has been based on a housing requirement of 452 dpa. This means the housing requirement for the Plan period (extended to 2040 as agreed with the Council) would be 8136 dwellings. This housing requirement has been arrived at, taking into account the constraints of the borough and the conclusion that the Council do not consider that exceptional circumstances exist to warrant an amendment to the Green Belt boundary as part of this Local Plan. For the reasons I have set out within this letter, I do not consider this to be a sound approach.
7. The Council's latest housing trajectory identifies a land supply for a total of 5398 dwellings between 2022 and 2040. This is some 1387 dwellings short of the 6785 dwellings identified within policy SS3 as submitted. **The Plan would therefore result in a shortfall of some 2729 dwellings when compared to the housing requirement identified within the plan.** As drafted, the Council acknowledge that there is unmet need arising from the local plan and it is unknown how this need could be met or addressed. This presents neither a justified or effective approach to plan making.
8. The 452 dpa figure identified within the Plan falls some way below the standard method for calculating the housing requirement for Elmbridge. Utilising the standard method as the starting point, on the basis of the Council's evidence presented to date, the Local Housing Need (LHN) for Elmbridge is 650 dwellings per annum (dpa). This means that the housing requirement for the plan period would be 11700 dwellings. **Based on the Council's identified supply of 5398 dwellings, this would mean that there would be a shortfall of around 6300 dwellings over the Plan period as a whole.** This is a very significant shortfall which requires an alternative approach to meeting the housing needs of the borough over the plan period.
9. In terms of the evidence base, How the Spatial Strategy was formed (TOP001) identifies a number of key principles behind the scale and location of growth within the borough. In terms of the plan as submitted, it would neither meet the reduced housing target promoted within the submitted plan, or the housing requirement as calculated using the standard method, overall housing need, or provide the mix of

housing required to address the identified needs of the borough. Contrary to the views expressed by the Council, I do not consider that the spatial strategy adopted has achieved the correct balance between meeting housing need and the remaining key principles behind the scale and location of good growth. I shall return to the matter of the constraints within the borough and in particular the Green Belt boundaries below.

10. To summarise, the plan should be utilising the standard method as the starting point for calculating housing need. The 452 dpa is neither a justified or effective approach. As a result, as submitted, policy SS3 is not effective, justified or consistent with national policy. Using 2022 as the base date, for the Plan to be positively prepared, to address housing need over the plan period would mean the overall minimum housing requirement should be 11,700 dwellings. **This housing requirement should be clearly identified within the Plan, and the requirement should be reflected in policy SS3 which identifies the scale and location of good growth across the borough.**

### ***Five Year Housing Land Supply Requirement***

11. The Council have set out details concerning how they anticipate Five Year housing supply to be met through the Five-Year Supply statement and associated trajectory (HOU020 and HOU021). I have taken these documents into account along with the discussions held at the hearing sessions, written representations made regarding the delivery or otherwise on a number of the sites put forward, as well as the latest information presented by the Council in this regard.
12. Overall, the Council's current position is between the 5 year period of 1 April 2024 to 31 March 2029, there would be a total supply of 2027 dwellings. This means that there is a shortfall of 621 dwellings over this 5 year period against the housing requirement identified within the submitted plan, and a 2077 dwelling shortfall against the standard method requirement of 4103 for this plan period. In the context of 5 year supply, these figures represent 3.8 years and 2.4 years supply respectively.
13. The Council is not in a position to demonstrate a 5 year housing supply. In light of the above, the plan as currently drafted would therefore fail to be positively prepared. It is neither justified or effective and is inconsistent with national policy.
14. **The Plan should be modified to ensure that there are sufficient sites to provide for the minimum 5 years worth of housing against the housing requirement identified at paragraph 10 above.**

### ***Windfall allowance***

15. Based on the evidence presented within the Land Availability Assessment (HOU002), I acknowledge that some concerns have been expressed that the Council's windfall allowance will continue at the rate it has been. This is primarily because one of the main sources of supply is existing garden land which is a finite supply. Nevertheless, I consider that, in accordance with Paragraph 71 of the Framework, there is sufficient compelling evidence that windfall will continue to provide a reliable source of supply and that the 83 dpa windfall allowance which has been put forward by the Council is a justified approach. **However, in terms of the housing trajectory, windfall allowance should only be applied from year 5 onwards.**

## ***Meeting housing supply and the approach to the Green Belt***

16. In the context of delivering the homes we need, Paragraph 60 of the Framework states that in order to support the Government's objective of significantly boosting the supply of homes, it is important that a sufficient amount and variety of land can come forward where it is needed, that the needs of groups with specific housing requirements are addressed and that land with permission is developed without unnecessary delay. The overall aim should be to meet as much of an area's identified housing need as possible, including with an appropriate mix of housing types for the local community. I have established above that the plan as submitted would fail to do this and the housing needs will not be met by the proposed strategy contained within the submitted plan.
  
17. The approach to housing delivery and the spatial strategy as submitted would result in very significant shortfalls in housing delivery as I have set out within paragraphs 6 and 7 above. The Plan is submitted on the basis of a brownfield only approach to housing delivery. That is to say, housing delivery relies entirely on previously developed land or sites within the existing urban area. I recognise that the effective use of land, making as much use as possible of previously developed or brownfield land, is encouraged by the Framework. However, in this instance, the sites put forward as site allocations within the Plan only total some 1804 dwellings. This equates to a contribution of around 15% towards meeting the housing needs over the plan period, clearly an insufficient contribution. The Council have confirmed that no neighbouring authorities are able to address the unmet need arising from the plan as submitted, and that there is no plan in place to address this unmet need. This approach means the boroughs needs will not be met and the plan is not positively prepared and represents neither a justified or effective approach to plan making.
  
18. As matters stand, it is the Council's position that there are not exceptional circumstances to justify an amendment to the Green Belt boundaries in Elmbridge. This is notwithstanding a number of documents contained within the examination library which explain why in the view of officers, there are exceptional circumstances which would justify the amendment of these boundaries to meet LHN. Since the Plan preparation commenced, the Council have recognised that the ability of the Green Belt in Elmbridge to address housing need should be considered. Significant work has been undertaken in relation to this matter, initially through the work commissioned by the Council and completed by ARUP in both 2016 and subsequently in 2018.
  
19. The Exceptional Circumstances Case (OTH043) document sets out in detail the relevant case law<sup>1</sup> concerning the presentation of what may constitute exceptional circumstances in the case of alterations to Green Belt boundaries within a local plan. Whilst it is generally accepted that there is no definition of what constitutes exceptional circumstances, it is my assessment that in the case of Elmbridge, there are a number of factors which provide a very clear steer towards the consideration of

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<sup>1</sup> Gallagher Homes Limited v Solihull Metropolitan Borough Council [2014] EWHC 1283 (Admin) and Calverton Parish Council v Nottingham City Council [2015] EWHC 1078 (Admin)

Green Belt sites to address the acute housing needs within the borough and the very significant shortfall in housing delivery which the plan as submitted would result in.

20. In terms of affordable housing, the plan as submitted would do little to address affordable housing needs over the plan period, in a Borough recognised as one of the most expensive places to live nationally. Elmbridge has one of the highest average house prices in the South East and affordability levels are amongst the highest within Surrey. The evidence base before me as set out within the Local Housing Needs Assessment and associated addendum (HOU004 and HOU005) identifies that in terms of affordable housing, the greatest demand for affordable homes is for units of four bedrooms or more (40%). I have not been presented with any evidence to support the Council's assertions that the focus of the plan on small urban sites (the highest majority of which would deliver 10 units or less) would assist in addressing the boroughs very acute affordable housing needs over the plan period. Conversely, the evidence base acknowledges the positive role that larger sites can play in terms of affordable housing delivery, yet the plan only seeks to deliver over 100 units on a total of 3 sites.
  
21. Added to the above issues concerning the quantum of housing development coming forward and the subsequent impacts on affordable housing delivery, I have significant concerns regarding the variety of land and subsequent tenure mix the submitted spatial strategy could deliver. In terms of the five year supply, the site allocations proposed by the plan would only total some 105 dwellings which would be made up from 4 sites. Beyond this first 5 years of the Plan period, only 10 of the remaining site allocations would deliver more than 50 dwellings. The highest proportion of sites coming forward (17) would be on sites less than 10 units. This approach to the site allocations as proposed would not only limit the quantum of development, but also the type and variety of housing delivery coming forward which in turn has implications for affordable housing delivery. The ability of the chosen spatial strategy to deliver a significant proportion of affordable housing is highly relevant to the consideration of whether exceptional circumstances exist, given it is acknowledged as being one of the most pressing issues which the Borough is facing<sup>2</sup>.
  
22. The Council have also stated that the release of elements of the Green Belt would lead to unsustainable patterns of development. However, the evidence before me does not support this point of view. On the contrary, the Green Belt Boundary Review Accessibility Assessment (OTH002) paper sets out the relative sustainability of a number of the Green Belt sites assessed and subsequently discounted. A significant number of these sites are in clearly sustainable locations, (rated as excellent, good or fair) in terms of their overall accessibility performance with access to services and facilities comparable with a number of the site allocations contained within the plan as submitted.
  
23. In reaching the above views, I have also had regard to the Council's Topic Paper (TOP001) which sets out how the spatial strategy was formed, as well as the other evidence base documents provided by the Council namely the Green Belt Boundary Review (OTH001)<sup>3</sup>, the Green Belt Site Assessment Proformas (OTH038-OTH040), Green Belt Site Assessment Explanatory Notes (OTH041) and the GB Site

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<sup>2</sup> As acknowledged within paragraphs 1.12, 2.7,2.8 of the Plan, as well as the overall Vision for Elmbridge ( page 16)

<sup>3</sup> For the sake of brevity, the full suite of evidence base document have not been listed however these include documents OTH02-OTH024 inclusive)

Assessment Explanatory notes (OTH042), the representations received at both the Regulation 19 stage as well as in written and oral form to the hearing sessions.

24. In particular, the Exceptional Circumstances Case Paper (OTH043) and the Sustainability Assessment (CD002) set out a number of options for the spatial strategy. Indeed, a number of the other options considered and subsequently discounted by the Council would in the round, enable a greater number of homes to be delivered, as well as meeting a significantly greater proportion of the Boroughs identified affordable housing needs. OTH040 identifies 12 sites considered for release under spatial strategy option 5a. These sites have been assessed as to how they fulfil the purpose on designating land as Green Belt. Furthermore, the Council, during the course of the hearing sessions also identified a further option as option 5b which set out 15 Green Belt sites in total. These options alone would deliver approximately 2900 dwellings to the overall supply.
25. The Council have repeatedly made reference to the conclusions drawn in relation to the Core Strategy Examination in support of the submitted plan. This argument is of very limited weight for a number of reasons. This examination was completed over 13 years ago. It not only predated the National Planning Policy Framework, but was a plan which was meeting its own needs in any event. As a result, there was no evidence before that Inspector regarding the role and function of the Green Belt within Elmbridge and indeed there would have been no requirement for such an exercise to be undertaken. There is also now a materially different position in terms of housing need. Bringing these factors together, I am unable to agree that the conclusions drawn at the last local plan examination should carry weight in relation to the decision to amend the boundaries now based on the latest evidence available.
26. The approach adopted would fail to deliver anything near the level of need for the plan period, and the strategy as adopted would be unsound as it would also not be effective in addressing the acute affordable housing need of the borough, including the backlog, which I shall go onto address in further detail below. Contrary to the views expressed by the Council, it is my view that the benefits of doing so would outweigh the harm to the Green Belt and as a result, exceptional circumstances do exist to warrant an element of Green Belt release. **To conclude, having taken into account the circumstances set out above, the release of an element of Green Belt land to meet the identified housing needs would be a justified and effective approach in this instance.**
27. In accordance with Paragraph 11b (i) of the Framework, I do not consider the Green Belt in Elmbridge provides a 'strong reason' for restricting the overall scale, type or distribution of development in the Plan Area. **The Council should revisit the Sustainability Appraisal, the options for meeting local housing need, the conclusions drawn in relation to the Green Belt work already completed and consideration of all alternative sites, including the potential release of Green Belt sites, to address the 6300 housing shortfall.**

### ***Addressing affordable housing needs***

28. The delivery of affordable housing is one of the most pressing issues facing the Borough and is identified as a key priority for the Council. The median work place - base affordability ratio has worsened since 2013 increasing from 13.31 to 20.02. This ranks Elmbridge as one of the least affordable boroughs in the country.

29. The evidence identifies that affordable housing need stands at 269dpa and that the backlog need for affordable housing is in the region of 1434 dwellings although I acknowledge a number of parties have expressed the view that this figure may well be higher. The evidence base states that this backlog should be addressed over a 20 year period. However, there is no justification for such an approach to be adopted and the Council have been unable to direct me to any substantive evidence to support their position in this regard. **Given the acute position regarding current affordable housing need, the scale of the backlog and the ever-worsening position regarding affordability ratios within Elmbridge, it is my view that the Council should seek to address the backlog during the plan period.**
30. Turning to consider the policy approach to affordable housing, policy HOU4 as submitted sets out the Councils approach to affordable housing. It is a detailed policy which, in the round, seeks to secure the following:
- (a) On brownfield sites of 10 or more units, on site provision of 30% affordable housing
  - (b) On greenfield sites of 10 units or more, on site provision of 40% affordable housing
  - (c) On sites of 9 units or less a financial contribution of 20% affordable housing
31. The remainder of the policy goes on to set out, amongst other things, how the on site provision will be sought, as well as how the tenure and mix of units proposed should be assessed.
32. As submitted, part c of policy HOU04 set out above seeks to secure a financial contribution equivalent to the provision of 20% affordable housing of the gross number of dwellings on sites of 9 units or less. This approach is at odds with the Framework and in particular paragraph 64 which advises that affordable housing should not be sought for residential developments that are not major developments other than in designated rural areas.
33. In order to support this policy, Topic Paper 2 concerning Affordable Housing (TOP002) sets out that without being able to collect affordable housing contributions on small sites as envisaged by part c of policy HOU4, the ability of the Council to provide affordable homes will be highly restricted. However, the evidence before the examination confirms that the existing adopted policy CS21 has secured the delivery of just 75 affordable dwellings between the April 2011-March 2012 period. Against the backdrop of some 771 affordable housing units delivered across the borough during the same period, I am unable to agree that the removal of this part of the policy would 'highly restrict' future affordable housing delivery.
34. From the evidence I have heard to date, future affordable housing delivery would be highly restricted by the chosen spatial strategy. This is because the focus of the plan is on small sites (less than 10 units) within the existing urban areas (of which now only 17 sites in total are deemed to be deliverable or developable) means that the plan will do little to secure the 30% on site affordable housing provision sought by policy HOU04 part a as currently drafted. Furthermore, as a result of the spatial strategy proposed, there would be no sites allocated within the plan to which part b of the Plan would be applicable, namely to seek 40% on site affordable housing provision on greenfield sites of 10 units or more. This is despite the fact that the evidence base recognises that such sites would be clearly capable of delivering a

greater quantum of affordable housing as set out within the Establishing Local Housing Needs Document (HOU001).

35. The Council have also sought, amongst other things, to justify this approach based on the current Core Strategy policy CS21. As you are aware, this policy was adopted in July 2011 some 13 years ago and well before the Framework against which this local plan is being assessed. Given the very acute affordable housing need within the Borough, I have considered very carefully whether the approach put forward in policy HOU4 is a sound one. The evidence presented on this issue does not support the policy approach and policy HOU04 as drafted is neither justified, effective or consistent with national policy in this regard. I am unable to conclude that such a small proportion of affordable housing delivery makes a meaningful contribution. **The Council should delete part c of policy HOU04 as well as the relevant reasoned justification<sup>4</sup>**

### ***Next steps***

36. I realise that this letter covers a significant number of issues which the Council will wish to reflect on, and I have identified above ways in which the problems with the Plan could be remedied.
37. As I have referenced above at paragraph 4 of this letter, the Ministry of Housing, Communities and Local Government wrote to the Planning Inspectorate last month regarding the approach to Local Plans which are likely to require changes and a pause in the examination process as a result. In the round, the letter advises that pragmatism should be used where it is likely that a plan is capable of being found sound with limited additional work to address soundness issues. Any pauses to undertake additional work should take no more than six months overall. Extensions beyond this should only be allowed at the Inspectors discretion. In agreeing extensions, the Inspector should be confident that the local authority can complete any outstanding work in the agreed timeframe.
38. I am mindful that in the case of this examination, there are a number of very significant issues to address. This includes, but is not limited to, identifying enough sites to address the shortfall, undertaking the necessary steps to appraise the sites including providing and preparing the appropriate supporting evidence, consulting upon these sites and the potential for additional hearing sessions. I have real concerns that the Council may not be able to meet this timeframe. I would therefore be grateful if in the first instance you could advise whether you consider the Council are in a position to address the necessary changes required to make the Plan sound and undertake the additional work required within a 6 month period from the date of this letter. If the Council do not consider they would be able to meet this timeframe, then the Plan should either be withdrawn or I will prepare the necessary report which would find the Plan unsound in its current format.
39. In addition, I also request that a copy of this letter is placed on the examination website as soon as possible. I am not seeking comments from other parties on the content of this letter at this time. However, should the examination proceed through to the main modifications stage then there would of course be an opportunity for parties to comment then.

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<sup>4</sup> Other modifications discussed during the Matter 6 hearing sessions remain



40. I look forward to hearing from the Council once you have had an opportunity to digest the contents of this letter. Please could you provide a response no later than **2 October 2024**.

Yours sincerely

*C Masters*

INSPECTOR