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Dear Chris

BROMLEY LOCAL PLAN EXAMINATION

On behalf of Lands Improvement, please find enclosed Hearing Statements for the upcoming Bromley Local Plan Examination.

I trust this is in order and should you have any queries or wish to discuss then please do not hesitate to contact me.

Yours sincerely

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Enc: Hearing Statements (Issues 1,3,4,5,6,9 and 10)

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HOW

Bromley Local Plan Examination Hearing Statement

On behalf of Lands Improvement

For Issue 1

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1 INTRODUCTION

1.1 This Hearing Statement has been prepared on behalf of Lands Improvement in relation to the soundness and legal compliance of key elements of the Bromley Local Plan because of the likely consequences of:

- The significant shortfall of the proposed housing target against objectively assessed housing needs;
- The deliverability constraints arising from the over reliance on complex brownfield sites and unidentified windfall sites; and
- The inadequate assessment of alternative options, including a comprehensive Green Belt Review, to meet LB Bromley's development and infrastructure needs sustainably.

1.2 This Hearing Statement should be read alongside representations submitted on behalf of Lands Improvement to Regulation 18 consultation in October 2015 and Regulation 19 consultation in December 2016 and on the extent of legal conformity with the Strategic Environmental Assessment process on 28 September 2017 and 13 October 2017.

Lands Improvement

1.3 Lands Improvement owns a sustainable development opportunity site to the east of St Mary Cray, on the urban fringe and surrounded on three sides by development, the eastern extent of which forms a natural future boundary to the Green Belt. It is sustainably located in close proximity to existing local facilities.

1.4 The site could deliver in the region of 1,000 family homes (including 35% affordable housing) as well as a school, other community facilities and local transport improvements to public transport and highways. That potential contribution to meeting needs sustainably has not been considered as part of the plan preparation process.

1.5 The site is within the Cray Valley Renewal Area and close to the Cray Business Corridor (both identified in the London Plan) and would support the growth and regeneration of these strategically important areas.

1.6 In summary the Local Plan does not satisfy the soundness requirements in NPPF 182 because:

- The Local Plan has been prepared without adequate consideration of reasonable alternatives to the preferred 'do minimum' option (Issue 1(1) and Issue 5(24)) and there is insufficient evidence to conclude that the Duty to Co-operate has been discharged (Issue

1(3)). As a result, the Local Plan is not the result of positive planning. It cannot be said to have been the product of a process intended to identify the 'most sustainable' strategy.

- The Council has failed to identify its Full Objectively Assessed Need (FOAN) for housing as required by the NPPF (Issues 3 (9) and 5 (16)). By adopting a benchmark well below the true FOAN, the plan is not justified and will not be effective in achieving the objectives of NPPF 47 and 50 (or its own overarching vision of providing “an appropriate supply of housing to meet the varied needs and incomes of the local population” (Local Plan paragraph 1.3.7)). As such, it does not satisfy the soundness test at NPPF 182.
- The Local Plan housing trajectory (short and medium term) is not robust and will not be effective in delivering the housing needed (Issues 3 (9) and 5 (18)). The reliance on constrained town centre sites with viability issues and unidentified small windfalls sites, which will not deliver any affordable housing, is not justified and means that the Local Plan will not be effective in delivering affordable housing.
- Not building enough new homes will undermine infrastructure funding via s106 and CIL contributions for essential projects identified in the Council’s Infrastructure Plan (Issue 3(9)). The reliance on constrained town centre sites with viability issues/small windfall sites will mean that where these sites are able to come forward, they will be with reduced wider contributions, if any at all.
- The Local Plan fails to identify the amount of new employment floorspace to be delivered in the Cray Business Corridor (or across the borough) and the link with housing delivery / neighbourhood renewal in the surrounding Cray Valley Renewal Area. The disconnect between these strategic priorities mean that the Local Plan will fail to achieve it’s overarching vision of promoting social cohesion and economic prosperity in this part of the borough.
- Without a Green Belt review it is not possible to conclude that the Council’s proposed housing strategy, which fails to plan to meet LB Bromley’s housing needs in the most appropriate way, is sound and NPPF compliant in the sense of representing justified and positive planning to identify the most appropriate strategy for meeting needs having regard to the overall sustainability balancing act (Issue 3 (12) and Issue 10 (44)).

1.7 To be found sound, the flaws identified should be remedied now, with the opportunity for informed participation. This will require an up-to-date assessment of FOAN: a review of Green Belt status and adequate analysis of alternative options with the benefit of this essential evidence base. That would allow a detailed review of the deliverability of the housing trajectory; and an assessment of

the consequences of the proposed housing strategy on affordable housing delivery to ensure that the Local Plan can be put forward as the most appropriate strategy in terms of overall sustainability. Without this analysis it is not possible to properly conclude the Local Plan is justified, likely to be effective, positively prepared or consistent with NPPF policy, or in conformity with the strategic development plan.

2 ISSUE 1

HAVE THE RELEVANT PROCEDURAL AND LEGAL REQUIREMENTS BEEN MET, INCLUDING THE DUTY TO CO-OPERATE AND THOSE REQUIRED BY THE CONSERVATION OF HABITATS REGULATIONS 2010?

Question 1: Is the Sustainability Appraisal that has been undertaken suitably comprehensive and satisfactory and has it sufficiently evaluated reasonable alternatives?

2.1 No, for the reasons given below.

Legal Requirements

2.2 The main legal requirements ¹ for strategic environmental assessment of Local Plans are to ²:

- i. consider all reasonable alternatives in meeting the core planning objective and to report on those alternatives and the reasons for their rejection;
- ii. provide a description of what alternatives were examined and why in the environmental report;
- iii. include reasons for rejecting earlier options in the final report; and
- iv. analyse every reasonable alternative option at the same level of analysis as the preferred option.

2.3 If the core planning objective is itself is inappropriately narrow, the alternatives are by definition inadequately narrow. See Lands Improvement's response to Issue 3 on the correct interpretation and application of London Plan and NPPF policy.

2.4 The combined sustainability appraisal documents ³ prepared for the Draft Local Plan (DLP) do not satisfy the SEA Regulations. They:

- fail to properly explain the range of alternatives available to meet the FOAN and balance of socio-economic and environmental effects associated with each; and

¹ Under regulation 12 of the Environmental Assessment of Plans and Programmes Regulations 2004 (**SEA Regulations**)

² as summarised by Justice Jay at paragraph 67 of *Calverton Parish Council v Nottingham City Council* [2015] EWHC 1078 (Admin);

³ Sustainability Appraisal of Bromley's Proposed Submission Draft Local Plan (AECOM, November 2016) (**SA Report**) and the Issues and Options Report ([], 2013)

- confirm that the Local Plan Spatial Strategy is the product of an unlawfully narrow assessment of the available alternatives (which, as noted in relation to Issues 3(8), (9), (11) and (12) , also undermines its soundness relative to the tests of positive preparation, justification and being the 'most appropriate strategy for the purposes of NPPF 182 and its conformity with the London Plan for the purposes of Sections 20(5)(a) and 24(1) Planning and Compulsory Purchase Act 2004 (PCPA 2004)).

2.5 The SA Report is clear that the Local Plan Local Plan has been prepared on assumptions that:

- (a) Green Belt changes must be made through the London Plan ⁴;
- (b) release of Green Belt (GB) land for housing "*is not [...] an option as it is contrary to regional and national policy which seeks to protect the Green Belt from inappropriate development*" ⁵;
- (c) a single alternative option, having no regard to GB change is appropriate: "*Given the SHMA findings, and given that the London Plan target is a minimum figure, there is a 'reasonable' need to test the option of delivering above the London Plan target as well as the option of delivering the London Plan target as a minimum (i.e. the Council's preferred approach). In other words, there is a need to appraise at least two spatial strategy alternatives*".

2.6 In both cases, that fundamentally misapplies NPPF 14, 47 and 80-84 and London Plan Policy 3.3 (as noted in relation to Issue 3(8) below). That is demonstrated by the fact that the authority has undertaken a partial (site-specific) consideration of exceptional circumstances ⁶ and incorporated changes into the Local Plan ⁷. As noted in relation to Issue 3, Question 12, the approach adopted by other Outer London authorities confirm that this is a misreading of the relevant policies.

2.7 This misinterpretation of policy has infected the approach to considering reasonable alternatives for meeting the local share of FOAN for the purposes of the SEA Regulations.

2.8 For example, the SA Report only considers one alternative option, with a growth difference of 109 dpa against the preferred option. The higher growth strategy simply assumes c. 750 dpa (with the additional 109 dpa simply focused at economic growth areas). No additional sites have been selected in connection with this strategy but it is assumed that to achieve this higher target (and

⁴ AECOM Sustainability Appraisal Report (6.3.30)

⁵ Paragraph 42 of the SA Report and also reflected in the 28 June 2012 Development Control Committee consideration of the Options and Initial Strategy Consultation Document (page 5, under Option1A.3)

⁶ See paragraphs 6.2.18 to 6.2.20 of the SA for the exceptional circumstances for releasing the Green Belt boundary at Biggin Hill, the 2015 Education Background Paper and paragraphs 6.3.3 to 6.3.13 of the SA for the exceptional circumstances for the re-designation of existing school sites from Green Belt and Metropolitan Open Land to UOS and Report No. DRR12/069 of the Development Control Committee dated 28 June 2012

⁷ Paragraphs 1.4.16 to 1.4.18 of the Local Plan explain the areas affected by the proposed GB amendment

proving deliverability) would require additional land allocations and the release of either designated industrial land or open space (or both) ⁸.

2.9 The SA Report therefore does not consider/ score the environmental cost/ benefit of all reasonable alternatives, including the following alternatives (or provide justification for why they are not relevant reasonable alternatives in light of a proper application of NPPF policy and London Plan policy):

- (a) a greater alignment with FOAN that involves the release of either designated industrial land or GB release (or both) to promote sustainable patterns of development that will achieve a housing target of approximately 1,300 dpa ⁹;
- (b) a greater alignment with FOAN providing for c.1,000 dpa (significantly more than 750 dwelling pa but less than the predicted housing target of approximately 1400 dwellings pa) that was not focussed on providing the additional housing at the economic growth areas, but more balanced growth across the Borough with housing density increased in suitable areas (e.g. through a review of the Bromley Town Centre AAP) and GB release;

2.10 The SA Report therefore offers no proper explanation for why the preferred strategy is *limited* to London Plan *minimum* targets¹⁰.

2.11 Without an explanation that addresses the relative merits of (a) and (b) above, assessed at the same level of detail as the preferred option, the Local Plan is flawed both in terms of policy compliance (soundness – as the most appropriate and justified option) and legal compliance.

Legal Defects

2.12 The SA Report fails to consider all the reasonable alternatives in relation to the overarching plan objective of achieving the 'most appropriate' positive balance between meeting FOAN and social, economic and environmental considerations. As below set out in our response to Issue 3 (9) and Issue 5 (16), that reflects the wider failure to properly apply NPPF policies on positive plan-making.

2.13 While the selection of the preferred alternative from the pool of assessed alternatives and their scores is a matter of planning judgment for the authority, the full range of alternative options

⁸ Paragraphs 6.2.4 and 8.2.6 of the SA explains that an increase from 500 to 641 dwellings pa as a result of the Further Amendments to the London Plan did not result in the release of either designated industrial land or open space (or both), but that 750 dwellings pa could not be achieved without a release.

⁹ consistent with the level of housing growth identified in the 2014 SHMA for the South-East London sub region (SA Report page 75)

¹⁰ SA Report 6.3.27

cannot – having proper regard to relevant national and strategic policies – be limited to the two options the Local Plan and SA Report have considered. That is a fundamental flaw in the environmental assessment of the plan ¹¹.

- 2.14 The SA report is therefore deficient and should be treated as a preliminary issue of fundamental importance for consideration in an Exploratory Meeting to avoid the Examination process ultimately resulting in delay to, rather than progress of, the Local Plan.

Question 3. Has the Council engaged constructively, actively and on a continuing basis with all of the bodies required by the Duty to Co-operate, including the strategic matter of housing with LB Croydon and development at Biggin Hill with Tandridge District Council?

The Duty

- 2.15 The representations from other authorities suggest that LB Bromley has failed to meet its Duty to Co-operate (DTC) under Section 33A PCPA 2004. Section 33A(2) makes clear that the duty to co-operate requires “in particular” (i.e. is not limited to) an LPA to “engage constructively, actively and on an ongoing basis” with other local planning authorities in the preparation of its development plan.
- 2.16 Section 33A(6) further clarifies that “engagement” includes, “in particular”, “considering whether to consult on and prepare, and enter into and publish, agreements on joint approaches to the undertaking of activities within subsection (3)”.
- 2.17 Co-operation is more than mere consultation; it requires on-going engagement in meaningful and positive way. Even where there is an apparent impasse or disagreement between authorities, there is a need to continue that on-going engagement ¹².
- 2.18 The NPPG makes clear that “requires a proactive, ongoing and focussed approach to strategic planning and partnership working.”¹³
- 2.19 The DTC:
- (1) Relates to strategic matters affecting sustainable development or use of land that has, or would have, a significant impact on at least two planning areas;

¹¹ *Heard v Broadland DC* [2012] EWHC 344 (Admin)

¹² *R (St Albans City And District Council) v SoD CLG* [2017] EWHC 1751 (Admin)

¹³ Paragraph: 004 Reference ID: 9-004-20140306, Revision date: 06 03 2014

- (2) Requires councils and public bodies to engage constructively, actively and on an ongoing basis to develop strategic policies;
 - (3) Requires councils to consider “joint approaches” to plan making;
 - (4) Expects LPAs to demonstrate evidence of having effectively co-operated to plan for issues with cross-boundary impacts when their Local Plans are submitted for examination (Paragraphs 178-181 of the NPPF) ¹⁴ ;
 - (5) Is a continuous process of engagement from initial thinking through to implementation, resulting in a final position where plans are in place to provide the land and infrastructure necessary to support current and projected future levels of development (Paragraphs 178-181 of the NPPF);
- ii) LPAs are not required to reach agreement about the planning strategy before they submit their Local Plans for examination (ID 9-016-130729 NPPG) but where there is disagreement there remains a duty to continue to engage ¹⁵.

Evidence Base

2.20 The submitted Statement of Compliance with the Duty to Cooperate (DtC Statement) states that the LB Bromley has engaged with the LB Croydon and Tandridge District Council as follows:

- i) 14 meetings of the Biggin Hill Consultative Committee since 2013 which involved representatives of both LB Croydon and Tandridge District Council
- ii) Engagement with Tandridge District Council on numerous occasions since 2013 about the different approaches to Travellers and Travelling Show People
- iii) Engagement with LB Croydon in Sept / Oct 2015 and Nov / Dec 2016 as part of the local plan consultation in relation to the accommodation needs of Travellers
- iv) Engagement with LB Croydon at the duty to co-operate meeting on 26 April 2013
- v) Engagement with LB Croydon on 3rd May 2013 (conference call) and at a meeting on 7 October 2015
- vi) Collaboration with both LB Croydon and Tandridge District Council in relation to the employment potential at Biggin Hill SOLDC and the effects of the Crystal Palace SOLDC which are expected to be in the wider renewal area, and adjoining Crystal Palace District Centre, and area adjacent
- vii) Engagement with LB Croydon over Cycle Routes including Quietways

¹⁴ Department for Communities and Local Government (2012). *National Planning Policy Framework*. London.

¹⁵ R (St Albans City And District Council) v SoD CLG [2017] EWHC 1751 (Admin)

- viii) Engagement with LB Croydon on 17 April 2013 as part of the Croydon, Bromley and Lambeth Neighbouring Borough meeting.

2.21 The quality of the engagement and any work or agreement (the outcomes) from this engagement are not clear in the DtC Statement. As such, there is nothing in the DtC statement that suggests that this engagement has been meaningful, positive and amounted to anything more than on-going consultation.

2.22 In addition, the DtC Statement is silent on the level of cooperation between LB Bromley and LB Croydon on the strategic matter of housing and LB Bromley and Tandridge District Council on the development at Biggin Hill. There is insufficient comprehensive and robust evidence (i.e. MOU, statement of Common Ground or a supplementary DtC Statement that is endorsed by both authorities) to conclude that every effort has been made by LB Bromley to seek co-operation with other nearby local planning authorities (or that any outcome has been achieved in terms of meeting needs and achieving the most appropriate strategy).

Breach

2.23 In the absence of evidence in the DtC statement to the contrary, LB Bromley has not met its DTC requirements because it has failed to:

- i) consider the objectively defined needs of the adjacent authorities, in particular the unmet need for new homes at LB Croydon, and engage constructively and actively on how these could be accommodated, looking at sustainability issues in the round;
- ii) take up the opportunity offered by LB Croydon to inform the methodology and findings of its Strategic Housing Market Assessment;
- iii) engage constructively, actively and on an ongoing basis with LB Croydon and Tandridge District Council on how sustainable development can be achieved at Biggin Hill, as this development will have a significant impact on all of their planning areas;
- iv) consider “joint approaches” to plan making to:
 - (a) *produce effective and deliverable policies on strategic cross boundary matters, including housing and employment;*
 - (b) *reach agreement about its planning strategy and how each Borough will meet its need for new homes before submitting its Local Plan for examination; and*
 - (c) *ensure that plans are in place to provide the land and infrastructure necessary to support current and projected future levels of development*

2.24 That failing is reflected by LB Croydon's representations on the Local Plan (Representation DLP53, dated 22 December 2016) and LB Lewisham (which suggest that it remains, at the point of plan submission interested in discussing strategic matters).

2.25 Under Section 20 (7A) PCPA 2004, the Local Plan should not be found sound if that position remains the case at submission (when the ability to further the DtC process ends) 16.

¹⁶ under Section 20(7)(C) of the 2004 Act. There is no power to make recommendations that would make the plan sound (section 20(7)(B) and (C) of the 2004 Act).

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Bromley Local Plan Examination Hearing Statement

On behalf of Lands Improvement

For Issue 3

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APPENDICES

APPENDIX 1: Bromley infrastructure projects to be funded via s106

1 ISSUE 3

IS THE SPATIAL STRATEGY FOR BROMLEY SOUND HAVING REGARD TO: THE NEEDS AND DEMANDS OF THE BOROUGH; THE RELATIONSHIP WITH NATIONAL POLICY AND GOVERNMENT OBJECTIVES; THE PROVISIONS OF THE LONDON PLAN; AND, THE EVIDENCE BASE AND PREPARATORY PROCESSES? HAS THE PLAN BEEN POSITIVELY PREPARED?

Question 8. Is the Plan in conformity with the London Plan as required by the provisions of Section 24 of the 2004 act?

- 1.1 The Local Plan must be in general conformity with the London Plan. It is therefore highly material to the issue of both FOAN and the balancing judgment approach to the eventual constrained OAN. The interpretation of policy is a matter of law, not of planning judgment¹. The issue is therefore a legal matter of fundamental preliminary importance.
- 1.2 The London Plan Policy 3.3 is clear that Boroughs should (emphasis added):
- i) treat housing targets as minima
 - ii) "seek to achieve and exceed the relevant minimum borough annual average housing target"
 - iii) "draw on the housing benchmarks in table 3.1 in developing their LDF housing targets, augmented where possible with extra housing capacity to close the gap between identified housing need [...] and supply in line with the requirement of the NPPF"
 - iv) "if a target beyond 2025 is required, boroughs should roll forward and seek to exceed that in Table 3.1 until it is replaced by a revised London Plan target";
 - v) the approach provides a basis for monitoring "until reviewed".
- 1.3 The policy does not state that boroughs should adopt the minimum levels and then constrain their delivery using existing policy designations adopted in different circumstances ignoring the balancing approach required by the NPPF. Nor can that approach sensibly be inferred from the very clear wording of the Policy – it would represent a total misreading or misapplication of it. The Policy is the product of a supply-constrained approach and seeks to achieve NPPF compatibility by requiring efforts to close the gap "*in line with the requirement of the NPPF*". The policy is therefore not an escape from the NPPF – it emphasises (explicitly) the need to comply with it

¹ Tesco Stores Ltd v Dundee City Council [2012] UKSC 13

on meeting needs and evaluating the cost-benefit in sustainability terms of alternative options for doing so to allow a balanced judgement to be made.

- 1.4 To demonstrate compliance with the London Plan in line with the NPPF requirements and justification in light of it, evidence is therefore needed of the efforts to seek to exceed these minima. In other words, the most appropriate alternative when the weighing of sustainability issues in the way confirmed in *Calverton*² has been undertaken on a justified (evidenced) basis. If that has not taken place, there is no conformity with the Policy nor the NPPF (as the Policy itself requires at 3.3D). The evidence base (including the SA Report) is clear that this has never been the starting point for the Local Plan.
- 1.5 In short, the 'do minimum' approach which has informed the Local Plan is neither sound (in terms of positive planning or justification) nor in accordance with the London Plan for the purposes of Section 24(1) PCPA 2004. Again, that is an objective assessment requiring the proper interpretation of the Policy and is ultimately a matter of law.
- 1.6 It also follows that, to avoid the Local Plan being out of date from adoption, some allowance is needed for the post 2025 element of London Plan minimum targets. Where these new minimum targets are likely to exceed the Local Plan supply, the Local Plan must have some mechanism to ensure that it can respond. That is particularly the case where the Local Plan is being submitted and examined at the last possible moment before the revised minimum targets are adopted. It is highly material in that sense that the draft London Plan targets have already been published. They are 122% higher for Bromley than the existing minimum. This cannot be dismissed as relevant only to the examination of the emerging London Plan – this order of increase reflects the *existing* evidence base on adjusted FOAN³. It shows how divorced from reality and from the exercise required to be "*in line with the requirement of the NPPF*" the Local Plan is. Without a mechanism to cater for the post 2025 element of that supply shortfall, the Local Plan will be out of date at adoption (on the basis of the current London Plan Policy 3.3. wording) and so will not be effective.
- 1.7 To the extent that the Council considers its approach to alternatives to be consistent with Policy 3.3, we consider that it is based on a misinterpretation of that policy. The proper interpretation of Policy 3.3 - and its correct application - is therefore a preliminary issue of fundamental importance.

Question 9. Will the strategy satisfactorily and sustainably deliver the new development and infrastructure needed over the Plan period?

² See footnote [2]

³ Table 6.2 of the South East London Strategic Housing Market Assessment, Table 6.2 using out of date CLG projections ('net additional dwelling requirement per annua allowing for vacancies' of 1,317) albeit that this used 2011 DCLG projections that are now recognised to be too low

- 1.8 The Local Plan as submitted will fail to meet Bromley's objectively assessed housing need, for three reasons: firstly, the significant under-estimation of Full Objectively Assessed Need (FOAN); secondly, the unrealistic assumptions about the availability of windfalls sites; and thirdly, the unrealistic reliance on constrained town centre sites that undermines the deliverability (and developability) of the assumed housing supply and the ability to address affordable housing needs.
- 1.9 The NPPF requires a two-step process to identify FOAN and evaluate the appropriate "policy on" constrained position ⁴. The London Plan is relevant to that, but cannot remove the need to undertake the first step or the planning judgment involved in the second step.
- 1.10 The Courts have been clear that "*numbers matter; because the larger the need, the more pressure will or might be applied to [impinge] on other inconsistent policies. The balancing exercise required by paragraph 47 cannot be performed without being informed by the **actual full housing need***" (emphasis added). It follows that where incorrect FOAN is used and the FOAN numbers are corrected, the balancing judgment must be reconsidered in light of the different balance of social, economic and environmental costs and benefits.
- 1.11 The housing targets included under London Plan Policy 3.3 are minimum targets that do not relate to the FOAN for London or LB Bromley. The Local Plan plans for exactly the "minimum borough annual average" housing target. The meaning of that NPPF and plan policy is a matter of law. Where the number being planned for (and treated, in effect, as the FOAN) is a function of a misapplication of the relevant policies, the Local Plan is the product of a legally flawed approach.
- 1.12 Para. 3.18 of the London Plan states: "*boroughs must be mindful that for their LDFs to be found sound they must demonstrate they have sought to boost significantly the supply of housing as far as is consistent with the policies set out in the Framework*". By seeking only to adopt the minimum housing target, which is woefully short of the acknowledged housing need, and without demonstrating it has sought to significantly boost supply by assessing reasonable alternatives, it is not possible to conclude the submitted plan has been positively prepared in accordance with NPPF para. 182.

Risks of under delivery

- 1.13 The Council's SHMA confirms that Bromley is suffering significant housing affordability stress (paragraph 4.58 of the SHMA). The obvious significant harm of demand continuing to outstrip

⁴ Lord Justice Laws at paragraphs 9 and 10 of *Solihull Metropolitan Borough Council v Gallagher Estates Limited, Lioncourt Homes* [2014] EWCA Civ 1610 and Sir David Keene at paragraph 25 of *Hunston Properties Ltd* EWCA Civ 1610

supply is that the affordability of housing in LB Bromley will continue to worsen. The harm will be felt most by lower and middle income groups and young people, who the SMHA confirms are currently most affected, and will either have to leave LB Bromley or live with parents.

- 1.14 Constraints on housing supply will also place limits on the number of working age migrants who can move to LB Bromley, undermining the Local Plan's employment growth strategy.
- 1.15 Not building enough new homes impacts the ability to fund vital new infrastructure projects through s106 and CIL contributions. A list of projects identified in the Council's Infrastructure Delivery Plan to be funded in part or whole by developer s106 contributions and CIL are included at **Appendix 1**.

Question 10. Does the Plan strike the right balance between provision for housing and provision for employment uses?

- 1.16 As outlined above in response to question 9, constraints on housing supply harm the Council's employment growth strategy by reducing the working age population in LB Bromley (forcing out / not attracting young people). This will affect the competitiveness of businesses in LB Bromley, as well as key public services' ability to recruit and retain staff.
- 1.17 Section 6 of the Local Plan starts:

“6.1.1 This chapter sets out the planning policies to deliver forecast significant employment growth and the business and Town Centre objectives outlined earlier in the Vision and Objectives.

6.1.2 Employment in the Borough is forecast to increase by 22% from 116,000 jobs in 2011 to 141,000 jobs in 2031 (GLA 2016 Labour Market Projections).”
- 1.18 Despite the Council's stated aspiration for significant economic growth, the Local Plan does not include a policy setting out overall employment floorspace growth targets for the borough, how much new floorspace should be delivered in Renewal Areas and Bromley Town Centre, or the link to a pipeline of deliverable (and developable) housing sites to match the Council's stated economic growth strategy.
- 1.19 More housing should be allocated in the Local Plan to address the significant shortfall against identified housing need, but also to support the Council's economic growth strategy. New housing should be located nearby to LB Bromley's three strategic economic growth areas (Bromley Town Centre, the Cray Business Corridor and Biggin Hill) to provide an accessible workforce for businesses.

- 1.20 Bromley Town Centre includes proposed allocations for 1,975 dwellings. By comparison just 165 dwellings are proposed nearby to the Cray Business Corridor, this is despite the area being one of the most deprived in London and designated a Renewal Area. Significant housing growth is needed to support and cross subsidise employment growth in the Cray Business Corridor.
- 1.21 Lands Improvement's site at St Marys Cray, next to the Cray Business Corridor, could deliver 1,000 new homes alongside other community uses and benefits (including up to 350 affordable homes). The increased work force would help support the business corridor and the scale of the development would mean that it could make a meaningful contribution towards upgrading identified highway constraints to retain and attract new businesses to the area (see response to Issue 4, Question 15). That contribution to meeting needs sustainably would also have wider regeneration benefits for the Cray Valley Renewal Area (see response to Issue 6, Question 27). As noted in response to Issue 1, the cost / benefits of this option have not been considered.

Question 11. Is the spatial location of development proposed across the Borough justified, given the concentrations of development in the Plan?

- 1.22 Bromley Town Centre is the overwhelming primary focus for new development in LB Bromley. While that is consistent with the objective of focussing development in the most sustainable locations, it is a strategy that is clearly reliant on those sites all being deliverable (and developable). The Local Plan assumes, without adequate evidence, that every one of these sites can wash their own face in sustainability terms (delivering at least 35% affordable housing, CIL and other developer contributions) while overcoming the significant brownfield development costs and avoiding saturation of a town centre typology. If in fact they cannot, which the lack of progress in previous years strongly suggests, the trajectory on which the Local Plan is predicated is unsound. Furthermore, if they can only come forward (as is likely) with a significant reduction in overall sustainability credentials (including affordable housing provision), that should have been weighed carefully in the balance in considering the merits of alternative, more appropriate, options. As noted in response to Issue 1, that has not been taken into account in any meaningful way. As a result, the plan will fail to meet fundamental wider aspirations, including supporting the Cray Valley Renewal Area and the Cray Business Corridor (both designated in the London Plan).
- 1.23 Of the identified sites and broad locations included in the Council's housing trajectory (Appendix 10.1 of the Local Plan), sites for 2,777 dwellings are located in Bromley Town Centre. This represents 55% of the Council's supply for specific sites and broad locations. By comparison, sites for 607 dwellings are identified in Cray Valley West and Orpington (12%). This means almost 5 times more housing is planned in Bromley Town Centre, than the borough's second centre of Orpington, which is designated as part of an Area for Regeneration and next to the Cray Business Corridor.

- 1.24 As part of an overall increase in housing supply, the spatial distribution of development should be rebalanced across the borough to ensure deliver and spread benefits to support LB Bromley's renewal and economic growth areas.

Question 12. The preparatory work for the Plan has not included a comprehensive review of Green Belt to accommodate development but only changes, where necessary, to meet certain development needs. Justify this approach and its implications for the spatial strategy.

- 1.25 Our submissions in response to Issue 1, explain why the failure to identify, score and weigh the alternative options (including release of Green Belt) is a flaw in the preparation of the plan for environmental assessment and participation purposes. As a further consequence, the submitted Local Plan does not satisfy the following requirements of soundness for the purposes of the NPPF (emphasis added):

*“**Justified** – the plan should be the most appropriate strategy, when considered against reasonable alternatives, based on proportionate evidence; and*

***Positively prepared** – the plan should be prepared based on a strategy which seeks to meet objectively assessed development and infrastructure requirements, including unmet requirements from neighbouring authorities where it is reasonable to do so and consistent with achieving sustainable development. (NPPF, Para.183)”*

- 1.26 NPPF requirement for plan-making requires the plan-making authority to understand the extent to which NPPF policies (including those in footnote 9) constrain meeting FOAN. That requires an exercise of planning judgment, as directed by NPPF 83, of whether there are Exceptional Circumstances for the alteration of GB boundaries to both ensure their durability beyond the plan-period and understand the overall planning balance in respect of sustainable growth (to which NPPF 14 and 182 are directed). A positive approach to evaluation of all reasonable alternatives based on proportionate evidence is required for the purposes of Section [20(5)] PCPA 2004.
- 1.27 NPPF 83 requires an understanding of the relative merits of changes to the Green Belt so that a properly balanced judgment can be taken about the balance of benefits from different approaches. By doing so, the preferred strategy can emerge (and be seen to be) the "most appropriate" of all reasonable alternatives for NPPF 182 purposes.
- 1.28 Where the decision is to meet a constrained OAN, the threshold of that constraint is a matter of planning judgement for the authority. That judgement must, however, be 'justified' (in the sense of being the product of an evidence-based consideration of the relative merits of reasonable

alternatives). The authority must have put itself in a position to be able to rationally undertake it by:

- i) Having assembled the evidence to be able to understand relative merits (i.e. both the parameters and effects of different alternatives and the underlying condition of the affected assets themselves, including the status of existing Green Belt land);
- ii) Being prepared to then undertake a transparent exercise of considering the range of reasonable options and their relative costs and benefits.

1.29 Neither is the case in relation to the Local Plan which (as noted in response to Issue 1) is the product of mechanistically and improperly treating Green Belt as a constraint with no reference to the planning judgment on relative benefits in terms of sustainability that the Courts have confirmed is needed. The Council has in preparing the Local Plan failed to properly give effect to NPPF 83, and the wider NPPF policies referred to above, which requires to see the "whole picture" on sustainability when making a planning choice about the constrained approach.

1.30 The Local Plan has therefore not been informed by the analysis recommended in 2005 by the 2006 UDP Inspector or required by the NPPF.

1.31 Given that the Council has submitted a plan that it acknowledges will fail to deliver the homes needed over the next 15 years (even without considering the unmet need of neighbouring authorities) alternative strategies should have been assessed, including a review of the Green Belt that allowed it to properly identify and weigh the social, economic and environmental costs and benefits of different options to understand the 'most appropriate' balance of sustainability between those interrelated elements. Without properly considering alternatives it is not possible to conclude that the submitted plan represents the most appropriate strategy in accordance with NPPF 182.

1.32 Much of the Green Belt in the Local Plan area reflects a form and function relevant to the position two generations ago. It does not reflect the needs and the opportunities of the present or the future. The quality of its contribution to the five purposes of Green Belt has changed. The importance of that contribution, relative to today and tomorrow's pressures of housing stress (and its social and economic consequences) have changed. The previous Local Plan Inspector recommended a comprehensive review of the Green Belt in 2005. As explained in response to Issue 1, nothing has been done to understand the strategic value of the existing Green Belt and weigh its contribution against the opportunity costs of doing nothing. That is not positive planning for the most appropriate way to deliver sustainable growth.

- 1.33 Lands Improvement's site for example, is bordered on three sides by existing development; plays no role in preventing neighbouring towns from merging; has no historic significance; and is in an area where available brownfield land is already in such scarcity that the housing needs of communities in identified need of regeneration go unmet. The analysis behind the Local Plan has not taken these exceptional circumstances into account as envisaged at paragraph 83 of the NPPF.

The approach of other Outer London boroughs to Green Belt

- 1.34 The Council's approach not to undertake a Green Belt review is unusual. Other Outer London Boroughs (LB Barking and Dagenham, LB Croydon, LB Enfield, LB Haringey, LB Havering, LB Kingston, LB Redbridge, LB Sutton) have undertaken, or are undertaking, Green Belt reviews in the last four years to support the preparation of their Local Plans.
- 1.35 The analysis above is reflected in the decision by these other Outer London Boroughs to satisfy SEA and NPPF 83 requirements by conducting a review of the Green Belt (including, in some instances, altering Green Belt boundaries to exceed minimum targets to close the gap between housing supply and demand).

LB Croydon

- 1.36 Neighbouring LB Croydon is part of the same HMA as LB Bromley and undertook a Green Belt review in 2016 to support the preparation of its Local Plan. LB Croydon concluded it was necessary to undertake a Green Belt review *"to explore potential development options and strategies that included release of land in these designations to help meet the need for homes in the borough"* (Review of Green Belt, July 2016).

LB Redbridge

- 1.37 LB Redbridge undertook a Green Belt review in 2017 and as part of that process produced a 'Frequently asked questions' document, which included (emphasis added):

"The Council's SHMA states the Council's OAN Need has been identified as 31,977 homes for the plan period, with an average of 2,132 per year. This is almost double the target which is set in the London Plan (2015) of 1,123 dwellings per annum. In addition, the Infrastructure Delivery Plan (2016) has identified a range of social infrastructure requirements to meet the needs of the borough's existing and future residents, which includes the need to provide an estimated five schools over the Local Plan period. The Council considers that the need to provide this level of housing and community infrastructure are 'exceptional circumstances' to alter the greenbelt boundaries to ensure the borough develops in a sustainable way".

Green Belt review

- 1.38 The planning judgement on how far, if at all, to redefine the Green Belt boundary for the future is for the local planning authority. But it is a weighing exercise which itself requires, and cannot be properly undertaken without, being 'justified': by evidence of Green Belt status; and by careful scoring which shows the balance of benefits in different scenarios. The Local Plan should have been informed by a comprehensive Green Belt review.
- 1.39 A Green Belt review is an essential evidence document needed to demonstrate whether the Council's housing strategy is sound. The approach taken by other Outer London Boroughs in preparing their Local Plan evidence bases reflects this.
- 1.40 Without a Green Belt review it is not possible to conclude that the Council's proposed housing strategy, which plans to fail to meet LB Bromley's housing needs, is sound and NPPF compliant in the sense of representing positive planning to identify the most appropriate strategy for meeting needs having regard to the overall sustainability balancing act.

Question 13. Give further details on the relationship between the implementation of policies in the Local Plan and Bromley Town Centre Action Area Plan. Should any changes to the Action Area Plan which would result from the adoption of this Plan be explicitly stated on a schedule as an Appendix?

- 1.41 There are serious and longstanding doubts about the deliverability and sustainability of BTC AAP sites.
- 1.42 In 2010, the Inspector for the BTC AAP was concerned about the deliverability of a number of the opportunity sites identified. He was particularly concerned by the deliverability of Site G, which is the largest allocation for 1,180 dwellings. In order to find the BTC AAP sound he recommended that the plan was modified so that LB Bromley was required to prepare a masterplan to demonstrate that Site G could be comprehensively developed given the many known constraints (see response to Issue 4, Question 14). A masterplan has not been prepared to date.
- 1.43 The reliance on these APP sites cannot be found to be 'justified' in the absence of evidence of their deliverability (and developability).
- 1.44 A comprehensive masterplan should be prepared for Site G in particular, to justify and ensure the effective delivery of the Council's largest and most important strategic allocation.

**APPENDIX 1: BROMLEY INFRASTRUCTURE PROJECTS TO BE FUNDED
VIA S106**

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Appendix 1: Bromley Infrastructure Project to be funded via s06 / CIL

Transport

- A21, Mason's Hill, between Kentish Way and B265 (cost £21m)
- Bromley, Masons Hill, High Street, Westmoreland Road (cost £2.9m)
- New car park at Locksbottom (cost £3m)
- Car clubs to reduce congestions
- Measures to reduce bus journey items between Bromley and Canary Wharf / Croydon
- Bus improvements between Biggin Hill and rest of the borough.

Education

- Contributions towards 11 new primary schools (St Johns CE Primary, Stewart Flemming, Churchfields, James Dixon, Marian Vian, Wickham Common, Scotts Park, St Georges, Parish, Farnborough, Trinity)
- Potential contributions to Secondary school expansions (yet to be specified).

Open spaces

- Upgrading park playground facilities borough wide.

Sustainability

- Carbon Offsetting Fund.
- Combined Heat and Power facilities.

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Bromley Local Plan Examination Hearing Statement

On Behalf of Lands Improvement

For Issue 4

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Planning and Environmental Advisers

APPENDICES

APPENDIX 1: Bromley Housing Zone Judgement

1 ISSUE 4

ARE THE MAIN AREAS FOR GROWTH PROPERLY DEFINED, DO THEY POSITIVELY PROMOTE THE SPATIAL VISION AND OBJECTIVES FOR BROMLEY AND ARE THE EXPECTATIONS FOR GROWTH JUSTIFIED AND DELIVERABLE?

Question 14. What is the rationale for the selection of the 3 economic growth areas of Biggin Hill, Cray Business Corridor and Bromley Town Centre, including significant housing growth in Bromley Town Centre?

- 1.1 The scale and timeframes for development in Bromley Town Centre included in the Local Plan are not realistic given historic delivery rates and, therefore, are not justified. A comprehensive masterplan is required for complex development sites, like Site G, as recommended by the BTCAAP Inspector, to allow these sites to be relied on in making any finding of soundness in reliance on them.
- 1.2 The deliverability of the development proposed is further undermined by the quashing of the Bromley Housing Zone and its associated £27m of funding in March 2017, the High Court judgment for which notes that Site B and Site G are recognised as unviable.

Stalled delivery in Bromley Town Centre

- 1.3 The BTCAAP spans three five year phases over a 15 year period (2010 to 2025). It was expected to deliver over 1,800 dwellings, including 580 dwellings by 2015. We are now half way through the BTCAAP plan period and none of the opportunity sites have completed. Only the Crest Nicholson development on Ringers Road within Site G has delivered any housing to date (163 apartments), but this site already had planning permission since 2008 (before the BTCAAP). The BTCAAP has therefore failed to deliver any additional housing in Bromley Town Centre.

Table 1, Progress on BTCAAP Opportunity sites since 2010

Site	2010 BTCAAP site capacity	Time period for delivery	Completed since 2010	Local Plan 2017 capacity	Comments
Site A – Bromley North	250	2010 - 2020	0	525 (+2,200 sqm of offices)	Capacity more than doubled, despite absence of deliverable scheme.
Site B – Tweedy Road	70	2010 - 2015	0	24	Capacity more than halved following detailed work on what

					could be accommodated on site
Site C – Former Town Hall	20	2010 - 2015	0	53	Permission granted 2016. No reported completions to date
Site D – The Hill	Removed	n/a	0	150	Removed from BTCAAP, but now added back in.
Site F – Civic Centre	20	2020 - 2030	0	70	BTCAAP Inspector saw “little need for housing on this civic centre site”
Site G – High Street	1180	2015 - 2025	163	1,230	CPO now planned for 380 dwellings by 2023. Unclear how remaining 850 dwellings will be delivered
Site J Bromley South	0	2010 - 2015	0	See above	Now included as part of Site G above
Site K Westmorland Road Car Park	200	2010 - 2015	0	200	Permission granted 2012. No reported completions to date.
Site L Former DHSS building	40	2010 - 2020	n/a	n/a	
Site P Sainsburys, West Street	20	2015 - 2020	0	20	
Total	1,800	2010-2025	168	2,272	

1.4 The Inspector for the BTCAAP noted potential deliverability issues associated with a number of the opportunity sites, including Site A, B, F, G and K. Despite these concerns in 2010, now confirmed by the lack of delivery to date, the Council is seeking to increase the overall number of dwellings in Bromley Town Centre by 472 dwellings (i.e. by more than 25%). It has done no further work on the deliverability of these key town centre sites to establish their deliverability – despite the BTCAAP Inspector's concerns about the need for "far greater certainty" about whether Site G in particular is "viable and achievable" ¹ (including their ability to deliver at least 35% affordable housing). In the absence of the kind of masterplan recommended by the BTCAAP Inspector, none of the sites can clearly satisfy a minimum of 35% affordable housing. The Council's affordable housing evidence base is over three years old and does not properly consider the contribution and performance of these sites.

1.5 As the largest site, the BTCAAP Inspector was particularly concerned by the deliverability of Site G. The site is significantly constrained by:

¹ 6.39 and 6.44 of the BTC AAP Inspector's Report

- Existing retail and office tenants.
- Long term leases.
 - Restrictive covenants.
 - Rights of light issues.
 - Retention of servicing to retailers.
 - Retention of existing community services.
 - Conservation area setting issues.
 - Archaeological interests.
 - Network Rail land.
 - Ringers Road development for 168 apartments completed in 2015 and has constrained the development potential of a large part of Site G, by restricting opportunities for car parking as originally envisaged (due to lack of a comprehensive masterplan).
 - Existing trees and open space.

1.6 There is also strong local opposition to the scale and approach to development on Site G. It remains controversial and neither the detailed planning permission and (as now recognised by the Council) the Compulsory Purchase Order needed to deliver the site are certain.

1.7 The BTCAAP Inspector noted in his 2010 report (our emphasis added):

“6.38. Unlike other opportunity sites, where I consider a degree of flexibility is required, and has been allowed for in the policies and the key design principles, on OSG [Opportunity Site G] there are unfortunately a number of imponderables to consider on which there is a lack of robust evidence. The Council envisage a phased development of this large area but the diagrammatic plan in the Area Action Plan provides little guidance as to how comprehensive development could occur and how development of parts of the site would be related to the whole.

6.39 The Area Action Plan is a delivery document. I accept that because of its size and location OSG has potential for redevelopment. However, if it is to be redeveloped comprehensively there needs to be far greater certainty about the form of development which should take place, and whether certain existing buildings need to be included, or excluded, from such redevelopment.

There are many ownerships and land interests here and I consider a more prescriptive approach is necessary.”

- 1.8 As a result of these concerns, the Inspector recommended a modification to the BTCAAP to supplement the policy with a masterplan to ensure comprehensive development is achieved. Despite this modification to make the BTCAAP sound, a masterplan was not prepared and has not been prepared to support the submitted Local Plan either.
- 1.9 Draft Policy 90 states that a Planning Framework will be prepared for Bromley Town Centre as *“an early review of the Bromley Town Centre Area Action Plan and implementation of the Bromley Town Centre Housing Zone, as agreed by the Mayor in 2016”*. This continues to defer the essential requirements of the plan-making function where such significant reliance is being placed on such constrained sites. The later £27m Housing Zone funding has since been quashed and should be amended. The framework has a target adoption of 2019 / 20 – ten years after the BTCAAP Inspector’s recommendation. The policy does not say the Framework would include a comprehensive plan for Site G or it will add anything more than what exists in the current BTCAAP. It is not possible, in Lands Improvement’s view, to properly conclude that the submitted plan is sound in relation to the scale of development relied on until a comprehensive masterplan has been prepared for Site G which allows the viability (including at least 35% affordable housing) of the site to be understood, so that the plan position can be described as both justified and effective.

Quashing of the Bromley Housing Zone

- 1.10 The submitted Local Plan was prepared with Housing Zone funding in place and still contains several references to the Housing Zone (including Draft Policy 90). £27 million in GLA grants and loans that were to be made to LB Bromley to accelerate and unlock housing development across the town centre are now not available. The impact of the removal of the Bromley Housing Zone funding on the deliverability of the Local Plan growth strategy has not been addressed by the Council.
- 1.11 The Council has refused to provide a copy of the Council’s HZ bid document. We therefore rely on the judgement itself (see **Appendix 1** for a full copy) which states:

“9. Bromley’s bid for HZ designation was submitted in April 2015 and was considered by the Challenge Panel on 16 May 2015. It was stated that the bid would unlock and accelerate mixed use development in the Town Centre, which was the area to be covered by the HZ. In particular, it would, it was said, see the delivery of 1150 homes of which 35% were expected to be affordable. Without a HZ, it was said that there would be only 360 homes due to the complexity of the sites...

15. In relation to Site A, paragraph 3.8 stated that a viability assessment had identified the high cost of the enabling infrastructure required on the A21 as a restraint. GLA funding was needed to support an upgraded transport interchange including a relocated bus station and a new rail station office. Site G had run into difficulties because of the failure of market options to enable the development to proceed. Thus it was shown that the HZ designation would enable the units on Sites A and G to go ahead.”

- 1.12 Site A is the second largest proposed allocation included in the plan at Bromley North Station for 525 apartments plus a mix of other business, retail, infrastructure and community uses. Site G is the largest proposed allocation for 1,230 apartments plus a mix of retail, car parking, leisure and community uses. The judgement from March 2017, therefore, confirms that the Council considers the two largest proposed allocations by the Council unviable without grant funding (which now remains uncertain).
- 1.13 Both of these sites are allocations carried forward from the BTCAAP adopted in 2010. In that time no development has come forward on the Bromley North site and only a small amount of development has come forward on Site G on part of the site that already had planning permission from 2008 and took seven years to be completed. Despite this lack of progress and withdrawal of funding needed to make the sites viable and the absence of a comprehensive masterplan for how either site could come forward given the known constraints, the Council is seeking to increase the overall amount housing on these two sites by an additional 325 dwellings from the BTCAAP figures (up from 1,430 dwellings to 1,755 dwellings). Regardless of the eventual outcome of any future bid for funding, the position remains that these sites are currently highly complex, controversial at the previous (let alone increased) densities and unviable at 35% affordable housing. This is not just a hole in one part of the Local Plan. It is effectively the sole focus of the plan – accounting for 31% of total identified housing sites over the whole plan period.

Cray Business Corridor and the Cray Valley Renewal Area

- 1.14 A greater focus should be given to the Cray Business Corridor and the Cray Valley Renewal Area, both of which are priorities identified in the London Plan.
- 1.15 The Local Plan fails to demonstrate how essential infrastructure identified to support the planned growth of the business corridor and to regenerate Cray Valley will be delivered. Specifically, highway upgrades to create more capacity along the business corridor (see response to Question 15 below) and new homes and community facilities needed to revitalise the Cray Valley Renewal Area (see response to Issue 6, Question 27).

Question 15. Will the infrastructure required for these areas be delivered in a timely fashion to keep pace with development? How will it be funded to provide certainty and how will it be triggered?

- 1.16 The Cray Business Corridor Strategic Industrial Location (SIL) comprises five sites located along the A224 Cray Avenue/Sevenoaks Way and one to the north-east of the A224/A20 junction, which is known as Crittalls Corner. The Crayford Business Park Office Cluster is located just off the A224.
- 1.17 Draft Policy 81 – Strategic Industrial Locations provides support for the intensification, and upgrading, of the Cray Business Corridor to meet expected future business needs, particularly the forecast growth in Class B1 based employment. All of the sites comprising the SIL and the Office Cluster are currently in employment use.
- 1.18 The Council's Planning for Growth - Cray Business Corridor Study document (2014) considered the highway impacts arising along the Cray Business Corridor between 2013 and 2031 including in the scenario where three of the SIL sites and the office cluster are redeveloped for employment use. The study network comprised six junctions including Crittalls Corner.
- 1.19 The study identified that four junctions, including Crittalls Corner, will be operating over their maximum capacity thresholds in one or both of the weekday peak hours in 2030 even if none of the SIL sites or office cluster are redeveloped. It goes on to say that improvements will be required at these junctions to enable development of the SIL sites and office cluster. For Crittalls Corner, it is suggested that full signalisation will be necessary as a minimum. Potential further improvements include realigning the Edgington Way arm, creating a left turn slip onto the A224 from the A20 westbound and including the junction within the SCOOT system in operation at other junctions along the A224.
- 1.20 The study does not present indicative layouts for any of the suggested improvements, but they are likely to be in the order of £3 million.
- 1.21 To make the SIL sites and office cluster attractive and deliver the growth in jobs envisaged by the Draft Local Plan, something significant needs to be done to relieve congestion along the A224.
- 1.22 As with any significant infrastructure, funding is the key. The study identifies that the scale of the upgrades, especially at Crittalls Corner, will be beyond the scope of one site or developer and so financial contributions will need to be sought from the developers of the SIL sites and office cluster and other nearby developments. Any financial contribution will need to meet the tests at paragraph 204 of the NPPF. The SIL sites and office cluster are currently in employment use and so the net effect of any proposal to intensify the activity on them is unlikely to allow sufficient

funding to be collected in the form of contributions to deliver the scale of improvements necessary to four key junctions on the A224.

- 1.23 The above is acknowledged by the Cray Business Corridor Study which says that other developments coming forward in the area will need to contribute. There are no major housing developments proposed nearby to the business corridor to support and cross subsidise employment growth (through an increased workforce and s106 / CIL funding). It is clear then that there is a risk that significant highway improvement schemes, such as that identified for Crittalls Corner, which are needed to reduce the negative effects of peak hour traffic congestion on the A224, and enable significant future development along it, cannot be delivered without significant additional funding.
- 1.24 There is a solution to this potential shortfall. Lands Improvements site to the east of St Mary Cray could be developed to provide in the region of 1,000 new homes. The scale of the development would mean that a significant financial contribution could be sought towards strategic schemes, including signalisation of Crittalls Corner.
- 1.25 Without a strategic development such as this, Crittalls Corner will be unable to satisfactorily accommodate the additional traffic arising from the level of development along the A224 envisaged within the Draft Local Plan. If nothing is done to address peak hour traffic congestion it is likely that existing and potential future occupiers will seek to locate their businesses elsewhere. If that is the case then there is a risk that the number of additional jobs needed in the Borough over the life of the plan will not be achieved. Despite this, the Draft Local Plan does not make any reference to improvements to key junctions on the A224, including Crittalls Corner.
- 1.26 On this basis, the expectations for growth within the Draft Local Plan cannot be considered deliverable – they are neither justified nor effective.

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APPENDIX 1: BROMLEY HOUSING ZONE JUDGEMENT



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Case No: CO/2175/2016

**IN THE HIGH COURT OF JUSTICE
QUEEN'S BENCH DIVISION
PLANNING COURT**

Royal Courts of Justice
Strand, London, WC2A 2LL
30/03/2017

B e f o r e :

MR JUSTICE COLLINS

Between:

Relta Limited

Claimant

- and -

Greater London Authority

Defendant

- and -

London Borough of Bromley

Interested Party

**Mr Andrew Parkinson (instructed by DAC Beachcroft LLP) for the Claimant
Mr Robert Williams (instructed by Transport for London (Legal)) for the Defendant
The Interested Party was not represented**

Hearing dates: 7th March 2017

HTML VERSION OF JUDGMENT APPROVED

Mr Justice Collins:

1. This claim seeks to quash the decision by the Mayor of London on behalf of the defendant to designate Bromley Town Centre (BTC) as a Housing Zone (HZ). The decision was made on 17 March 2016. Permission to seek judicial review was granted by Wynn Williams J on an oral renewal which followed refusal on the papers by Supperstone J. Permission was granted on a ground raised in the claimant's reply to the defendant's and the interested party's summary grounds of defence. That alleged that the Mayor had misinterpreted his policy on the designation of HZs in his approach to whether such designation would deliver a minimum of 1000 houses.
2. In June 2014 the then Mayor issued a Prospectus dealing with HZs. The purpose was to boost housing supply in London by providing money from the defendant to individual Boroughs to "unlock and accelerate housing delivery and to build homes more affordable for working Londoners". Initially, there were to be 20 such HZs which did not include the BTC zone. That was included when the decision was taken in January 2016 to add a further 11 HZs. The basis for designation remained in all material particulars the same. As the introduction to the Prospectus made clear, what was required from a Borough which put in a bid for a HZ designation was that there would be a delivery of a minimum of 1000 homes each on a brownfield site. One important factor was that the Borough should offer what was called a 'something for something' deal, for example an undertaking to accelerate planning decisions relating to housing.
3. The Prospectus states what is required from a Borough if a HZ designation is sought. Thus it is necessary to determine what the Prospectus does require since its proper interpretation is a matter of law. But it is important to bear in mind that policy statements should not be subjected to the sort of analysis that may be appropriate when legislation or contractual provisions are being considered. Further, it is necessary to construe relevant requirements in the light of the purpose of the Prospectus, namely to increase the production and availability of housing in London.
4. The defendant accepts the need to comply with the relevant requirements of the Prospectus. The following paragraphs are particularly material:-

"11. Housing zones will work flexibly and will operate in different ways according to local circumstances so that the approach fits the specific needs of an area. Housing Zone designation could be used to unblock or kick-start development where it is stalled; it could be used to speed up delivery of homes that are already planned; or it could be used to bring forward new supply that would not otherwise have occurred. In any one Housing Zone any or all of these approaches could be applied.....

16. The primary aim of a HZ is the maximisation of new housing supply and all the policy tools should be geared to that core purpose. In this respect, they differ from many other regeneration or housing investment programmes which have been about the wider development of an area, or about improving existing stock, rather than increasing overall supply. HZ designation and investment must directly result in unlocked or accelerated housing supply.....

26. The Mayor will consider a range of criteria when assessing whether a potential location would be a viable Housing Zone. These are set out in detail in Part Five, along with the bidding process and bidding proforma. Fundamental

to any successful bid for Housing Zone status will be a clear statement of the "something-for something" offer that will unlock development alongside a commitment from the borough and key partners to deliver the Housing Zone, including the financial and other resources the partners can contribute. Development will need to be already underway or ready to start and be able to be rapidly increased or accelerated. There needs to be a clear setting out of realistically deliverable infrastructure requirements and how these will deliver the increased housing output; and where the funding sought is from the repayable fund, there needs to be clarity on the certainty of the repayment profile.

27. In addition to the above, bids should include assessments of the additionality that Housing Zone intervention will create in terms of new homes. 'Additionality' in this context means either homes being built that would not otherwise have been, or the accelerated housing delivery that becomes deliverable. It will be important for bids to demonstrate clearly the effect that the Housing Zone intervention would have on housing supply so that assessments of the value of the intervention can be made. Each Housing Zone will be expected to deliver at least 1,000 homes.....

42. Whether or not the GLA provides active planning support, there would be an expectation that the borough would commit to ensuring that the planning process is organised to deliver timely consideration of planning applications through a commitment to a pre-application process, assurances on timetables, Planning Performance Agreements and clarity over s106 obligations which should be as straightforward as possible. Boroughs will also need to demonstrate that planning consents will be capable of speedy implementation, for example by ensuring that reserved matters and pre-commencement conditions agreed in advance. Where Housing Zones cross borough boundaries, the support could focus on bringing together different borough planning teams to ensure co-ordination of approach and decision making"

5. Paragraph 66 is particularly important. It comes in a section headed "The Bidding Process". It provides:-

"66. All bids will have to satisfy a number of requirements in order to be considered for designation as a Housing Zone as follows:

- a. The London borough making a significant contribution through resources, management and powers, towards housing delivery as part of a 'something-for-something' deal;
- b. Evidence that the proposed interventions will unlock or accelerate the quantum of housing outputs proposed;
- c. Delivery of a significant level of new housing. The Mayor expects that Housing Zones will deliver a minimum of 1,000 homes."

In paragraph 67, it is said:-

"The Mayor's objective in Housing Zones is to boost housing supply, either through generating additional new homes or by greatly accelerating housing delivery."

6. The 1000 houses requirement in c. was restated in the Mayor's decision of 28 January 2016 to designate a further 11 HZs in paragraph 1.12 of that decision in these words:-

"A minimum threshold of 1000 new homes delivered across the Zone (an original requirement)."

The procedure adopted to evaluate a bid from a Borough was to review it first by what was called a Challenge Panel. It would then be tested by the Housing Investment Group. If it passed those, there would then be put to the Mayor a request for his decision to approve the bids. In this case, Bromley's bid was one of 11 then considered appropriate. In paragraph 2.11 of the request to the Mayor, Bromley's HZ was said to be expected to achieve a level of development within its Zone of 1,468 homes for which the GLA would provide £27,100,000. The issue in this claim is whether Bromley's bid did comply with the requirement that at least 1000 new homes would result from the HZ designation as set out in the Prospectus.

7. In the original claim form and statements both in amended grounds and grounds of defence, there was no agreement on what was needed in order to comply with the requirements of the Prospectus. The claimant's case before submission of counsel's skeleton argument was that the 1000 homes must be additional homes which would not have come forward without GLA funding. In his skeleton argument, Mr Parkinson submitted that the result of the HZ designation should be delivery of 1000 new homes which meant that there should be a connection between the designation and its interventions and the resulting delivery of 1000 new homes. The word 'interventions' follows the language of paragraph 66b. of the Prospectus and means such planning and policy actions as would be necessitated by the designation: see paragraph 65 of the Prospectus, which I do not need to cite. Mr Williams did not in his skeleton challenge Mr Parkinson's submission that there should be the connection, but added the proviso that 'connection' should not be construed restrictively or narrowly and that delivery of housing could be benefited either directly or indirectly. Examples of such benefit could be found in increased market confidence because of the designation, in the expedited planning process and in infrastructure funding. This could include for example improved access by highway works.
8. The key to Mr Williams' case, as developed in argument, was that, if the designation was likely to benefit delivery of homes, that sufficed to meet the 1000 new homes requirements. Mr Parkinson disputed this because in his submission it had to be shown that the designation would increase the delivery of new homes by unlocking or accelerating their number. It looked to the future and there must be at least 1000 new homes which needed designation in order to enable them to be delivered.
9. Bromley's bid for HZ designation was submitted in April 2015 and was considered by the Challenge Panel on 16 May 2015. It was stated that the bid would unlock and accelerate mixed use development in the Town Centre, which was the area to be covered by the HZ. In particular, it would, it was said, see the delivery of 1150 homes of which 35% were expected to be affordable. Without a HZ, it was said that there would be only 360 homes due to the complexity of the sites. There were included tables which showed the specific sites and numbers of homes on each, split between those to be available between 2015 and 2019 and those after 2019. The numbers given for units with HZ funding amounted to 1553. It is far from clear how the total of 1150 is calculated. It seems that two sites, identified as A around Bromley North Station and G west of the High Street would produce some 530 units. What are described as AAP opportunity sites add some 300. Further, there are an additional 320 which include C (Town Hall) and B (Tweedy Road) and a number of windfall sites. But 620 are said in the Panel's report not to need GLA intervention.

10. There are two tables which give the figures. The first table sets out under the heading 'Without Housing Zone Funding (units completed)' a total of 360 units comprising 200 in Site K (Westmoreland Road) and 160 in Site G. The second table identifies a total of 530 units on Sites A and G and a further 530 units on other identified sites together with windfall sites either to be identified or with existing planning permissions. Finally, there are the 300 under AAP Phase 3. AAP is the Bromley Town Centre Action Plan adopted in October 2010. The table has a column headed 'Direct/Indirect Link' which, in context, can only refer to a link with the HZ designation. Sites A and G have 'Direct' as do three other sites, C and B and one windfall site, totalling 170 units. For the remaining units, there is no entry in the Direct/Indirect column.
11. The Challenge Panel recommended a number of conditions which included a commitment to expedite planning decisions and to turn around all applications within 12 weeks. This was part of the 'something for something' obligation. It was also necessary to show that a number of the sites due for delivery had planning permission by July 2015. The modelling work from TFL due in the summer of 2015 dealing with improvements to the A21 had to show that "the full 1100 units can be built with the interim improvements". It seems that 1100 may be an error for 1150.
12. The Housing Investment Group met on 5 December 2015. In dealing with the LBB bid, the executive summary stated:-

"The Housing Zone proposal is a long term regeneration which has the potential to unlock assets to deliver 1510 homes by 2020 including 320 by 2018."

The reference to 'unlocking assets' seems obvious since the designation must unlock or accelerate the housing development. But, it is accepted that the figure of 1510 was not correct and should read 1150. There then followed a table which replicated that in the Challenge Report, save that the 'Direct' inclusion in the Direct/Indirect column which had included 50 of the 100 windfall sites was omitted. Paragraph 1.4 dealing largely with road improvements provided:-

"The original funding ask in October 2014 was £47.5m of which £32.5m was grant and almost half for road improvements on the A21. These were not supported by TFL and could not clearly be limited to housing outputs. The transport element has therefore been reduced for key junction improvements directly limited to Site G and the overall grant....will be conditional on achieving the 35% affordable housing committed to in the bid."

13. There is what may seem a gloss on this in paragraph 1.14 which states that modelling work for TFL proved the need for improvements to the A21 and that a guarantee could be given that the full 1100 units could be built with the interim improvements. The paragraph continues:-

"TFL corridor work is well underway and supports the removal of the A21 widening from the proposal as TFL do not consider this necessary. TFL have confirmed the minor junction improvements are acceptable to help bring forward Site G development."

It is not said that, apart from the work to assist Site G, GLA money was required to fund work being done by TFL.

14. The report deals with the 620 units on the further opportunity sites. It repeats in paragraph 3.10 that they do not need GLA intervention but, it is said, they would "add to the number of new homes being delivered within the Housing Zone". The paragraph concludes, after identifying the various sites and the number of units to be provided in each, as follows:-

"320 of these sites are due for delivery by 2018. 174 are now consented new build and 84 office to residential are underway."

15. In relation to Site A, paragraph 3.8 stated that a viability assessment had identified the high cost of the enabling infrastructure required on the A21 as a restraint. GLA funding was needed to support an upgraded transport interchange including a relocated bus station and a new rail station office. Site G had run into difficulties because of the failure of market options to enable the development to proceed. Thus it was shown that the HZ designation would enable the units on Sites A and G to go ahead. Since the remaining 620 units on the other sites are said not to need GLA intervention, it is submitted by Mr Parkinson that they could not properly be included in the minimum 1000 which was required in order to qualify for a HZ designation.

16. In paragraph 3.11 dealing with the 620 units, the report states that a key issue on the interdependencies between the schemes and the Housing Zone as a whole will be the enabling infrastructure required on the A21. The paragraph continues:-

"LB Bromley is looking for the delivery of capacity enhancements to improve access to the town centre for public transport and general traffic. In April 2015, TFL commenced a corridor study to examine potential measures to improve capacity along the routes to/from the town centre and is due to report in the Autumn of 2015. LB Bromley's housing bid talks in further detail about some of the measures, and provides some cost estimates for the measures."

Since the report follows a meeting held on 5 December 2015, the references to a report being due in the Autumn of 2015 makes little sense. In paragraph 1.14 which I have already cited, TFL's report is referred to and that paragraph does not support any need for GLA funding to enable housing development in any of the sites other than A and G to proceed.

17. Paragraph 3.16 deals with LBB's commitment to affordable housing. It records that in March 2015 LBB approved an allocation of a redacted sum to allow additional affordable units to be delivered on opportunity sites "particularly where schemes are restrained by debility from delivering a policy compliant level of affordable housing". No doubt that could unlock or accelerate development on particular sites, but nowhere is there an indication that any of the 620 sites need HZ designation for that purpose. It would be inconsistent with the clear statement that none of the sites needed GLA intervention.
18. The 11 additional bids including that from LBB were put to the Mayor for his approval which was given on 17 March 2016. In the detailed consideration of the LBB bid, the executive summary recorded that the HZ proposal was a long term regeneration proposal which had the potential to unlock assets to deliver 1510 homes by 2020. That follows the Housing Investment Group's wording. It is on any view misleading since it does not accord with the previous figures and is in any event erroneous since to comply with the minimum of 1000 new homes to enable HZ designation to be granted it was accepted that the correct figure was 1150. But the figure of 1510 is identified in the details where it is said:-

"The HZ would create around 1510 new homes of which 35% would be affordable."

19. It is said that the HZ interventions would assist to facilitate and accelerate the process of development of the town centre bringing advantages both for visitors and residents. That may well be so, but in order to qualify for HZ designation it is necessary to establish that at least 1000 homes need the designation and the GLA funding that would come with it in order to accelerate or unlock the development for which planning permission may already have been granted. Indeed, following the Challenge Report, LBB had been encouraged to and had granted a number of planning permissions, but only those specifically identified as direct beneficiaries could meet the requirement. That certainly seems to me to be the natural reading of what the Prospectus requires.
20. There has been produced a witness statement from Ms Juman who is the Senior Area Manager South in Housing and Land Directorate for the GLA. She was involved in the assessment of the LBB bid at all stages. Mr Parkinson has objected to the defendant's reliance on her statement in that, he submits, it is an attempt to rewrite the decision. Certainly, the reasons put to the Mayor for approving the bid cannot be supplemented or explained in a way which is not in accordance with what he was then told.
21. In paragraph 17, she says that where the Direct/Indirect column in the tables was left blank, it indicated an indirect link. That is, I am afraid, not acceptable. It is impossible to follow the point of heading the column 'Direct/Indirect' unless, if there is a link, its nature is to be stated. Leaving blank on any sensible construction must convey the information that there is no link, either direct or indirect. It is accepted that no link was shown in relation to 360 units in sites G and K so that the figure of 1510 was reduced to 1150. It is impossible to see any link with the 84 office to residential which were underway (paragraph 3.10 of the Housing Investment Group report). In addition, there is no suggestion made in that report that the 174 which were "consented new build" required the HZ designation to enable them to proceed. Thus, without consideration of the 620 which were said not to need GLA intervention, the minimum of 1000 is not reached.
22. Ms Juman seeks to rely on the A21 improvements citing somewhat extraordinarily in a statement made on 11 October 2016 the TFL corridor study which, she says was due to report in the summer of 2015. I have already dealt with that. She also refers to LBB's approval for funding to achieve the 35% affordable housing. Under the heading 'Expedited and improved decision making and GLA involvement' she says in paragraph 30:-

"The Further Opportunity sites will benefit from the improved and expedited development control processes in Bromley. Indeed, [LBB] granted permission for Site C (Town Hall) in November 2015. Moreover the preparatory work leading up to the designation of the Housing Zone contributed directly to this."

Preparatory work done in order to achieve the designation cannot meet the minimum 1000 home requirement unless it can be shown that any permissions granted on developments expected will need the designation either to unlock or to accelerate them.
23. The language of the Prospectus is in my view clear. The advantages of the HZ designation to which Ms Juman refers are certainly of importance and will clearly be a relevant consideration. Paragraph 66 of the Prospectus requires in b. evidence that the proposed interventions will "unlock or accelerate the quantum of housing outputs proposed". Those outputs are set out in the details, namely the total of 1510. Condition c., which refers to the 1000 minimum, must in context mean that it has to be shown that at least 1000 of those outputs will be unlocked or accelerated by the designation. It is clear that only sites A and G needed the interventions or the GLA funding. I am afraid I cannot accept the arguments based on Ms Juman's evidence that it is sufficient to show that there would be advantages

when the designation was granted. The need for it to be shown that there are developments for a minimum of 1000 units which require designation to unlock or accelerate them is clear. This is understandable since no doubt there would have been a number of competing applications and the amounts of money payable by the GLA are significant.

24. It follows that for the reasons I have set out I cannot accept Mr Williams' submissions. The documentation provided by the Mayor was regrettably somewhat misleading in that the 1510 figure (or 1486, wherever that came from) was put forward, albeit there was a subsequent reference to 1150. But, as I have said, the natural meaning of the Prospectus is in my judgment clear and means what Mr Parkinson submits it means.
25. I would only add that it is not suggested that the claimant did not have standing to pursue this claim. It is involved in the promotion of land for housing development in inter alia LBB and asserts that the designation on the basis of the development proposals put forward by the LBB will prejudice it.
26. In the circumstances, the Mayor's decision to designate the Housing Zone in accordance with the LBB application must be quashed. I will hear counsel on the precise nature of any relief and ancillary orders.

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Bromley Local Plan Examination Hearing Statement

On behalf of Lands Improvement

For Issue 5

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APPENDICES

APPENDIX 1: Planning Appeal APP/G5180/N/16/3144248

APPENDIX 2: HOW 5 Year Housing Land Supply Table

1 ISSUE 5

ARE THE POLICIES FOR HOUSING GROWTH AND AFFORDABLE HOUSING JUSTIFIED, DELIVERABLE AND CONSISTENT WITH NATIONAL POLICY?

Question 16. Is the Council content that housing need has been assessed looking at London's needs as a whole?

- 1.1 The Council's housing need evidence is out of date and does not meet the requirements of the NPPF and PPG. As a result, the Council has failed to identify LB Bromley's true housing needs. By any objective measure, the submitted Local Plan will fail to meet LB Bromley's housing needs.

Housing needs evidence base

- 1.2 New proposals currently being consulted on by the Government, recommend that local planning authorities should be able to rely on the evidence used to justify their local housing need for a period of two years from the date on which they submit their plan (para.38 of 2017 Planning for Homes Consultation).
- 1.3 The Council relies on two historic housing need evidence documents from 2013 and 2014. Both are out of date and flawed.

2013 London SHMA

- 1.4 As well as being based on out of date demographic projections, the 2013 London SHMA does not actually set out LB Bromley's individual housing needs. It only deals with London's overall needs at that time.
- 1.5 The individual borough targets included in the London Plan were derived from the 2013 London SHLAA, which was an assessment of capacity, not need.
- 1.6 The Inspector for the London Plan was clear that the adopted housing targets did not provide sufficient housing to meet objectively assessed need (para 57 of the London Plan Inspector's Report).
- 1.7 The 2013 SHMA and the London Plan housing targets, therefore, cannot be relied on as an assessment of LB Bromley's housing needs.

2014 South East London SHMA

- 1.8 As set out in representations on behalf of Lands Improvement in 2015 and 2016, the FOAN identified for LB Bromley in the South East London SHMA is inconsistent with the requirements of the NPPF and PPG.
- 1.9 At para. 4.58 of the South East London SHMA it concludes *“the housing market in South East London is one which is under considerable pressure”*. It points to poor affordability in terms of house prices and to a private rented sector which has seen steep rises in prices. It goes on to identify affordability as a *“key issue”* in South East London.
- 1.10 The PPG is clear that a worsening trend in any of the market signal indicators identified in the guidance *“will require upward adjustment to planned housing numbers compared to ones based solely on household projections”*.
- 1.11 Despite the Council's evidence to show worsening affordability and a requirement in PPG to make an upward adjustment in such circumstances, no such upward adjustment is applied to the household projections derived figure of 1,300 dpa included in the South East London SHMA.
- 1.12 Work undertaken by Regeneris on behalf of Lands Improvement in 2015 identified that an NPPF compliant housing needs assessment allowing for addressing adverse market signals in LB Bromley would have resulted in FOAN in the range of **1,650 dpa to 2,200 dpa**.

Standardised approach to calculating housing needs

- 1.13 Step two of the Government's proposed standardised approach to assessing housing need is an automatic adjustment to deal with worsening affordability where necessary. Based on the Government's September 2017 figures, this would result in a housing need of **2,564 dpa**.

New London Plan housing targets

- 1.14 In October 2017, the Mayor set out the new London Plan housing targets, including **1,424 dpa** for LB Bromley. Whilst this minimum housing target does not represent LB Bromley's housing need, which is significantly higher, it is a clear indication of the direction of travel.
- 1.15 The new London Plan will be adopted in 2019, at which point the higher housing targets will automatically come into force for LB Bromley. The Bromley Local Plan makes no reference to these emerging targets and the strategy does not include any flexibility to accommodate the higher targets from 2019 onwards.

Question 17. What is the justification for the windfall allowance contained in the plan, given the London Strategic Housing Land Availability Assessment states that dependence on windfall capacity should be minimised?

- 1.16 48% of the Council's purported housing trajectory is made up of non-specific, unidentified windfall sites (5,116 dwellings). The approach taken by the Council is inconsistent with the NPPF and PPG, is not supported by compelling evidence and, in places, results in double counting.
- 1.17 This approach is even more concerning, when considered in the context of the significant gap between the proposed housing target and actual housing need (a shortfall of up to 1,900 dpa). This means that the Local Plan fails even to identify a housing trajectory of deliverable and developable sites to meet a housing target below LB Bromley's true housing need.

NPPF and PPG on windfall sites

- 1.18 In accordance with the NPPF and PPG, a windfall allowance should only be included in years 1 – 5 where there is compelling evidence to do so. This is amplified in the 2013 London SHLAA, which advises that windfall capacity should be minimised.
- 1.19 In years 6 - 15, a windfall allowance can be included as part of broad locations, but again only where there is compelling evidence that such sites have consistently come available in the local area and will continue to provide a reliable source of supply.

LB Bromley's approach to windfall sites

- 1.20 The windfall sites relied on by the Council come in various forms including: "broad locations", "small sites started", "small sites projection", "vacant unit projection" and "prior approval projection".

Broad Locations

- 1.21 The Council is seeking to include a windfall allowance of 965 in broad locations (9% of total supply).
- 1.22 The broad locations are set out in the housing trajectory at page 256 of the submitted Local Plan. There is a shortfall of 90 dwellings between the category breakdowns (totalling 875 dwellings) and the total included in the housing trajectory table (965 dwellings). It is not clear why this is, and the Council should clarify.
- 1.23 The last two categories (changing retail patterns and public land reorganisation) are not geographical areas and, therefore, should not be included as broad locations in accordance with the PPG. For example, these could relate to changing retail patterns or public land reorganisation in Bromley Town Centre, in which case they would be double counting the sites already in the Bromley Town Centre broad location.

- 1.24 In any case, this would be double, double counting as the Council has already undertaken an extensive exercise to identify sites for 2,527 dwellings in Bromley Town (24% of its total supply), including sites identified as part of the 2010 Bromley Town Centre Action Plan. It is, therefore, unclear as to how the Council concludes that there is compelling evidence that a further 250 dwellings could be delivered on top of the 2,527 dwellings already earmarked, particularly when the Council is also seeking to include a “small sites projection”, a “vacant units projection” and a “prior approval projection” as additional categories of windfalls.
- 1.25 Similarly, there is no evidence presented on historic or ongoing likely windfalls in Orpington on the scale relied on by the Council.

Small sites started

- 1.26 The Council has included 19 dwellings from small sites already started to be delivered in years 6 -15. Typically, most sites have planning permission that last for three years. Therefore, all small sites already started should be expected to be completed in years 1 – 5, unless there are deliverability issues.

Small sites projections

- 1.27 The Council has included a windfall allowance for small sites in years 6 – 15, which totals 3,026 (28% of total supply). This is contrary to para 48 of the NPPF and PPG and should be removed.

Vacant unit's projection

- 1.28 Table 3.14 of the 2013 London SHLAA identified that the potential capacity from long term vacant properties returning to use in LB Bromley between 2015 – 2025 was 0 dwellings. Para 3.66 of the 2013 London SHLAA goes on to state “2012 saw another large reduction in long term vacants, which suggests that capacity for future vacants to be brought back into use may now be reduced”. It is not clear what contrary evidence the Council has based its 280 dwellings included as windfalls from vacant units returning to use.

Prior approval projection

- 1.29 The Council has sought to include a windfall allowance of 200 dwellings from prior approvals without evidence of where this has consistently happened in the past and where it could happen in the future. The Council has not clarified what sort of prior approval it has in mind and how this is consistent with other Local Plan policies which seek to protect and increase office and employment uses in Bromley Town Centre and other locations.

Windfalls Summary

1.30 For all the reasons set out above, LB Bromley has overstated its potential capacity from windfall allowances, inconsistent with para. 48 of the NPPF and the PPG. The changes set out above would reduce the Council's housing trajectory by 4,490 dwellings, which is equivalent to 42% of LB Bromley's total supply. This is before considering the deliverability of individual sites identified. On this basis it is not possible to conclude that the Council's proposed housing strategy is deliverable or sound.

Question 18. Will the Plan provide a 5 year housing land supply of deliverable sites with an appropriate buffer in accordance with paragraph 47 of the National Planning Policy Framework (NPPF)? How would any shortfall in delivery be addressed and how would a continuing supply be achieved over the Plan period, having regard to any review of the London Plan.

1.31 In July 2016, the Inspector for planning appeal APP/G5180/W/16/3144248 (Dylon International) found that the Council could not demonstrate a 5 year supply of deliverable housing sites (see **Appendix 1**). Since this appeal decision the Council has published a new 5YHLS Statement in November 2016, however the land supply situation in LB Bromley has not materially changed and the submitted plan still does not demonstrate a 5 year housing land supply of deliverable sites.

1.32 The table at **Appendix 2** of this statement includes a summary the Council's stated 5YHLS (November 2016) compared with the findings of our assessment. We conclude that the Council can only demonstrate a 4 year supply of deliverable housing sites in accordance with the NPPF and PPG.

1.33 Our reasons for reaching this conclusion are set out below:

1. **The housing requirement included by the Council in the November 2016 5YHLS Statement is incorrect**

The 641 dpa housing target is a minimum, which does not meet FOAN, and should be exceeded wherever possible. "Over delivery" of a minimum target in one year, should not be used to reduce the overall requirement in the following 5 years. This is not the intention of the NPPF to significantly boost the supply of housing.

The Council's actual minimum 5 year housing requirement should be 3,365 (+33 dwellings). This is based on 641 dpa, plus a 5% buffer (673dpa) x 5 = 3,365 dwellings. This was agreed common ground between the Council and the appellant in the Dylon International appeal inquiry.

2. **An uplift for the potential role of prior approval from office to residential has been double counted in the Council's supply**

The small site allowance of 120dpa (600 dwellings over 5 years), has been increased by a further 130 dwellings. The extra 130 dwellings "relates to the role of future initiatives or permitted development rights (including changes of use from office to residential)" (ref: para 2.17, Council's 2016 5YHLS Statement).

The Council already includes a separate category for "B1(a) to C3 Prior Approval" that includes a further 200 dwellings. This is an increase from 150 dwellings included in the 5 YHLS Statement 2015, without any meaningful justification as to why the figure has gone up by 33%.

3. **A lapse rate should be applied to sites with planning permission not commenced.**

The Council's own evidence demonstrates that it is unrealistic to rely on 100% of dwellings on sites with planning permission to come forward, particularly in circumstances where the purported 5YHLS situation is so tight and the Council is already set to fail to meet its actual housing needs.

The lapse rate figures presented by the Council in SD34a (2016 5YHLS statement) are ambiguous and, in some places, appear miscalculated (table 4 for example). Evidence presented by the Appellant at the Dylon International inquiry demonstrated an average lapse rate of 30% to 50%. Whatever the extent of the lapse rate, there is evidence that permissions in LB Bromley do regularly lapse and to prepare a Local Plan on any other basis would be unsound.

The Council seeks to justify non-application of a lapse rate by pointing to a record of windfalls filling the gap. Windfalls are already allowed for in their own separate category and to include them as an allowance for not applying a lapse rate, would be a further example of double counting by the Council.

As a minimum, we have applied a conservative 10% lapse rate to sites with planning permission in our assessment, even though evidence points to a historically higher lapse rate.

4. **A number of sites are not considered deliverable. These have been removed from / amended in the Council's supply.**

Question 19. Given the matrix in table 3.2 of the London Plan, has the council made reasonable assumptions about the housing densities that can be reasonably be achieved on development sites, especially when Outer London Boroughs are encouraged to increase densities?

- 1.34 LB Bromley has a history of refusing major housing schemes, often on amenity / overdevelopment grounds. In the last year three major housing schemes for 367 dwellings was refused due to overdevelopment

Table 1. Refused applications in LB Bromley on grounds of overdevelopment 2016 / 17

Application number	Address	No of units	Date of refusal	Summary of reasons for refusal
16/04563/OUT	18 Homefield Rise, Orpington, BR6 0RU	103 apartments	12 th June 2017	Result in overdevelopment and fail to compliment the scale, form and layout of the surrounding area.
16/05897/FULL1	Maybrey Business Park, Worsley Bridge Road, London, SE26 5AZ	159 apartments	25 th April 2017	<p>Contrary to employment allocation;</p> <p>Harmful impact on visual amenities of the adjacent Metropolitan Open Land; Result in cramped overdevelopment of the site (height, scale, siting and design);</p> <p>Unacceptable visual impact for occupiers of adjacent sites;</p> <p>The proposed development would give rise to an unacceptable impact on local public transport infrastructure.</p>
16/02613/OUT	Land At Junction With South Eden Park Road And Bucknall Way Beckenham	105 units (4 bedroom houses and one, two and three bedroom apartments)	24 th November 2016	<p>Site is designated as Urban Open Space.</p> <p>Result in cramped overdevelopment</p>

- 1.35 Furthermore, proposed allocation Site B Tweedy Road in Bromley Town Centre was first allocated for 70 dwellings. An appeal for 72 dwellings was dismissed in 2009 and subsequently the Council’s estimates have been revised down twice (to 40 dwellings and then to 24 dwellings based on latest design guidance).
- 1.36 Without analysis of site context, surroundings and an indicative scheme design it should not be assumed that development densities can be significantly increased in LB Bromley as a means to meeting its housing shortfall.
- 1.37 There are many different factors that dictate what is achievable, including competing uses (residential / employment / open space), amenity constraints, conservation constraints and tensions with local community aspirations. These types of development tensions are particularly relevant in Bromley Town Centre and require a comprehensive masterplan to deliver the scale of development envisaged.
- 1.38 A Bromley Town masterplan was a requirement of the 2010 BTCAPP. the Council is now seeking to delay this work further until after the adoption of the Local Plan, however, the masterplan should be prepared now to inform the Local Plan to ensure that it is deliverable.
- 1.39 The type of housing that is planned for in the Local Plan should also meet identified needs. The SHMA identifies a pressing need for housing of all types, but in particular family housing. Delivering predominantly high density apartments will not meet the housing needs of the whole borough.

Question 20. Are the sites identified for housing supply deliverable and developable in accordance with paragraph 47 of the NPPF?

- 1.40 As set out in response to Question 18 above and Issue 4, Question 14 the following sites included in the Council’s housing trajectory have not been demonstrated to be deliverable or developable in accordance with the NPPF:

Table 2: Proposed Allocations

Site	Total number of dwellings
Site A – Bromley North Station	525
Site G – High Street	1,230



Site 6 – Bromley Valley Gym	200
Site 7 – Bassets Campus	115
Site 11 – Homefield Rise	100
Langley Court	179
TOTAL	2,349

- 1.41 In addition to the above, draft allocation 6 – Bromley Valley Gym is not considered developable as set out in the Local Plan. The site is identified for 200 dwellings, but a report considered by the Bromley Council Renewal Committee on 26th September 2017 recommended a scheme for 65 dwellings on the site which would release funds for a Park, gym and Library. The Council’s housing trajectory should be amended accordingly with a further 135 dwellings deleted.
- 1.42 In addition to the specific sites not considered deliverable or developable summarised above. The windfall allowance included by LB Bromley in it’s housing trajectory has been miscalculated and is inconsistent with para. 48 of the NPPF and the PPG. Applying the appropriate windfall allowance would reduce the Council’s overall housing trajectory by a further 4,490 dwellings, which is equivalent to 42% of LB Bromley’s total supply (see response to Question 17).
- 1.43 On this basis of the above, it is not possible to conclude that the Council’s proposed housing strategy is deliverable or sound.

Question 21. Is there sufficient flexibility within the allocations to accommodate unexpected delays whilst maintaining and adequate supply?

- 1.44 The Council’s housing trajectory is not robust for the reasons set out in answer to question 18, 19 and 20. As a result, there is no flexibility for delays which regularly occur on the types of complex town centre sites relied on by the Council, which have viability issues and will involve CPOs, or a downturn in the unusually high proportion of unidentified windfall sites included by the Council.
- 1.45 The Council’s relative supply position will reduce even further when the new London Plan housing targets are adopted in 2019. The draft housing target for LB Bromley is a 122% increase on the current minimum target, up from 641 dpa to 1,424 dpa.



1.46 Based on the draft London Plan housing target the Council's five year housing supply would reduce to 2.3 to 3 years (depending on whether the Council's or HOW's assessment of deliverable sites is used). This would effectively mean that the Local Plan would be out of date almost as soon as it is adopted.

Question 23. Has the Council considered increasing the total housing figures in order to help deliver the number of affordable homes required, in accordance with the PPG? What would be the implications of any such increase?

1.47 The table below shows how LB Bromley has consistently failed to meet it's affordable housing target of 35% since 2010 (adoption of the BTC AAP) and how affordable housing delivery has reduced over the years as result of the Council's housing strategy.

1.48 In the last four years, LB Bromley has significantly failed to meet its affordable housing target, delivering just 20 net additional affordable homes. This is less than 0.01% of total dwellings completed and is an indication of the unsustainable housing strategy being progressed by the Council.

Table 3: Affordable deliver in LB Bromley 2007/08 - 2015/16

Year	Target	Net number of dwellings	Inc. net number of affordable dwellings	% Affordable Housing	Source
2007 -2008	485	713	267	37%	*AMR 2009- 2010
2008 - 2009	485	494	169	35%	*AMR 2009- 2010
2009 - 2010	485	553	224	40.5%	AMR 2009- 2010
2010 - 2011	500	672	224	33%	*AMR 2012- 2013
2011 - 2012	500	547	214	39%	*AMR 2012- 2013
2012 - 2013	500	627	-68	-11%	AMR 2014- 2016
2013 -2014	500	605	140	23%	AMR 2014- 2016 and *AMR 2013- 2014
2014 - 2015	500	417	-62	-15%	AMR 2014- 2016
2015 - 2016	641	717	10	1.4%	AMR 2014- 2016

*Due to discrepancies within LB Bromley's own reporting, information in the most up-to-date reports produced by the Council has been relied on where there are different figures stated.

1.49 The Local Plan, which is only seeking to deliver an average of 641 dpa, will not fully meet the need for affordable housing, as identified in the 2014 South East London SHMA (1,404 dpa). As

a result, the historic under delivery of affordable homes in LB Bromley will be perpetuated by the draft Local Plan.

- 1.50 Even if one were to assume that all market-led schemes will deliver 35% affordable housing requirement (which is not considered likely based on existing performance), this would only provide 224 affordable dwellings per annum, some 1,180pa units short of the identified need in 2014. The PPG clearly states that *“an increase in the total housing figures included in the local plan should be considered where it could help to deliver the required number of affordable homes”*.
- 1.51 The Council’s housing strategy is reliant on constrained brownfield sites with viability issues and small windfall sites that are not required to deliver affordable housing. This will only serve to perpetuate the historic under delivery of affordable homes over the plan period.
- 1.52 The allocation of sustainable greenfield allocations will increase the overall deliver of housing in LB Bromley, but will also increase the prospects of achieving policy compliant affordable housing and delivering and funding other essential community infrastructure.
- 1.53 For the plan to be sound overall housing requirement should be increased to increase the delivery of affordable housing due to worsening market signals.

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APPENDIX 1: PLANNING APPEAL APP/G5180/N/16/3144248

Appeal Decision

Inquiry held on 24 – 27 May & 2 June 2016

Site visit made on 27 May 2016

by Katie Peerless Dip Arch RIBA

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 02 August 2016

Appeal Ref: APP/G5180/W/16/3144248

Land to the rear of former Dylon International Premises, Station Approach, Lower Sydenham, London SE26 5HD

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission.
 - The appeal is made by Mr Iain Hutchinson against the Council of the London Borough of Bromley.
 - The application Ref: DC/15/04759/FUL1 is dated 30 October 2015.
 - The development proposed is demolition of existing buildings and redevelopment of the site by the erection of a part eight, part nine storey development comprising 253 residential units (128 one bedroom, 115 two bedroom and 10 three bedroom) together with the construction of an estate road and ancillary car and cycle parking and the landscaping of the east part of the site to form open space accessible to the public.
-

Decision

1. The appeal is dismissed.

Main Issues

2. Since the appeal was lodged, the Council has indicated that, had jurisdiction not passed to the Secretary of State, it would have refused the appeal on a number of grounds. Taking these into account, I consider that the main issues in this case are as follows:

The effect of the proposed development on

- (i) the area of Metropolitan Open Land (MOL) in which it would be located, in particular whether it constitutes inappropriate development and, if so, whether there are any material considerations that outweigh the harm caused by inappropriate development in the MOL, and any other harm, sufficient to justify the proposal on the grounds of very special circumstances.
 - (ii) the character and appearance of the surroundings, with particular reference to the quality of its design, especially in relation to its scale, form, density and the measures taken to mitigate the risk of flooding;
- and
- (iii) the amenities of the future occupiers of the dwellings with particular reference to natural ventilation and solar gain and noise.
-

3. Although the Council was initially concerned that the proposed development would not meet its requirements in terms of numbers of apartments with wheelchair accessibility, further information submitted at the Inquiry resolved this question and the Council withdrew its objection on this ground.

Site and surroundings

4. The appeal site is part of former industrial premises and was previously a sports ground for the employees. It is roughly triangular in shape and is bounded to the west by a railway line and to the north east/south west by the river Pool. It contains the remains of a number of disused buildings associated with the sports ground use and areas of hardstanding. A part of the site is presently being used as a temporary compound associated with the development of the remainder of the former works on the land to the north and there is also an enclosed compound in a commercial use to the south but the remainder is mostly now rough grass with a track running close to the river from north to south.
5. The site lies within the New Beckenham area of Metropolitan Open Land, most of which comprises other sports grounds and playing fields. All of these areas are also part of the Green Chain. Beyond the railway, to the west, lies an industrial estate with residential development in Copers Cope Road and Worsley Bridge Road to the east. Lower Sydenham Station is close by, to the north.

The appeal proposals

6. The proposed development consists of 253 apartments in a single, articulated block on a north/south axis adjacent to the railway line. An access road with on-street parking would run parallel to the railway line and further parking space would be located in a basement beneath the building. This would allow the first level of residential accommodation to be raised and so prevent flooding should the river level rise. Water would be allowed to flow in and out of the car park via a series of grilles set into a landscaped area to the east of the block.
7. The remainder of the site would also be landscaped into an area of recreational parkland accessible to the public, containing an outdoor gym and a children's playground, with parking spaces to the north.
8. The scheme has been designed by the architect of the adjacent residential development on the site of the former works and would have a similar palette of materials, including yellow London stock brickwork, ribbed translucent glazed panels to the circulation cores and recessed balconies. The block would have 10 storeys, including the basement, and be set out in a 'zig-zag' shape along a central spine, with 7 facets on each long elevation, set at an angle of 120°. The apartments are a mixture of studio, two and three bedroom units, each with at least one balcony or private terrace.

Reasons

9. There is no dispute between the parties that the site lies within MOL or that policy 7.17 of the London Plan (LP) gives the same protection to such areas as is given to Green Belt in national policy as set out in the National Planning Policy Framework (the Framework). It is therefore also agreed that the

proposed development would be inappropriate development which would be inherently harmful and consequently only acceptable if shown to be justified through the existence of very special circumstances.

10. One of the main differences between the parties centres on the weight to be accorded to the MOL policies and the other Development Plan (DP) policies relating to housing land supply (HLS), with the Council considering that it can demonstrate a 5 year supply of housing land to meet its objectively assessed need (OAN). The appellants, however, submit that the claimed supply, at 5.1 years, is an over estimation and that there is a shortfall in the 5 year supply. This would mean that the policies relating to the supply of housing would be considered out of date and paragraphs 49 and 14 of the Framework would consequently be engaged.

Housing Land Supply

11. I consider that the starting point for this case is therefore whether the Council can demonstrate a 5 year HLS. The parties have produced a Statement of Common Ground (SoCGH) on the topic which sets out the areas of agreement, and disagreement, between them. It is agreed that the base date for calculating the supply is 1 April 2015 and that the annual housing target for the Borough as set in the Further Alterations to the London Plan (FALP) is 641 dwellings per annum (dpa) to which a 5% buffer should be applied to ensure variety and availability of choice. This gives a figure of 673 dpa for the period 2015 – 2020; a total of 3365 units.
12. The Council, in the SoCGH, considers that it can demonstrate a supply of 3443 units or, if it is considered that a 5% lapse rate (as discussed below) is applied to known sites with planning permission, 3403 units. This equates to 5.1 or 5.05 years' supply respectively. Taking all the reductions suggested by the appellants' results, in the worst case scenario, to a supply of 2480 units or 3.68 years HLS.
13. The matters in dispute between the parties are limited to the following points: firstly the position on 3 sites where the numbers of units that will be delivered are not agreed, secondly, the number of windfall sites that should be included per annum and thirdly, whether lapse rates should be applied to the categories of 'known sites with planning permission not commenced' and 'other sites', which are included in the 5 year supply figures.
14. Of the 3 sites in dispute, the first, Sundridge Park Manor, is considered by the Council to be capable of delivering at least 14 dwellings. The site has planning permission for this but the developers have stated that this level is unviable and will not be built out. The appellants suggest that, for this reason, the site should be removed from the list. The developers also applied to build 22 dwellings on the site but the revised scheme was refused permission at a planning committee meeting on the evening of the day the Inquiry closed, despite an officer's recommendation for approval.
15. It seems to me that, in these circumstances, the future of the site is very uncertain and it would be imprudent to assume that any units might come forward within the 5 year time frame. This means that 14 units should be deducted from the Council's total.

16. A site at Tweedy Road is being released by the Council for development with design guidance indicating that 24 units are likely to be acceptable. The appellants consider that it is a sensitive site that is not suitable for the scale of development originally envisaged, i.e. 40 units, and should be removed in its entirety. The site is now being actively marketed by the Council and, given the design studies carried out, I see no reason why the number of units included in the SoCGH calculations should not be deliverable within the 5 year time scale.
17. The final site is the former Town Hall and car park that was granted planning permission for 53 units in November 2015, after the base date of 1 April 2016. The appellants submit that the appropriate estimate is the 20 units envisaged at the base date, whereas the Council considers that the latest position should be the one on which the figures are based.
18. Whilst there is more up-to-date information now available, it seems to me that if additional units granted planning permission after the base date are to be taken into account, so should any units that have been completed after the base date and consequently removed from the future supply availability, in order to present the most accurate overall picture. This exercise had not been completed for the Inquiry and I therefore conclude that for the purposes of this appeal, the position as agreed in the SoCGH should be adhered to.
19. In conclusion therefore, on this topic, I consider that 47 units¹ should be taken out of the total of allocated sites and other known sites that the Council consider to be deliverable in the table attached to the SoCGH.
20. Turning to the number of windfall sites that should be included, the Council rely on the figures which were informed by the Strategic Housing Land Availability Assessment (SHLAA) carried out in 2013 and based on the years 2004 - 2012. However, the appellants point out that this was a measure of capacity and does not necessarily reflect the actual rate of delivery of sites.
21. At the Examination in Public (EiP) into the FALP the Inspector found that it was likely that it would not deliver sufficient homes to meet London's OAN but non-adoption would result in the retention of the existing housing targets, which were even lower than those in the FALP. In those circumstances, he concluded that the FALP should be adopted but subject to an immediate review, with the clear intention of increasing the supply across all forms of delivery.
22. The Council considers that any review of the likely level of windfall sites should wait until the next SHLAA is carried out, but, given the situation set out in the EiP Report into the FALP, I disagree. There is now more recent data available which demonstrates that the availability of such sites has reduced in the 3 years since the SHLAA was published and given the FALP Inspector's conclusions on the need to increase delivery, even though capacity might be sufficient, I consider that the windfall allowance suggested by the Council is unrealistic and should be reduced.
23. At present, the Council has included a total of 1100 units (220 dpa) in its small sites allowance for windfalls for the relevant 5 year period which equates to about 1/3 of its housing requirement. The total from all small sites is set at 352 dpa in the Council's calculations, but this figure has not been achieved in the Borough since 2007/8, with the overall trend for such completions moving steadily downwards.

¹ 14 from the Sundridge Park Manor site and 33 from the former Town Hall site

24. The level of reliance on 'unknown' sites has been criticised in the past by Inspectors and the appellants suggest that the 5 year trend figure of 1330 units from small sites over 5 years, resulting in 742 windfall dwellings over the period would be a better estimate. This figure is based on actual completions and it has been previously agreed by the Borough, in its evidence to the FALP EiP, that about 1800 small sites over the period 2015 - 2025 would be a more realistic figure.
25. Given the downward trend, and even taking a conservative figure midway between the 1100 now supported by the Council and its previous prediction of 900 (over 5 years) suggested as achievable at the EiP, would mean that the Council would narrowly miss the 5 year HLS target.
26. Even if this were not the case, the Council has made no allowance for any lapse rates on sites where planning permission has already been granted but not yet commenced. It has agreed, through the Inquiry process, that a 5% rate could possibly be applied to such sites, if found necessary, and this on the Council's own calculations would bring the HLS down to 5.05 years, as noted above.
27. The appellants submit that a lapse rate of between 30 – 50% should be applied to these sites and also to 'other known sites' where planning permission has not yet been granted. This view is based on the findings of previous Inspectors who were concerned that a 100% delivery rate was unrealistic and a variety of other evidence, including the 2013 SHLAA and comparison of delivery rates against Annual Monitoring Reports (AMR).
28. The figures show that there has been an overall failure to achieve the projected completions and while there are some years where targets have been met, the overall trend is a shortfall of up to 50%. It therefore seems to me that a lapse rate should be applied, to give a more accurate picture of what is likely to be achieved in terms of actual completions and that figure should be higher than the Council's assumed 5% and applied to both categories.
29. Even if a lapse rate of only 6%, rather than the 30 – 50% suggested by the appellants, were to be applied to the sites with planning permission that have not commenced and to other known sites as adjusted as set out above, the 5 year HLS would not be met. This would be the case even if the Council's figure on windfalls were to be accepted. I have however, for the reasons set out above, concluded that this would be an unreliable estimate.
30. I therefore conclude that, on the figures used to inform the agreed position on the SoCGH, the Council cannot demonstrate a 5 year supply of deliverable housing sites and, for the purposes of this appeal, the policies that are relevant to the supply of housing are not up-to-date.

Metropolitan Open Land

31. The designation of MOL is linked to that of Green Belt in national policy and both parties agree that the policies in respect of it are relevant to the supply of housing. My findings on the HLS situation therefore mean that they are now out-of-date and that, while they are still part of the DP for the Borough, the weight that can be accorded to them is consequently reduced.

32. The appellants also submit that, in this situation, the MOL designation is a local one, related only to the LP, and does not therefore fall within footnote 9 of the Framework which relates back to paragraph 14. This paragraph notes that where relevant DP policies are out-of-date permission should be granted unless any adverse impacts would '*significantly and demonstrably outweigh the benefits*' when assessed against '*the policies in this Framework as a whole*' and '*specific policies in this Framework*' indicate that development should be restricted.
33. Footnote 9 cites Green Belt as one of these specific policies. The appellants maintain that every word in the Framework is important, carefully considered and should be read as written and that therefore, because MOL is not mentioned in the Framework, there are no policies relating to it therein and paragraph 14 is not engaged in respect of the designation.
34. The Council disagrees, submitting that the Framework refers to national policy only, with MOL being a local designation that relies on the LP for its association with Green Belt policy and this is why it is not mentioned in the examples given in footnote 9. It submits that this does not mean that MOL policy is not covered by, or is inconsistent with the Framework; rather the Green Belt policies of the NPPF nevertheless apply by analogy to MOL by virtue of the references to it in the adopted DP which includes the LP.
35. However, I consider these arguments to be somewhat academic in this case. Whether or not MOL is a 'specific policy' in terms of footnote 9, it remains part of the adopted DP, through the up-to-date LP, and triggers the need to identify very special circumstances if planning permission is to be granted. In any event, the appellants do not dispute that 'very special circumstances' will need to be found here. To this end, they submit that the Framework clearly infers that significantly less weight should be accorded to policies that are found to be out-of-date and have made their submissions on this basis and that very special circumstances apply that are sufficient to justify the scheme.
36. To this end, the appellants also question the extent to which the appeal site is contributing to the purposes of its MOL designation. To be designated as MOL, LP policy 7.17 requires it to meet one of the following criteria. It should contribute to the physical structure of London by being clearly distinguishable from the built up area, it should include open air facilities for leisure, recreation, sport, the arts and cultural activities, which serve either the whole or significant parts of London, or it should it contain features or landscapes of either national or metropolitan value.
37. The last 2 criteria are not met as there is no public access to the land and no features that meet the description. It is the case that the land is not clearly visually linked with the playing fields to the east of the Pool river from any of the viewpoints visited during the site inspection and, at the time of that visit when the vegetation was at its thickest, the extent of the wider MOL was not readily apparent from the site itself. Nevertheless, I accept that this may be somewhat different when the leaves are off the trees, as seen in photographs of the site. In any event, the site nonetheless makes a contribution to the larger open area through the fact of its designation and, as with land in Green Belt, the extent of visibility of the site does not necessarily reduce the importance of the contribution that it makes. It is 'openness' that is the critical factor, with visual impact being judged under different criteria.

38. However, I would disagree with the finding of the Greater London Authority (GLA) in its advice on the proposal that the site is '*clearly distinguishable from the built up area to the north*' or that it '*connects with a wider network of open space*'. There is no link across the river and the site is surrounded by dense development on all other sides. It is only really in the aerial photographs that the site can be clearly linked to the open land around it. For these reasons, I find that the contribution that the site is making to the MOL designation criteria is not as significant as the adjacent sports fields beyond the river and the harm caused by the proposed development to the MOL will be considered in the light of this finding.
39. There is already some development in the form of single storey buildings and hardstanding used for commercial storage on part of the land. The footprint of the new block and its related development would cover about 44- 48% of the site, compared to the area of 'brownfield' land which is about 37% of the total at present. Although the GLA appeared to believe that some of the development on the site was unauthorised, there was no suggestion made at the Inquiry that this was the case or any challenge to the planning status of the previously developed land.
40. The appellants were at pains to point out that loss of openness is to be distinguished from visual impact and that, in their view, openness is lost once land ceases to be free from development and the height or bulk of the development is not relevant to an assessment of the extent of this loss. The impact of the scale of the development should therefore be judged through a separate visual assessment and they maintain that land that is previously developed already has lost its open status for the purposes of MOL policy and any additional development on such land should not be 'double counted' when the extent of any harm is being assessed .
41. I agree that the concepts of openness and visual impact are distinguishable and that the difference between the existing and proposed percentages of developed footprint on the site, at 11% at most, is relatively small when set against the wider expanse of MOL of which the appeal site is part. Nevertheless, there is no dispute that the proposed development would result in a loss of openness and this loss would be clearly discernable from wherever the new block could be viewed.
42. However, the weight to be given to this harm is reduced because, at local level, it is a relevant policy for the supply of housing and I have found there to be no 5 year HLS. Nevertheless, there is still a considerable amount of undeveloped land that would be lost from the MOL and if considered on the same terms as Green Belt policy, the Framework makes clear that substantial weight should be accorded to any harm to the MOL. In this case therefore, I consider that, while the harm caused by inappropriate development and loss of openness may be tempered by the relevant policies being out of date, it is still a considerable factor weighing against the proposal.

Design

43. The architect for the proposal is well known and respected and has explained his design rationale for the proposal in detail at the Inquiry and in his proof of evidence. The scheme has also been considered by independent architectural experts on behalf of both main parties.

44. They come to differing conclusions with the Council criticising the design of the development on several grounds, including its scale, bulk and detailing, its relationship to the public realm and surrounding development and the amenities that it would provide for the occupants.
45. The Council believe that the building would have a poor relationship with the public open space to the east through being set at a higher level on this elevation to allow for the flood defences. It also considers that it would be overly large in its context and that it would appear featureless, lacking the interest created by the varied roofline of the other part of the former Dylon land, referred to hereafter as 'Dylon 1' scheme.
46. Criticism is also made of the internal layout, based on the submissions that there would be minimal natural light available to the internal corridors, that there would be too many single aspect dwellings and that reliance on artificial ventilation to ensure that noise levels in the west facing units indicates poor design.
47. The appellants' expert disagrees, submitting that the building would provide a graduated link between the public and private areas and that would appear as a well-considered and appropriate response to, and continuation of, the Dylon 1 scheme. The constant roof line is said to be 'calm' and the geometry of the scheme is said to ensure entrances are clearly visible. It is also claimed that the quality of the internal amenities could be controlled by conditions to ensure that noise and ventilation levels were satisfactory.
48. Having carefully considered these contrasting views, I consider that the design of the building, taken in isolation, is indeed a meticulous and finely detailed concept that would reflect that of the Dylon 1 scheme. I find no problem with the integration of the flood protection measures into the layout, considering that they would be discreet and well integrated into the landscape proposals. Similarly, the 'podium' layout objected to by the Council would, I consider, be an appropriate method of providing private open space that is clearly separate, but not isolated from the park or access way, providing a link of at an appropriate human scale between the public and private realm at ground floor level.
49. Nevertheless, I am not persuaded that the relationship with the Dylon 1 site is the most important in this situation. That site is not within MOL and whilst its character is a factor that must now be taken into consideration in the design of any development on the appeal site, the proposed new block would, I consider, be of an overly dominant height when seen against the relatively small scale development on, and open nature of, other surrounding land.
50. The appeal scheme would maintain a uniform roof level and would be one storey higher than the top floor level of the Dylon 1 buildings, the bulk of which are then reduced as they step down towards the north. However, the remainder of the surrounding development is a mixture that includes industrial and commercial uses, generally at no more than 2 storeys high, the sports grounds that comprise the remainder of the MOL and suburban residential streets where development does not generally exceed 4 storeys at most, with much of it being limited to 2 storeys.

51. In this context, a building of 10 storeys and of the length proposed would, I consider, create a hard dominant edge that would be better suited to a more central urban area where the surrounding densities are more comparable. The constant height of the block would convey the impression of it being considerably larger than Dylon 1, which, as has been noted, is outside the MOL.
52. While the argument has been made that if development is to take place, it should deliver the highest density possible, it seems to me that if development is to take place that would effectively remove some of the designated MOL, it should be more closely aligned with the generally open nature of the remainder of the land within this designation and the suburban and less densely built-up character of the majority of the land adjoining it.
53. I noted at the site visit that the accurate visual representations presented by the appellants, while being a faithful reproduction of how the proposals would sit in the landscape nevertheless do not appear exactly as they do to the human eye when standing in the position from which the photographs were taken. In reality the site appears closer and the proposed buildings would look consequently larger when seen from surrounding roads. The impact of the scale of the development would therefore be greater than depicted in the illustrations.
54. The provision of the park in what is, at present, underused and neglected land is very welcome and would serve not only the residents of both Dylon schemes but would be open to other visitors. I am not persuaded that it would appear as private space for the blocks; local people would, I am sure, soon realise that it was open to all to use and would appreciate having a landscaped area adjacent to the river in which they could walk, exercise and take their children to play.
55. However, I am also of the opinion that the proposed building would be excessively high when seen from, and in relation to, the park and would have the effect of enclosing it, so that the open land would appear dominated and overlooked by the block. The sense of space would be diminished and the appreciation of the remaining areas of MOL within the site, and beyond where available, would also be reduced. The building would appear as a solid wall of development, despite the angled façades, with little variation along its length to relieve its somewhat monumental character.
56. It would be visible from a considerable distance and be prominent on the skyline, from where it would clearly be seen as one block despite the articulation of the elevations. There is no objection *per se* to seeing an attractive building in a location where previously there was little development, but in an area where specific protection has been accorded to the openness of the surroundings, I consider that particular care should be taken to ensure that any change does not appear overly bulky or higher than absolutely necessary.
57. The Planning Design and Access statement that accompanied the application comments as follows on the scale of the development: *'In determining an appropriate scale for the development regard has been had to the topography of the site; the relationship with and scale of the approved adjacent Phase 1 development; and the need to use scarce land resource effectively and efficiently.'*

58. It goes on to say: *'The proposed massing aims to optimise the potential of the site in terms of light, views and accessibility while being sensitive to the form and scale of its context. The massing is urban; however, the architectural articulation of the elevations with the rhythm and proportion of the windows gives the buildings a domestic scale.'*
59. Whilst the aims set out above are appropriate and the massing of the block is indeed urban, for the reasons set out above I am not persuaded that this is necessarily an acceptable solution for this predominantly open site set in a largely sub-urban townscape or that the building would in any way have a 'domestic scale'. It would be impressive and massive but these are not the qualities that I feel are suitable for a site such as this and the scheme would consequently fail to relate sympathetically to the open space within and beyond the site boundaries across which most views of it would be achieved. Whilst it would continue the theme of the Dylon 1 development, I question whether this would be the correct template to follow, given the difference in designations between the 2 sites.
60. Turning to the question of residential amenity, whilst the majority of the units would span the full width of the block and consequently have a double aspect that would include the proposed park from at least some of the windows, I am nevertheless somewhat concerned about the number of single or limited aspect flats on the western elevation.
61. Each floor above ground level would have 6 units that faced only the railway, with another 2 having additional windows looking north or south, but not across the park. It is also the case that it is the units closest to the railway, at the points where the angled façades meet, which would have this limited outlook, as well as being closest to the source of most noise. Whilst mechanical ventilation and noise reduction measures could help to maintain minimum standards I am still concerned that this is a design flaw that results from an attempt to increase densities to more than could be comfortably accommodated on the site.
62. If permitted, the appeal scheme is likely to be used as a precedent for the character of the surroundings against which any future development of nearby sites would be judged. I am concerned that this could lead to a concentration of high rise development that would fail to make an appropriate transition between the open playing fields and sub-urban characteristics of the residential development to the east and the more commercial and urbanised areas to the north and west.
63. In conclusion on this topic, I consider that the extent of the proposed development on the site would be excessive, given the designation of the site and the impact on the character of the surroundings. I find that the scheme would not respect the character and appearance of its surroundings because of its overly dominant height and scale. It would thereby conflict with the policies set out in Chapter 7 of the Framework which seek to promote and secure good design that would help to raise the standards in the area.
64. I consider that the proposal would also fail to meet criterion H7 (iii) of the London Borough of Bromley Unitary Development Plan 2008 (UDP) which requires, amongst other things, that the site layout, buildings and space about buildings are designed to a high quality and recognise, as well as complement, the qualities of the surrounding areas.

65. Similarly UDP policy BE1 calls for all development proposals to be of a high standard of design and layout and they are expected to meet a number of criteria that include complementing the scale, form, layout and materials of adjacent buildings and areas. For the reasons set out above, I conclude that the scheme would be in conflict with this policy as, although it would be seen as clearly related to the Dylon 1 development, it would still fail to complement the wider context in which it would be set.

Very special circumstances/the balancing exercise

66. I have found that the Council does not have a 5 year HLS and the provision of 253 new units, including 90 affordable units, is a significant benefit of the proposal. In addition to this, the economic benefits that would result from the building of a project of this scale are considerable.

67. The public park is another factor that weighs in favour of the scheme and the biodiversity improvements and provision of a possible link to the Waterlink Way would also add to the benefits. The housing delivery grant would, of course, be an advantage but the infrastructure contributions cited by the appellants as benefits are required to make the development acceptable in any event and do not add to the balance in favour of the scheme.

68. I do not accord any additional weight to the fact that the appearance of the site would be improved. This is because, as with Green Belt policy, the condition of the land is not a contributory factor in the designation; it is the openness of the MOL that is important in this context.

69. While the building might, in other location, be considered a valuable addition to the townscape, for the reasons set out above I do not find its relationship with its surroundings would be of sufficient architectural quality to be a consideration in its favour. Indeed, my concerns about the scale and massing of the block, together with the quality of the accommodation for some of the future occupants, are major factors weighing against the proposal.

70. I have found that there is harm to the openness of the MOL as well as the harm by reason of inappropriateness, albeit at a level that is reduced due to the factors outlined above and by the policies of the UDP being outdated in terms of their relevance to the supply of housing. Nevertheless, I also note that the Government's Planning Practice Guidance (PPG) states that '*unmet housing need ... is unlikely to outweigh the harm to the Green Belt and other harm to constitute the "very special circumstances" justifying inappropriate development on a site within the Green Belt.*'

71. Even if it is considered that the MOL policies are not carried through to the Framework, they are nevertheless still treated in the same way as those relating to the Green Belt in the LP and I consider that the PPG applies to them in the same way as to the Green Belt policies.

72. I have taken account of the other housing sites that have been granted planning permission in MOL in the Borough and elsewhere but the circumstances in each of these were very different to those in this case and preceded the latest edition of the PPG. I have therefore considered this case on its own particular circumstances and merits.

Conclusions

73. I consider that the extent of harm that would be caused through inappropriate development, loss of openness and to the character and appearance of the surroundings are factors that cause the proposed development to conflict with the DP to a substantial degree. I find that the scheme would not represent sustainable development as defined in paragraph 7 of the Framework because of its failure to meet the environmental criteria set out in that paragraph, through the harm to the character of the surroundings.
74. Even though the policies for the supply of housing may be out of date, I conclude that the identified harm significantly and demonstrably outweighs the benefits in favour of the proposal identified above, when assessed against the policies of the Framework as a whole. Very special circumstances to justify the grant of planning permission do not, therefore, exist in this case.
75. Consequently, for the reasons given above I conclude that the appeal should be dismissed.

Katie Peerless

Inspector

APPEARANCES

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Claire Glavin BA (Hons) MRTPI	Principal Planning Officer, Planning Policy Team, London Borough of Bromley
Stephen Sensecall BA (Hons) DipTP MRTPI	Senior Partner, Kemp and Kemp LLP

FOR THE APPELLANT:

Russell Harris QC	Instructed by Nathaniel Litchfield and Partners
He called	
Ian Ritchie	Architect
Richard Coleman Dip Arch (Cant) RIBA	Architecture, Heritage and Townscape Consultant
Steven Butterworth	Senior Director, Nathaniel Litchfield and Partners.
Christopher Francis	West and Partners, Town Planning Consultants

INTERESTED PERSONS:

Cllr. Russell Mellor

DOCUMENTS

- 1 Notes of Mr Harris' opening statement
- 2 Notes of Mr Lewis' opening statement
- 3 Tibbald's report on 1st application on appeal site
- 4 Extract from PAS website
- 5 Screenshots from Hambridge website
- 6 Advertisement for Tweedy Road development site
- 7 Mr Ritchie's notes on acoustic and ventilation matters
- 8 Note on developed area including car park
- 9 Email from Environmental Health Officer in response to noise notes
- 10 Suggested Conditions
- 11 RPS note
- 12 UU Version A – Starter Homes version
- 13 UU Version B
- 14 Route Map to UU versions
- 15 Notes of Mr Lewis' closing submissions
- 16 Notes of Mr Harris' closing submissions

APPENDIX 2: HOW 5 YEAR HOUSING LAND SUPPLY TABLE

Sites of 9 units+	Ward	Date of planning permission	Site Area (ha)	Council Position	HOW's Position	HOW's comments
Identified sites and draft Local Plan allocations						
Site B Tweedy Road/London Road	Bromley Town	N/A	0.37	24	24	
Land adjacent to Bromley North Station	Bromley Town	N/A	2.86	80	0	Contrary to Council's Site Assessment 2017 document
Banbury House Bushell Way Chislehurst BR7 6SF	Chislehurst	N/A	0.27	25	25	
Orchard Lodge William Booth Road Anerley London SE20	Crystal Palace	26.10.2016	1.8	250	250	
Small Halls York Rise Orpington	Farnborough and Crofton	N/A	0.46	35	35	
Bassetts Campus Broadwater Gardens BR6 7UZ	Farnborough and Crofton	18.08.2016	2.5	115	40	Contrary to Council's Site Assessment 2017 document
Former Depot Bruce Grove Orpington	Orpington	09.11.2016	0.3	28	28	
Homefield Rise Orpington BR6	Orpington	N/A	0.75	87	0	Application refused due to overdevelopment
Sub-total				644	402	
Large sites with planning permission/completed						
Church Road Biggin Hill (1-9) TN16 3LB	Biggin Hill	11.07.2016	0.3	27	27	
Land between Main Road Vincent Square Barwell Crescent and Moxey Close Biggin Hill TN16 3GD	Biggin Hill	23.09.2016	0.7	16	16	
Bromley Common Liveries Cameron Buildings Bromley BR2 8HA	Bromley Common and Keston	27.07.2015	2.9	9	9	
Site C Old Town Hall Tweedy Road BR1	Bromley Town	08.11.2016	0.7	53	53	
Grays Farm Production Village (Care Home units) Grays Farm Road	Cray Valley West	05.09.2014	0.4	75	75	Care home's included in the Council's 5 year housing land supply.
The Haven Springfield Road SE26 6HG	Crystal Palace	31.03.2015	1.4	46	46	
All Saints Catholic School Layhams Road West Wickham BR4 9HN	Hayes and Coney Hall	13.05.2016	2.3	48	48	
Langley Court South Eden Park Road BR3 3AT	Kelsey and Eden Park	17.06.2014	10.6	179	0	RM for 22 dwellings but no developer onboard.
20-22 Main Road Biggin Hill TN16 3EB	Biggin Hill	15.10.2012	0.4	9	9	
Blue Circle Sports Ground Crown Lane Bromley BR2 9PQ	Bromley Common and Keston	22.07.2011	12	22	22	
Land at South Side of Ringers Road BR1 1HP	Bromley Town	04.01.2008	0.27	34	34	
Site K Westmoreland Road Car Park of BTCAAP	Bromley Town	26.03.2012	0.96	200	200	
Dylon International Ltd Worsley Bridge Road SE26 5HD	Copers Cope	15.04.2010	0.28	74	74	
Dylon International Ltd Worsley Bridge Road SE26 5HD	Copers Cope	16.02.2015	0.28	149	149	
Grays Farm Production Village	Cray Valley West	12.03.2015	1.09	45	45	
1 Chilham Way BR2 7PR	Hayes and Coney Hall	13.03.2014	0.78	14	14	
Isard House Glebe House Drive Hayes	Hayes and Coney Hall	10.12.2014	0.57	21	21	
Hayes Court West Common Road BR2 7AU	Hayes and Coney Hall	17.12.2014	2.6	17	17	
The Rising Sun Upper Elmers End Road BR3 3DY	Kelsey and Eden Park	09.04.2015	0.18	16	16	
Oakfield Centre Oakfield Road SE20 8QA	Penge and Cator	21.05.2014	0.3	24	24	
Sundridge Park Management Centre Ltd Plaistow Lane Bromley BR1 3JW	Plaistow and Sundridge	06.11.2013	2.27	28	28	
Holy Trinity Convent School Plaistow Lane BR1 3LL	Plaistow and Sundridge	07.11.2011	0.95	22	22	
25 Scotts Road BR1 3QD	Plaistow and Sundridge	11.06.2014	0.4	38	38	
Summit House Glebe Way BR4 0RJ	West Wickham	02.04.2015	0.5	54	54	
Lapse Rate (10%)				0	-104	
Sub-total				1220	937	
Small sites with planning permission/completed						
165 Masons Hill BR29HW	Bromley Town	18.09.2015	0.13	23	23	
H G Wells Centre St Marks Road Bromley	Bromley Town	13.08.2015	0.08	52	52	
155-159 High Street BR6 0LN	Orpington	03.09.2015	0.1	9	9	
Homesdale Centre 216-218 Homesdale Road BR1 2QZ	Bickley	Various	0.012	6	0	Double counted as small site allowance of less than 9 units below
57 Albemarle Road BR3 5HL	Copers Cope	28.08.2015	0.16	14	14	
193 Anerley Road Penge SE20 8EL	Crystal Palace	26.03.2013	0.13	9	9	
Orpington Police Station The Walnuts BR6 0TW	Orpington	17.04.2015	0.2	83	83	
Lapse Rate (10%)				0	-19	
Sub-total				196	171	
Small granted RESPAS commenced						
Title House 33-35 Elmfield Road BR1 1LT	Bromley Town	10.02.2015	0.19	50	50	
Broadway House High Street BR1 1LF	Bromley Town	30.10.2015 27.06.2014	0.08	43	43	
Crosby House Elmfield Road BR1 1LT	Bromley Town	06.10.2015 23.10.2013	0.2	22	22	
Oxford House 11 London Road BR1 1BY	Bromley Town	23.01.2015 03.07.2015	0.06	17	17	
Waterford House 4 Newman Road BR1 1RJ	Bromley Town	09.06.2014	0.04	14	14	
County House 221-241 Beckenham Road BR3 4UF	Clock House	08.09.2014	0.12	75	75	
Berwick House 8-10 Knoll Rise BR6 0EL	Orpington	14.11.2014	0.1	88	85	Planning permission for 85 units not 88.
Sub-total				309	306	
Large granted RESPAS commenced						
Mega House Crest View Drive BR5 1BY	Petts Wood and Knoll	15.08.2014	0.3	29	29	
Sub-total				29	29	
Sites of 9+ units total				2398	1845	As above
Small sites started				116	116	
Small sites projection				730	600	Double counts prior approval allowance below
Vacant units projection				100	0	Based on London Plan evidence base
Prior approval projection				200	150	No compelling evidence of such sites consistently becoming available at the rate suggested. Figure increased by 50 dwellings from 2015 5YHLS Statement without any further justification. Delete 50 dwellings
TRAJECTORY TOTAL				3544	2711	
TOTAL REQUIREMENT				3332	3365	
5 YEAR HOUSING LAND SUPPLY				5.3	4.0	
SURPLUS / DEFICIT				212	-549	

Sites not considered deliverable

Land adjacent to Bromley North Station

The Council's own assessment of the deliverability of the site in SD30 (Site Assessments 2017) is that it is not deliverable in years 1 – 5. This is contrary to the position in SD33 (Housing Land Supply 2016). As the more up-to-date evidence document SD30 should be relied on.

The site is in multiple ownerships and will require multiple agreements to unlock. The “evidence” included in Appendix 5.2 of SD34b in a response to an email with leading questions from LB Bromley should not be relied on as the context of the questions has not been included and answers given are heavily caveated and demonstrate why the site cannot be considered “available now” in the context of the NPPF and PPG (ie there are several agreements still needed before development can move forward and there are no guarantees if and when these might happen).

Homefield Rise, Orpington, BR6

An application for 103 dwellings was refused by the Council in April 2017 for overdevelopment as it “*would fail to respect or complement the scale, form and layout of the surrounding area and would harm the amenities of neighbouring properties*”. This site should therefore be removed from the Council's supply.

Bassetts Campus Broadwater Gardens BR6 7UZ

The Council's 5YHLS statement is contrary to the Council's Site Assessment 2017 document, which states that delivery is expected in years 1-5 (40 units) and years 6-10 (75 units). As such, the Council's figures should be reduced by 75 units to reflect their latest research that 40 units will come forward in the first 5 years.

Langley Court South Eden Park Road, BR3 3AT

This site has a complex planning history of withdrawn and stalled applications. Without a viable scheme there can be no certainty that this site could come forward in five years.

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HOW

Bromley Local Plan Examination Hearing Statement

On Behalf of Lands Improvement

For Issue 6

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Planning and Environmental Advisers

1 ISSUE 6

ARE THE POLICIES RELATING TO THE RENEWAL AREAS JUSTIFIED, CONSISTENT WITH NATIONAL POLICY AND THE LONDON PLAN AND WILL THEY BE EFFECTIVE?

Question 27. How do policies for the Renewal Areas (Policy 13) differ from those applicable elsewhere in the Borough? How will implementation be achieved on the cross-border sites?

1.1 The introduction to the Local Plan includes the following objectives:

- *Co-ordinate the improvement of Bromley’s designated Renewal Areas, and other areas with environmental difficulties, to reduce health inequalities; and encourage all communities to improve their own environments.” (1.3.5)*
- *“Ensure there is an appropriate supply of homes to meet the varied needs and incomes of the local population, which responds to changing demographics, in particular as the population ages.” (1.3.7)*
- *“Support the continued improvement of Orpington and district and local centres.” (1.3.11)*
- *“Support improvements to public transport links, including associated parking, and facilitate environments that encourage walking and cycling.” (1.3.17)”*

1.2 Draft Policy 1(c) sets out how the Council will make provision for *“the development of housing within Renewal Areas where appropriate”*.

1.3 Draft Policy 22 states (our emphasis added):

“New developments will be expected to provide social infrastructure appropriate to the nature and scale of the proposal, such as open spaces designed for imaginative play, on site provision of community facilities and / or contributions to off-site facilities. Developments of significant scale will create their own environment and therefore should incorporate within their design, public realm and / or community and other facilities, which create a sense of place, particularly in Renewal Areas and areas of acknowledged deficiency”

1.4 Despite the Local Plan objectives and policies identified above, which identify the issues faced by communities in Renewal Areas (around health, access to affordable housing and jobs) and the stated aim to focus on improving these specific areas, the wording of Draft Policy 13 does not include any further guidance or requirement to support the Renewal Areas. As result, there is no

discernible difference between the planning policies for the Renewal Areas and rest of LB Bromley, which is not consistent with aim of London Plan Policy 2.14 “*to prioritise them for neighbourhood based action and investment*”.

- 1.5 There should be a clear link between the needs of these areas and how they will be delivered. This should include allocations of sufficient scale included in Policy 13 – 19 that can viably deliver and fund the community facilities, improved public transport, affordable homes and jobs needed in these areas.
- 1.6 The overwhelming majority (77%, 2,065 dwellings) of the Council’s allocations are located in the Bromley Renewal Area. A small number of small allocations are proposed in Crystal Palace (9%, 250 dwellings) and Cray Valley Renewal Areas (12%, 330 dwellings). There are no allocations included in Mottingham or Ravensbourne, Plaistow and Sundridge Renewal Areas.
- 1.7 The Council has not included a viability assessment of how these allocations would contribute to achieving the objectives of improving these Renewal Areas, the amount of new affordable housing that would be delivered in these areas or how the equality gap with the rest of Bromley / London will be reduced. This is particularly important for the Renewal’s Areas outside Bromley Town Centre which have been identified for a very low level of housing development (if any at all).
- 1.8 Lands Improvement’s site in Orpington is in the Cray Valley Renewal Area. If it were to come forward for residential led development, it has the potential to deliver significant benefits to the Renewal Area, which could include:
 - In the region of 1,000 new homes, including in the region of 350 affordable homes;
 - Significant additional funding for the Council through New Homes Bonus (c.£5.5m) and council tax receipts (c.£1m per annum);
 - Up to £16m per annum of increased consumer spending by new households;
 - Up to £30m in gross value added to the local economy through construction employment;
 - A new primary school;
 - Potential new community facilities, such as a healthcare centre;
 - Financial contributions to improve local bus services and additional patronage to make those services more viable in the long term;

- Financial contributions to improve identified constraints in the local highway network needed to support growth of the Cray Business Corridor;
- New public open spaces linking to nearby St Mary Cray Recreation Ground and Riverside Gardens.

Cray Valley Renewal Area boundary

- 1.9 The Council's boundary for the Cray Valley Renewal Area is different to the London Plan Area for Regeneration (London Plan Policy 2.14). As a result, it excludes a large part of the borough identified as being within the 20% most deprived in London.
- 1.10 The Council's reason for this approach is that the area is sparsely populated and in the Green Belt, however, this should not overshadow ONS evidence that the area needs investment. Green Belt and deprivation are not mutually exclusive. Indeed, the link is further evidence that the Green Belt boundaries should be reviewed in this part of the borough. The boundary of the Cray Valley Renewal Area should be updated to match the London Plan Area of Regeneration as well.

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HOW

Bromley Local Plan Examination Hearing Statement

On behalf of Lands Improvement

For Issue 9

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Planning and Environmental Advisers

1 ISSUE 9

ARE THE POLICIES RELATING TO SUSTAINABLE TRANSPORT AND PARKING JUSTIFIED, CONSISTENT WITH NATIONAL POLICY AND WILL THEY BE EFFECTIVE?

Question 36. Does the Plan adequately address the impact of the development it proposes on vehicular transport? How does the Infrastructure Delivery Plan relate to the transport infrastructure necessary to serve the development put forward in the Plan?

- 1.1 The Council's Cray Business Corridor Study 2014 provides a thorough assessment of the highway impacts associated with the redevelopment of a number of the SIL sites and office cluster. It provides recommended improvements to the highway network that would mitigate the impacts. It identifies that significant funding would be needed to deliver these and that it would be necessary to pool financial contributions from developers.
- 1.2 Despite this there is no reference to the study within the Draft Local Plan or to any highway improvements to the A224, including at Crittalls Corner within the Infrastructure Delivery Plan.
- 1.3 This is a significant omission. The Cray Business Corridor is one of three strategic priority areas for economic growth identified in the London Plan and at Draft Policy 80 of the Local plan. It is expected to play a vital role in creating the growth in jobs envisaged by the Local Plan but significant transport infrastructure is needed to deliver this.
- 1.4 In the absence of any other funding only major development nearby to the business corridor will be able to fund these major highway upgrades. If this does not happen the situation will not be resolved and will worsen. If that is the case, then the Local Plan must be considered unsound as the expectations for economic growth in the Cray Business Corridor will be not achievable.

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HOW

Bromley Local Plan Examination Hearing Statement

On behalf of Lands Improvement

For Issue 10

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Planning and Environmental Advisers

ARE THE POLICIES RELATING TO VALUED ENVIRONMENTS JUSTIFIED, CONSISTENT WITH NATIONAL POLICY AND WILL THEY BE EFFECTIVE?

Question 44. Does the 2014 review of the Green Belt, Metropolitan Open Land (MOL) and Urban Open Space (UOS) represent an adequate basis for the positive planning of development in the Borough?

- 1.1 For the avoidance of doubt, a 2014 Green Belt review was not submitted as part of the Local Plan evidence base. We therefore presume the above question refers to the Council's 2012 report on Green Belt, MOL and UOS boundaries. The 2012 report was prepared as part of the Core Strategy (now abandoned). An actual Green Belt report is not included as part of Local Plan submission documents, but an officer's report (28 June 2012) and appendices have been submitted.
- 1.2 Paragraph 3.1.1 of the officer's report summarises the purpose of the 2012 report as being:
- "When the report on responses to the Core Strategy Issues Document were reported to the Development Control Committee on 17 November last year [2011] it was recommended that a review of the Green Belt boundary be undertaken, specific attention being paid to the sites arising during this consultation, together with those proffered during the emergence of the UDP in 2001. In addition members also resolved to include the boundaries of both Metropolitan Open Land and Urban Open Sites in this review."* (paragraph 3.1.1 of June 2012 Officers Report)
- 1.3 The 2012 review of boundaries therefore had a very narrow remit. It was not an assessment of the function and performance of the LB Bromley Green Belt to allow a judgement to be made of its value against the five NPPF purposes.
- 1.4 It was prepared over five years ago for the now abandoned Core Strategy and does not include an assessment of new sites submitted since 2012, including those submitted as part of Regulation 18 or 19 consultations of the Local Plan
- 1.5 For the reasons set out in our response to Issue 3 (12), without a comprehensive Green Belt review it is not possible to conclude that the Council's proposed housing strategy, which is set to fail to meet LB Bromley's housing needs in the most appropriate way, is sound or NPPF compliant.

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