
**LONDON BOROUGH OF
BROMLEY**

LOCAL PLAN EXAMINATION

Issue 5: Housing Supply

Thurs 5th December 2017 (PM)

STATEMENT PREPARED BY:



On behalf of:

Bellway Homes (Thames Gateway)



Respondent/Participant ID: 61

NOVEMBER 2017

Executive Summary

Bellway Homes (Thames Gateway) are of the view that there are a number of shortcomings with the Submission Local Plan, resulting in the need for amendments.

Policy 1 (Housing Supply) is not positively prepared and cannot be said to be justified. Accordingly, we do not consider the policies for the provision and supply of housing to be consistent with national policy.

Policy 1 should be amended in order to provide for a greater minimum housing requirement. In addition, the evidence underpinning the housing delivery strategy does not demonstrate a deliverable supply of housing for the first five years of the plan.

Along with an amendment to the wording of Policy 1, additional sources of supply (including additional site allocations) are required in order to provide a flexible supply of deliverable and developable land.

Draft Policy 1 – Housing Supply

Issue 5:

Are the policies for housing growth and affordable housing justified, deliverable and consistent with national policy?

Q16

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

Context

1. The Local Plan is being prepared to be in general conformity with the London Plan (March 2016).
2. The housing target set out in the Local Plan (including the 641dpa minimum figure to be met in the London Borough of Bromley) is a capacity-based requirement informed by the Greater London SHLAA and the Greater London SHMA (2013). The capacity-based approach is confirmed at paragraph 5.10 of the London SHLAA (2013).

3. Summary paragraph 01 of the London SHMA (2013) makes it clear that the SHMA estimates the housing need at the Greater London level only – with the London Boroughs remaining responsible for identifying the housing requirement at the local level.
4. As an overarching position statement, preparation of the Local Plan, with its policies for the supply of housing predicated upon the content of the London Plan, cannot be said to be justified having regard to the requirement at paragraph 47 of the NPPF (“Framework”) for local planning authorities to use their evidence base to ensure that their Local Plan meets the full objectively assessed need for housing and affordable housing – as far as is consistent with the policies set out in the Framework.

The Soundness of the Minimum 641dpa Housing Requirement

5. Local Plan paragraph 2.0.3 states as follows:

“The London Plan (2016) has a specific important role in the supply of housing. It includes a minimum borough annual average housing target at Table 3.1 (London Plan Policy 3.3). The annual monitoring target for Bromley Borough is 641 dwellings per annum. The Mayor for London has indicated that the current London Plan will be reviewed and replaced by 2019 and the housing target also reviewed..”
(Our emphasis underlined)

6. The 641dpa monitoring target for Bromley is set out at Table 3.1 of the London Plan, where the sum of the annual targets for the London Boroughs totals 42,389dpa. This is significantly below the 49,000dpa figure set out in the greater London SHMA. Accordingly, and as a starting point, the annualised target in the London Plan does not address the OAN in the SHMA.
7. Draft Local Plan Policy 1 states that the Council will make provision for a minimum average of 641 additional homes per annum and paragraph 2.1.15 of the supporting text to the housing policies states in relation to the actual level of housing need (the objectively assessed housing need (the “OAN”)) as follows:

“A SHMA for the South-East London sub region was finalised in June 2014 and estimates an annual housing requirement across the sub region of 7188 units and a net annual need for 5000 affordable units. The net additional dwelling requirement for Bromley per annum was estimated at approximately 1,320 units. Across the sub-region annual capacity targets identified within the 2013 SHLAA reach 7893 units. GLA

household projections in 2014 estimate an annual short term variant of 1840 households.” (My emphasis underlined)

8. This confirms that the actual OAN for the Borough of Bromley, at 1,320 dwellings per annum, is more than double and significantly in excess of, the minimum target requirement of 641 dwellings in the London Plan. For comparative purposes, the emerging London Plan proposes an ever higher annualised requirement for Bromley at 1,424dpa.
9. Local Plan paragraph 2.1.17 adds in relation to seeking to increase housing supply to reduce the ‘gap’ between the OAN and the target minima figures as follows:

“Paragraph 3.19 of the London Plan states that boroughs should use their housing supply targets as a minima augmented with additional housing capacity to reduce the gap between local and strategic housing need and supply. Examples of relevant locations that can help to achieve this include; town centres, opportunity and intensification areas and other large sites.”

10. The above analysis of the emerging policy position makes it clear that every sustainable opportunity should be maximised in order to help meet the demand for housing, with the OAN (1,320dpa) being significantly in excess of the target minima requirement of 641dpa for Bromley set out in the London Plan.
11. The Council’s Topic Paper SD28 fails to adequately explain the rationale for not seeking to plan for a higher housing requirement.
12. In addition, paragraph 3.86 of the London SHLAA is of particular interest in that it suggests the Council may have underplayed its ability to deliver housing on account of the minimum housing target remaining below average delivery/completions.
13. Finally, the components of housing ‘capacity’ used to inform the 641dpa (minimum) housing target are set out at Appendix 1 on Pg109 of the London SHLAA. The assessment includes no allowance for any capacity/dwelling numbers from long term vacant units. Equally, it does not appear that they include an allowance from offices to residential conversion.

14. Accordingly, any completions achieved since the 2015/16 base date from vacant units should not be 'subtracted' from the minimum 641dpa figure as the supply has not been factored into the derivation of the minimum target requirement. We assess 5yr housing land supply matters in more detail in response to Q18 below.

The Sustainability Appraisal

15. Section 3 of the Sustainability Appraisal of the Submission Local Plan (AECOM (Nov 2016)) considers the 'reasonable alternatives' including in relation to the target housing requirement.
16. Paragraph 6.3.29 suggests planning for a higher housing target than the 641dpa in the submission Local Plan could be unreasonable, stating as follows:

"It appears certain that the option of delivering a level of housing growth approaching that necessary to meet the SHMA objectively assessed housing needs figure (even before any account is taken of the possibility of 'uplifting' the figure in order to better meet affordable housing needs) is unreasonable. There would be major conflicts with national and regional policy relating to issues such as protection of Green Belt, open space (Urban Open Space and Metropolitan Open Land) and employment land (even recognising the potential for mixed use redevelopment of employment sites to lead to an increase in employment floorspace)."

17. However, paragraph 6.3.31 adds that an increase on the minimum target requirement could be justified, stating as follows:

"Although it may not be possible to deliver housing growth capable of meeting the SHMA objectively assessed housing needs figure, there is nonetheless the possibility of exceeding the London Plan target to some extent; indeed, it can be argued that there is a need to do so. This is on the basis that the FALP target is a minimum, which in turn reflects the fact that the FALP target relates to capacity rather than OAHN. Specifically, the FALP target of 42,000 dpa across London is driven by the Mayor's SHLAA, whilst objectively assessed housing need for London, as established by the Mayor's SHMA (2013), is 49,000 dpa (i.e. 17% higher than the target)."

18. Paragraphs 6.3.32 and 6.3.33 further expand upon the topic, suggesting that it would be reasonable for the London Borough of Bromley to explore exceeding the London Plan target as well as to consider the potential for an increased quantum of housing in order to support the economic growth ambitions of the Borough.

Summary: Suggested Change

19. The full objectively assessed (FOAN) need for Bromley is a minimum figure of 1,320dpa. This has been established by the SHMA for the South-East London Sub-Regional (June 2014). This document post-dates the London Plan SHMA and SHLAA. As such, the London Plan minimum target of 641dpa is incapable of being a housing requirement consistent with paragraph 47 of the Framework as they are capacity driven only.
20. It is for this Local Plan process to determine the soundness of the Local Plan and the justification for departing from the FOAN.
21. As drafted, Policy 1 (Housing Supply) falls considerably short of planning for the OAN identified in the South East London SHMA (June 2014). This approach is not justified nor can it be said to be positively prepared. It is inconsistent with the Framework.
22. Policy 1 should be amended to provide for an increased minimum housing requirement.

Q17

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?

23. The windfall allowance makes up approximately 55% of the Council's supply in seeking to meet the minimum target requirement (Local Plan para 2.1.7 refers to 3,520 dwellings from windfall sites, whilst Table 1 suggests the delivery of a marginally higher figure of 3,652 dwellings). Accordingly, the Council places a particularly high reliance upon windfall sites to deliver the much needed housing. This creates particularly concern in terms of delivery in so far as there is no certainty that the unknown windfall sites will come forward and/or in what timescale.

24. It is clearly for the Council to justify the reliance on said windfalls, but we remain concerned that such over-reliance on this unidentified component of supply could fail to provide sufficient homes.

Q18

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?

25. An assessment of the five year housing land supply position can only be undertaken once a Framework-compliant approach to identifying the housing requirement to be met during the plan period has been carried out. We do not believe this is the case in Bromley given the lack of justification for the 641dpa figure.
26. Use of the FOAN (1,320dpa) immediately establishes not only that Bromley has no five year housing land supply but that the position is dire with a supply of only 1.6 years.
27. In the alternative, and even on the basis of the minimum London Plan target (which, as set out above, is not an OAN figure), the Council is still unable to demonstrate a five year supply of deliverable housing land. This position was confirmed in the 'Dylon' appeal decision (August 2016) (Paras 11 to 30 refer) (**Appendix WBP1**).
28. When calculating the five year position on the basis of the minimum target figure of 641dpa a 5% buffer is to be added.
29. The Council's assessment of the five year housing land supply position is set out in SD33 (see also SD34a and SD34b) which sets out the position as at the 2016 base-date.
30. The Council's approach identifies a 3,332 dwelling requirement for the five year period 2015/16 to 2020/21, calculated as follows:

Five year Requirement 2015/16 to 2020/21 (641dpa x 5yrs)	3,205
“over supply” 2015/16	-32
Target	3,173
5% Buffer	159
Total Five year Requirement 2015/2016 to 2020/21	3,332

31. We consider the “surplus” of 32 dwellings that was achieved is a positive step towards meeting housing needs, but it certainly should not be used artificially to constrain the requirement for the current five year period against what is expressed as a minimum requirement – particularly so when the target requirement is expressed as a minimum and does not purport to be the FOAN in any event (nor could it given it is a capacity-based figure).
32. Consequently, we have recalculated the minimum 5 year requirement for the period 2016 to 2021 if one uses the London Plan minimum target. The difference between our assessment of the requirement and that identified by the Council is that we do not subtract the 32 dwelling “surplus” against the minima target requirement in the monitoring year 2015 to 2016 from the five year requirement for the period 2016 to 2021.
33. Our assessment of the minimum requirement based on the London Plan target is summarised in Table A below.

London Plan minimum target 2016 to 2021 (@641dpa)	3,205
5% Buffer	160
Minimum 5 Year Housing Requirement 2016 to 2021	3,365

34. The components of supply to be included in the supply side of the equation need to be available now, suitable now and achievable. We do not believe that is the case with the Council’s components of supply.
35. The Council’s November 2016 Five Year Housing Land Supply Paper sets out the Council’s asserted supply position for the period 2016/17 to 2020/21 and identifies a supply of 3,544 dwellings as follows:

Component of Supply

Known sites with planning permission not started	537
Known sites with planning permission under construction	1,217
Allocated sites and draft Local Plan allocations	644
Small sites under construction	116
Small site allowance	730
Prior approval	200
Vacant units	100
Total	3,544

36. Even if all of the components of supply were demonstrated to be deliverable, this would only result in a marginal 212 dwelling surplus against the 5yr minimum (non OAN) target requirement, representing a notional supply of 5.32yrs.
37. However, we dispute the deliverability of the identified components of supply and attach a detailed assessment of the position at **Appendix WBP2**.
38. On the basis of our assessment we identify a shortfall of approximately 500 dwellings resulting in a supply of approximately 4.2 years.

Suggested Change

39. The shortfall should be addressed through the allocation of additional sites and the addition of wording in Policy 1 to allow for the flexible re-use of employment land (where demonstrated to be appropriate). The additional of wording along these lines would provide the necessary “hook” to assist in the determination of planning applications at the local level without the frustrations and expense of the need to utilise the appeal process which can result in wasted time and resources (as proved to be the case in the Council’s determination of the appeal at Sundridge Manor).

Q20

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

40. See response to Q18 above (including the information included at Appendix WBP2).

Q21

Is there sufficient flexibility within the allocations to accommodate unexpected delays whilst maintaining an adequate supply?

41. We don't believe the Plan is sufficiently flexible on account of the Council's inability to demonstrate a five year supply of deliverable housing land at the base date and the over reliance on unidentified windfall sites.
42. Including for the reasons set out in response to Q18, there is merit in applying an appropriate non-implementation allowance together with an appropriate lapse rate whilst building in flexibility to the wording of Policy 1 as per our suggestion at Q18 above.

Q22

How would the supply of housing sites be monitored and managed? Explain the implementation strategy for the delivery of housing.

43. This is a matter for the Council to address in their Examination Statement and we welcome wording that provides for flexibility in the Plan to ensure a robust five year supply of housing.
44. As drafted, there is no flexibility in the Plan to enable sites to come forward to help meet any identified shortfall – hence our suggested approach at Q18 above.

Appendix WBP1

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 Dylan 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

FOR THE LOCAL PLANNING AUTHORITY:

Gwion Lewis	Of Counsel instructed by Greg Ullman, Solicitor for the London Borough of Bromley
He called	
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 WBP2

Appendix WBP2

Site Assessments

November 2017

Introduction

This document sets out our assessment of the main components of supply relied upon by the Council in claiming the existence of a five year supply of deliverable housing land.

The Council's Components of Supply

The Council's claimed components of supply for the five year period 2016/17 to 2020/21 comprise as follows:

Component of Supply	LPA
Known sites with planning permission not started	537
Known sites with planning permission under construction	1,217
Allocated sites and draft Local Plan allocations	644
Small sites under construction	116
Small site allowance	730
Prior approval	200
Vacant units	100
Total	3,544

WBP Assessment of the Components of Supply

Our assessment of the identified components of supply relied upon by the Council is set out in Table 1 below which compares our position with that claimed by the Council.

Table 1: Comparison of Housing Supply

Component of Supply	LPA	Bellway	Difference
Known sites with planning permission not started	537	349	-188
Known sites with planning permission under construction	1,217	1,217	0
Allocated sites and draft Local Plan allocations	644	417	-227
Small sites under construction	116	116	0
Small site allowance	730	730	0
Prior approval	200	0	-200
Vacant units	100	0	-100
Total Supply	3,544	2,829	-715

The Council is claiming a supply of 3,544 dwellings against a 3,332 requirement, which results in a surplus of just 212 dwellings.

On the basis of our site assessments, we have discounted a total of 788 dwellings, which results in a total five year supply of 2,829 dwellings. This represents a **deficit of 536 dwellings against the Council's derived five year minimum housing requirement against the London Plan target.** Accordingly, **on the basis of my assessment, the Council is unable to demonstrate a five year supply of deliverable housing land, thus engaging the presumption in favour of sustainable development at paragraph 14 of the NPPF.**

Our assessment of the components of supply is set out below.

Known sites with planning permission not started

The Findings in the Dylan International Appeal

This component of supply was considered at the recent Former Dylan International Premises appeal (PINS Ref. 3144248) discussed in section 2 of my main proof of evidence.

The relevant findings from the Appeal Decision in relation to that case are set out below:

'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 (Para 26).

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) (Para 27). (My emphasis).

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 (Para 28). (My emphasis).

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' (Para 29).

The outcomes from the above Dylon International Inspector's findings are as follows:

1. The Council itself had conceded by the time of the inquiry process that a lapse rate should be applied. It purported to use a 5% rate where planning permission had already been granted but not yet commenced.
2. The Inspector clearly determined that a lapse rate should be applied to both categories of supply namely 'sites with planning permission that have not commenced' and to 'other known sites' to give a more accurate picture of what is likely to be achieved.
3. The Inspector did not expressly determine what lapse rate should apply, but concluded that it needed to be greater than the 5% claimed by the Council. However, even if a 6% lapse rate were applied to 'sites with planning permission that have not commenced' and to 'other known sites', the Inspector concluded that a 5 year housing land supply could not be demonstrated and determined that a housing land supply deficit was established on that basis.
4. The Inspector in that appeal did not need go any further in considering what higher lapse rate should be applied but was clear that it was more than 5%.

The Dylon International Inspector therefore provides a clear view that a lapse rate should be applied to the 'sites with planning permission that have not commenced' and to 'other known sites' components of supply and that the relevant lapse rate was greater than the 5% claimed by the Council.

The Council's Approach to Lapse Rates

Despite this this clear finding, the Council have not applied any lapse rate reduction to this element of supply and have sought to articulate their reasoning at paragraphs 2.14 to 2.18 of the November 2016 Housing Land Supply Paper.

It is our opinion that their reasoning/justification is an inadequate response and as such the Council has failed to address the findings of the empirical evidence (see below) which justifies the application of a lapse rate. As set out at paragraph 2.16 of the Paper, the Council appears to be relying upon windfalls to justify the failure to apply a lapse rate. We do not see the logic in any such approach not least because they represent their own separate component of supply.

Further Commentary

As a matter of basic consistency in decision-making, one should follow the approach taken by the Inspector in the recent Dylon International appeal and discount a lapse rate from this component of supply. Even at only 6%, this results in a minimum reduction of 32 units.

However, the Dylon International Inspector did not suggest that the lapse rate should be as low as 6%. Rather, the Inspector simply applied a sufficient lapse reduction to enable a clear housing land supply shortfall to be demonstrated. For the reasons set out below it is clear that a higher lapse rate figure should be applied to this component of supply.

At paragraph 27 of the Appeal Decision, the Dylon Inspector refers to evidence put forward by the Appellant relating to the divergence between the number of approved dwellings that come forward set against actual completed dwellings as referred to in the London Strategic Housing Land Availability Assessment 2013 (Jan 2014) (Table 3.20 refers). It is logical that any lapse rate to be

applied to this component of supply should be founded upon past evidence of the differential between approvals and actual completions.

Table 3.20 of the 2013 London SHLAA provides an assessment of annual average completions over two time periods (2004-2012; & 2008-2012), set against annual average approvals over the same two periods.

	Completions average 2004-2012	Completions Average 2008-2012	2004-2012 average approvals	2008-12 average approvals	2011 London Plan conventional capacity	2013 SHLAA conventional capacity
Bromley	694	621	1243	906	501	641

If one assesses the two relevant periods, it becomes evident that in the period 2004 to 2012 only 56% of the approved dwellings in Bromley Borough were actually constructed, indicating a 44% lapse rate. In the period 2008 to 2012, only 68% of the approved dwellings in Bromley Borough were actually constructed, indicating a 32% lapse rate.

On the basis of this assessment and consistent with the suggestions made by the Appellant at the Dylon International appeal, it is entirely reasonable to suggest a lapse rate of between 32% and 44%. This is based on the empirical evidence that is available.

Apparent from the above and based upon the 2013 London SHLAA, it is evident that actual delivery in this Council has consistently fallen significantly below their approved figures. Accordingly, it is reasonable to suggest that future delivery is likely to be well below the Council's predicted commitments. Consequently, it is in fact conservative to use a 35% lapse rate to this component of supply, adopting the lower end of the figures identified above. Based on the available evidence, a higher lapse rate could in fact be applied.

Paragraph 27 of the decision also refers to "the findings of previous Inspectors'. We have obtained what I understand to be the 2 no. appeal decisions referenced at paragraph 27, and they had lapse rates of 33% and 51% respectively:

- Blue Circle Appeal Decision (paragraph 287)
- Anerley School for Boys Appeal Decision (paragraph 36)

Applying our conservative 35% lapse rate (at the lower end of the empirical evidence indicating an upper figure of 44%) reduces the Council's 537 supply figure from this component of supply by 188 dwellings, resulting in a supply of 349 dwellings.

LPA Figure: 537 dwellings
WBP Figure: 349 dwellings
Difference: -188

Known sites with planning permission under construction

We accept the delivery of this component of supply.

LPA Figure: 1,217 dwellings
WBP Figure: 1,217 dwellings
Difference: 0

Allocated sites and Draft Local Plan Allocations

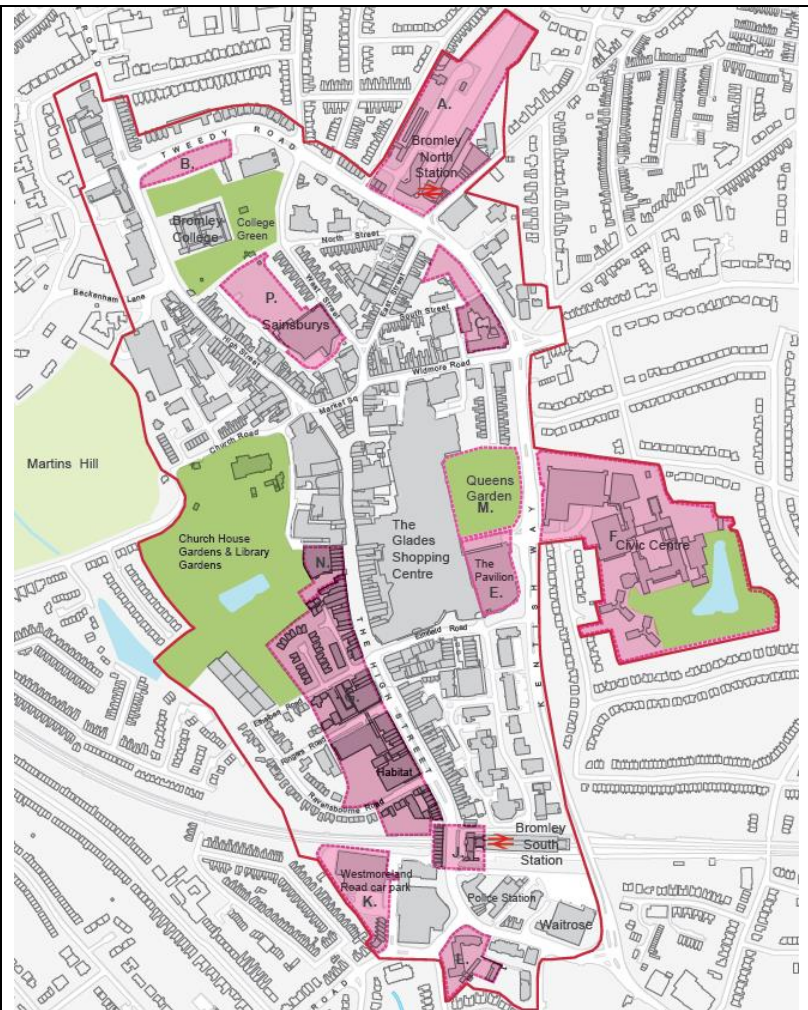
All of the sites included within this component of supply comprise draft housing allocations in the Council's Proposed Submission Draft Local Plan.

The submission Local Plan remains subject to considerable objection. It is the purpose of this Examination to assess the soundness of the Plan in relation to the proposed allocations.

We acknowledge that in the case of 'Land adjacent to Bromley North Station' this had a historic proposed allocation in an adopted Plan (the 2010 Bromley Town Centre Area Action Plan) (Opportunity Site Area ("OSA") A); but policy OSA was quashed following a Judicial review which required Bromley to reassess the site's potential, which process the Council is undertaking as part of the Local Plan process. We deal with the weight that can be attached to this site below.

Table 2: Allocated Sites and Draft Local Plan Allocations

Component of Supply	Council Assessment of Deliverable Supply (net) (2016/17 – 2020/21)	WBP Assessment
Land adjacent to Bromley North Station	80	<p>Background:</p> <p>This site does <u>not</u> benefit from planning permission and forms a proposed allocation for around 525 homes as part of a large mixed use development in the draft Bromley Local Plan.</p> <p>The site is presently in a variety of active uses and multiple ownerships.</p> <p>The Council adopted the Bromley Town Centre Area Action Plan in 2010 (Opportunity Site Area ("OSA") A), but Policy OSA was quashed following a Judicial review which required Bromley to reassess the site's potential, which process the Council is undertaking as part of the Local Plan process.</p> <p>Availability & Achievability:</p> <p>We have visited the site and note the site is in a number of active uses.</p> <p>As extract from the AAP (with the site identified as Site A) is set out below.</p>



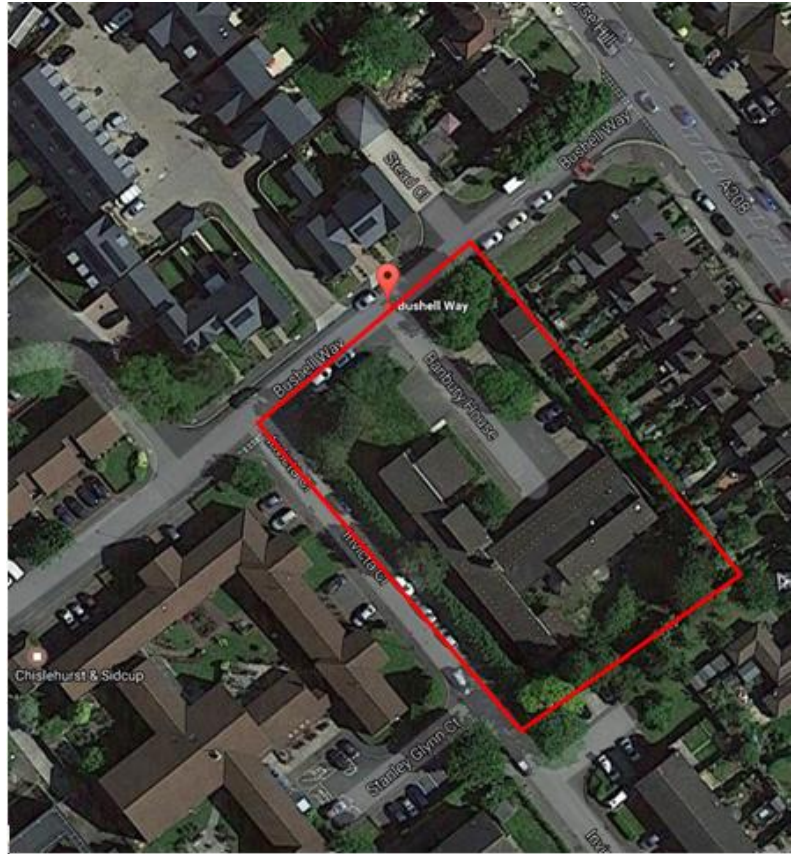
Notwithstanding the initial identification of the site for development in the 2010 AAP, the site does not benefit from a planning permission, nor is there any evidence to suggest that development is viable and/or that the site is deliverable in the five year period to 2021.

The site was assessed through the Council's September 2015 Site Assessment Report with page 10 setting out the following assessment of deliverability:

"The site is in multiple ownership - a majority of the site is in the freehold ownership of Network Rail, with the Council also having a significant freehold holding. There are other private land owners. Network Rail had previously entered into a collaborative agreement with a development partner to seek to bring about a redevelopment of the site. Development appraisals carried out as part of this work highlighted the significant costs of re-providing public transport infrastructure, including new railway station facilities and the bus terminal which weighed heavily on overall viability. Viability was further challenged by the cost of re-providing over 200 commuter parking spaces in a decked format, a requirement of the Train Operators Licence from the Office of the Rail Regulator."

		<p>It is clear from this assessment that there are a number of constraints to delivering the site.</p> <p>Page 11 adds as follows:</p> <p>“Most of the site’s developable area is currently occupied by car parking space. This includes the Network Rail commuter’s carpark and a Council owned carpark. Options for the rationalization of future car parking provision on the site need to be investigated further to maximise deliverability. Redevelopment of the site will also be required to reprovide enough space for a functional bus interchange to operate with minimized impacts on residential surroundings. The bus/rail interchange arrangements will need to be improved. Any proposed development will be careful not to compromise the ability of Bromley North Station to accommodate potential future light and heavy rail connections using the existing station envelope and existing rail links.”</p> <p>In addition to the above, page 259 of the Proposed Submission Local Plan phases the site in years 6 to 10 and 11 to 15. Year 6 is 2021 (from the 2015 base date of the Local Plan).</p> <p>Delivery of the site is dependent upon the resolution of land ownership issues and a development agreement being entered into.</p> <p>There was no developer agreement at the base date of the five year assessment and it is understood that this remains the case now.</p> <p>It is for the Examination process to assess the deliverability of this site but there does not appear to be the evidence to suggest 80 dwellings are deliverable in the five year period.</p> <p>LPA Assessment: 80 WBP Assessment: 0 Difference: -80</p>
Banbury House, Bushell Way, Chislehurst, BR7 6SF	25	<p>Background:</p> <p>This site does not benefit from planning permission and forms a proposed allocation for around 25 units in the draft Bromley Local Plan. The site is not the subject of a pending planning application and has been vacant since 2010.</p> <p>Suitability:</p> <p>The proposed allocation forms a suggested density of 93 dwellings per hectare (dph). It is yet to be demonstrated that an acceptable scheme in design terms can come forward on this site at such a significant increase in overall density.</p>

As illustrated on the below satellite image, the site is located in a residential area characterised by no more than medium density at most, and therefore there is a very reasonable prospect that a development consisting of this number of homes will be found to be an overdevelopment.



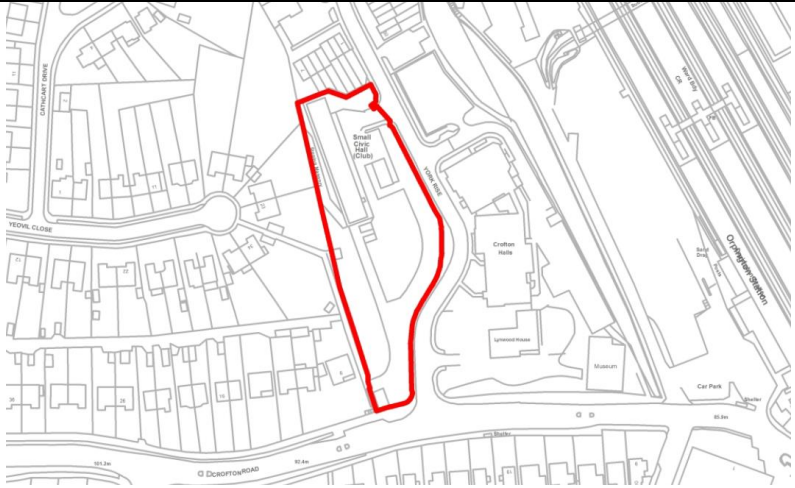
Availability & Achievability:



The site is owned by the Council and has buildings on it that were previously used for C2 and office purposes. Whilst they are vacant and have been so since 2010, there is no evidence to suggest the site is deliverable for housing within 5 years, not least given the absence of a developer agreement.

There was an executive decision taken by the Council in April 2014 which resolved to market the site for the following purposes:

“The tenant of Banbury House, Oxleas NHS Trust, has exercised its right to break its lease and the property is surplus to the Council’s requirements. In order to avoid the substantial void property costs it is essential that the property is marketed and either sold to obtain a capital receipt or let on a full repairing and insuring lease. In view of the need for housing in the borough, only schemes based on residential development are invited for the freehold sale option.”

		<p>Despite the Council's decision to market the site in 2014, there has been no planning application for housing and no sale of the site.</p> <p>The site has been vacant for 7 years and been subject to marketing exercises that have failed to result in a purchaser, let alone a planning application. It follows that there is significant doubt as to whether the site is viable for residential development at all, or at least at any meaningful quantities.</p> <p>For the above reasons, the site cannot be described as available at the base date, or achievable in the five year period, in the absence of any planning permission.</p> <p>LPA Assessment: 25 WBP Assessment: 0 Difference: -25</p>
Small Halls, York Rise, Orpington	35	<p>Background:</p> <p>This site does not benefit from planning permission and forms a proposed allocation for around 35 homes in the draft Bromley Local Plan.</p> <p>The site is not the subject of a pending planning application and is presently used as a temporary car park which was approved in October 2016 for the temporary period of up to 3 years (LPA Ref. DC/16/02808/REG3).</p> <p>Suitability:</p> <p>The site's suitability will be considered through the Local Plan Examination.</p> <p>Availability & Achievability:</p> <p>We have visited the site and note the site is in use as a car park and is approved for such use until 31st October 2019.</p>

		 <p>The application was made by the Council themselves. It follows that there is no housebuilder appointed to deliver the site. If active interest from a developer were imminent then the Council would not have determined to submit an application to use the site for car parking purposes as recently as October 2016. There is no planning permission or even pending application on the site and no evidence that development of this previously developed site is viable within the five year period.</p> <p>For the above reasons, the site cannot be described as available at the base date or achievable in the absence of any planning permission.</p> <p>LPA Assessment: 35 WBP Assessment: 0 Difference: -35</p>
Homefield Rise, Orpington, BR6	87	<p>Background:</p> <p>This site does not benefit from planning permission and forms a proposed allocation for around 100 dwellings (net 87) in the draft Bromley Local Plan.</p> <p>The 'Housing trajectory' (Appendix 10.1) supporting the draft Local Plan suggests 44 units will come forward in years 1 to 5 of the plan period (i.e. 15/16 - 19/20) and 43 units will come forward in years 6 to 10 of the plan period (i.e. 20/21 - 24/25).</p> <p>A planning application for development of the site for 105 apartments was submitted under LPA Ref. 16/04563/OUT but this was refused for a plethora of design reasons in June 2017. The application is now the subject of an appeal.</p> <p>Suitability:</p> <p>The site's suitability for this quantum of development remains to be tested through the Local Plan Examination.</p>

		<p>The proposed allocation has a density of 133 dwellings per hectare (dph) compared to the existing site density of 17dph.</p> <p>It is yet to be demonstrated that an acceptable scheme in design terms can come forward on this site at such a significant increase in overall density. Furthermore, this application is only outline and, even if it were to be approved, the delivery times will depend on further necessary detailed reserved matters' applications, as well as agreement with the respective landowners and/or occupants (in terms of any lease arrangements).</p> <p>Availability & Achievability:</p> <p>We have visited the site and note the site is occupied by 13 residential properties which are occupied and which would need to be demolished. The relevant properties are illustrated in the below satellite image taken from Bing Maps:</p>  <p>An extract from the Draft Local Plan is set out below.</p> 
--	--	--

		<p>We also refer to the submitted application form, whereby section 25 reveals 13 different owners. In our experience, the signing of a Section 106 agreement and the agreement of option terms with this number of third parties can prove extremely time consuming and generate significant delay.</p> <p>We acknowledge the site is likely to be suitable for some form of intensified residential development in the future, but the site is not available for development now, particularly given that it is still being actively used for residential purposes. In addition, its achievability for housing delivery within 5 years is limited by the comprehensive demolition that will need to take place, start-up infrastructure works and the number of details still to be agreed, not least outline and then reserved matter planning approvals.</p> <p>I also refer to the Council's own trajectory appended to the draft Local Plan. Even that document does not suggest delivery of all of the site within five years. On what is itself a highly optimistic guess, it suggests that 44 units will come forward within the first 5 years of the plan period. It follows that even the Council acknowledge that the site is highly unlikely to begin delivering units in the short term.</p> <p>For the above reasons, the site cannot be described as available at the base date or achievable in the absence of any planning permission.</p> <p>LPA Assessment: 87 WBP Assessment: 0 Difference: -87</p>
--	--	---

On the basis of my site assessments, we have reduced the anticipated number of completions from this component of supply by 227 dwellings.

LPA Figure: 644 dwellings
WBP Figure: 417 dwellings
Difference: -227 dwellings

Small sites under construction

We do not seek to challenge this component of supply.

LPA Figure: 116 dwellings
WBP Figure: 116 dwellings
Difference: 0

Small site allowance

We do not seek to challenge this component of supply.

LPA Figure: 730 dwellings
WBP Figure: 730 dwellings
Difference: 0

Prior Approval

We have already allowed an assumed supply of 730 units from the 'small site allowance' that in effect forms a significant windfall allowance. However, we do not accept the additional prior approval component of supply that is now asserted by the Council to form an unidentified, additional form of supply, in the order of 200 dwellings during the 5 year period. Making an additional allowance for 200 dwelling from office conversions could result in double counting.

We refer to paragraph 47 of the NPPF that is clear in requiring LPA's to 'identify and update annually a supply of specific deliverable sites'. There is no such precision associated with this assumption which is based on speculation that a series of additional sites will come forward as office to residential conversion schemes in the 5 year period.

It is highly relevant that the permitted development rights have existed now for 4 years, in circumstances where it was previously assumed that such permitted development rights would expire, so prompting most such sites to seek prior approval consents before the expiry of those rights. It follows that the vast majority of potential supply from this source will already be either approved or completed. It follows that any such contribution from this component of supply would already have occurred.

Notwithstanding the lack of evidence supporting the Council's suggested position, we also note that the Council have taken active measures in an attempt to resist such permitted development schemes. This is evidenced by the Council's decision to serve Article 4 directions upon parts of Bromley town centre in order to protect office stock (see SB17). It follows that not only is there a lack of specific evidence to support the Council's suggested supply in this respect but in addition, the Council cannot be described to be one actively promoting such schemes.

For the above reasons and in the absence of any specific evidence, I have reduced the Council's 200 supply figure from this component of supply by 200 dwellings, resulting in a supply of 0 dwellings.

LPA Figure: 200 dwellings
WBP Figure: 0 dwellings
Difference: -200

Vacant units

The Council consider that long term empty homes returning to use will generate 100 additional units of supply over the 5 year period. Again, we refer to paragraph 47 of the NPPF that is clear in requiring specific identification of deliverable sites. Whilst the Council's approach may well reflect an aspiration for the Council, there is simply no specific evidence to support a claim that long term empty homes will return to active use. It is a matter of logic that it is just as likely that dwellings will fall out of use, as they will be restored to active use during the 5 year period.

For similar reasons to the above component of supply, there is no specific evidence that this component of supply will deliver any additional dwellings in the five year period.

In deriving the minimum 641dpa target requirement from Bromley, the London SHLAA makes no allowance for vacant units (Table 2.10 and Appendix 1 refer). Accordingly, if no allowance has been made for completions from this component of supply in the target minimum requirement the LPA cannot rely upon 100 dwellings from vacant units to contribute towards meeting the 641dpa figure. To the extent that they are relied upon, the 'requirement' or target needs to be increased accordingly.

Consequently we have reduced the Council's 100 supply figure from this component of supply by 100 dwellings, resulting in a supply of 0 dwellings.

LPA Figure: 100 dwellings

WBP Figure: 0 dwellings

Difference: -100

Summary: The Respective Five Year HLS Positions

On the basis of the foregoing, Table 3 below provides a comparison between the respective housing land supply positions as at 1st April 2016 for the period 2016/17 to 2020/21 on the basis of the minimum target set out in the London Plan (rather than the much higher requirement based on the OAN).

Table 3: The Five Year HLS Positions

	Council	Bellway
5 Year Housing Requirement 2016 to 2021	3,332	3,365
Deliverable Housing Supply	3,544	2,829
Shortfall/Surplus	+212	-536
Years' Supply	5.32 years	4.20 years
