

Holly Mitchell
Simply Planning

18 July 2023

Your ref: HM20 – 1016

By email only

Dear Ms. Mitchell,

Land at Bedford Road, Hitchin: Housing Need and Five-year housing land supply (5YHLS)

I am writing in reply to your letter of 28 March 2023 and accompanying analysis by Emery Planning on the above and your subsequent correspondence with Development Management officers. I have reviewed your letter and respond below on the specific matters of the local plan review, housing need, and five-year supply.

In summary, I do not accept the submissions made in relation to housing need and five-year supply for the reasons set out.

I have not considered or commented upon any other matters in relation to your current planning application and this response is provided without prejudice to any future consideration and determination of the application by the Council.

Notwithstanding the below, any conclusions reached on housing need and housing supply matters would need to be weighed alongside all relevant Development Plan policies and material considerations and would not necessarily be determinative in any recommendation or decision.

Scope of the Local Plan review

Policy IMR2 of the Local Plan states that *The Council will undertake a whole plan review of the Local Plan 2011-2031 by the end of 2023 at the latest. This will determine whether this Plan needs to be updated either in whole or in part.*

This language and approach are consistent with paragraph 33 of the National Planning Policy Framework which states *Policies in local plans and spatial development strategies should be reviewed to assess whether they need updating at least once every five years, and should then be updated as necessary.*

In both instances, it is clear a two-stage process is envisaged:

1. A review of existing policies to determine whether they require updating;

2. Subject to (1), a subsequent updating of the Plan either in whole or in part.

As you can see from the wording above, the commitment in Policy IMR2 is to complete step 1 by the end of this year. Should that lead the Council to conclude that the Local Plan needs to be updated in whole or in part, that process will follow thereafter. Any future call for sites or consideration of potential development allocations would form part of that process.

Paragraph 14.46 of the Local Plan expands on this, saying: *We currently consider it most likely that this review will result in a need to comprehensively update the local plan, recognising that this cannot be prejudged at this time. Our present intention is that any comprehensive review of this Plan will be completed by the mid-2020s at the latest. It will roll the Plan forward to a new time horizon of at least 2041 and deliver any specific additional or updated policies and sites that are identified as being needed.*

I have nothing further to add on this point at this time as this would be to prejudge a decision (or series of decisions) that are yet to be made.

Housing Need in the future Plan Review

Your letter states that consideration of the 'Standard Method' results in a significant "unmet need" that the Council will have to provide for in the early review of the Local Plan. You consider that this is a material factor that should be taken into consideration.

I do not accept this analysis.

Your position relies wholly upon extensive speculation upon the potential outcomes of a Local Plan review process that – as above – has yet to take place.

Paragraph 48 of the National Planning Policy Framework (NPPF) states that local planning authorities may give weight to relevant policies in emerging plans according to a number of factors, including:

the stage of preparation of the emerging plan (the more advanced its preparation, the greater the weight that may be given)

As you identify, the Council has yet to commence the review process let alone reach any of the statutory stages of consultation. The Council has yet to undertake the exercise to determine which policies (if any) within the recently adopted plan requires updating.

Appeal decisions show that Inspectors are often relatively cautious in attributing weight to emerging plans; often only ascribing moderate weight to Plans that have been through their pre-submission stage or even at examination. In this context, I cannot see a rational basis on which any material weight can be placed at this stage on the prospective outcomes of a future Plan review.

In any event, there can be no guarantee or assumption that a decision to review the Plan (in whatever form that takes) would result in the housing needs you have purported to identify being met in full. Paragraph 11 of the NPPF allows for objectively assessed needs for housing not to be met in specified circumstances whilst paragraph 141 establishes that authorities should have examined fully all other reasonable options prior to Green Belt release. Paragraph 143 implies that Green Belt boundaries that have been amended should not need further revision at the end of the plan period.

You imply that the status of Council's Local Plan is somehow diminished by not having taken account of Local Housing Need (LHN) in its preparation and / or having been examined under transitional arrangements. The Inspector's Report is clear that all relevant legal requirements

were met and that the Plan is sound. It has been adopted on this basis and subject to no legal challenges. It is the statutory Development Plan for the District and the starting point for consideration of planning applications in line with the legal framework provided by the Planning Acts.

There are no requirements, provisos or similar in the statutory framework, the Plan, the Inspector's conclusions, the NPPF's transitional arrangements, or in wider NPPF policies or Planning Practice Guidance relating to housing supply that give any support to your suggestion that the Council should apply a parallel assessment whereby housing schemes are additionally considered against LHN requirements and / or a prospective future review at this time.

Further to the above, I'd also observe that:

- i. The figures in your analysis are incorrect in their application of the LHN cap at the present time. Planning Practice Guidance is clear that, where policies have been adopted within the last 5 years, the local housing need figure is capped at 40% above the average annual housing requirement figure set out in the existing policies; while
- ii. You also fail to accurately reflect the stepped targets in Policy IMR1 of the Local Plan. From 1 April 2020 to the end of the Plan period, average delivery is anticipated to be significantly higher than over the plan period as a whole. Your analysis relies heavily on the whole-plan average to accentuate the purported difference between the Plan and LHN.

Five-year housing supply (5YHLS)

The second arm of your argument relies upon the contention that the Council has not demonstrated a five-year supply in the context of the current NPPF.

As with the issue of housing need, I do not agree with the analysis you have put forward.

Paragraph 75 of the NPPF is clear in stating that a five-year supply can be demonstrated where it has been established in a recently adopted Plan. The accompanying Footnote 40 sets clearly defined dates whereby a Plan is considered 'recently adopted'. In this Council's case, that date is up to 31 October 2023. The Inspector's Report into our Local Plan contained a clear conclusion that a five-year supply would exist.

In these circumstances there is no need to further consider alternate calculations or approaches.

This position finds support in several appeal decisions. These variously identify:

- *paragraph 74 of the Framework which points to a recently made local plan being sufficient evidence of a five-year housing land supply¹;*
- *that the recently adopted Local Plan is the appropriate point of reference and the five years' housing land position is protected by the recent adoption of the Local Plan²; and*
- *that the authority was entitled to rely on paragraph 74 of the NPPF to demonstrate a five-year supply³.*

I note that no case law, precedents or appeal decisions are quoted in your analysis in support of your position.

I trust the above clearly sets out my view on these matters.

¹ Appeal Decision APP/W0530/W/18/3209758

² Appeal Decision APP/D3125/W/18/3202562

³ Appeal Decision APP/M2325/W/17/3179277

Yours sincerely

A handwritten signature in black ink that reads "N Smith". The signature is written in a cursive style with a large, stylized 'N'.

Nigel Smith
Strategic Planning Manager MRTPI
North Hertfordshire District Council