

HEARING

STATEMENT

St Albans City and District Local Plan

Matter 1 – Legal Compliance

On behalf of

Taylor Wimpey Strategic Land
(Land at Pipers Lane, Harpenden)
(Respondent no.317)

April 2025

TABLE OF CONTENTS

1.	INTRODUCTION.....	1
2.	ISSUE 3 – SUSTAINABILITY APPRAISAL	2
3.	ISSUE 5 – STRATEGIC FLOOD RISK ASSESSMENT	6

1. INTRODUCTION

- 1.1 This Hearing Statement has been prepared on behalf Taylor Wimpey Strategic Land (TWSL) in response to questions set out in Matter 1 (Legal Compliance) of the Matters, Issues and Questions published in respect of the examination of the St Albans City and District Local Plan ('the Draft Local Plan' or 'DLP').
- 1.2 This Hearing Statement includes responses to specific questions under Issue 3 (Sustainability Appraisal) and Issue 5 (Strategic Flood Risk Assessment).
- 1.3 TWSL is promoting the residential development of Land at Pipers Lane, Harpenden ('the Site') through the plan-making process.
- 1.4 The Site forms most of the land referenced WH12 in the Council's Call for Sites; and WH-04-21 in the Council's Housing and Economic Land Availability Assessment (HELAA) (2021/22).
- 1.5 The Site is not proposed to be allocated in the DLP.
- 1.6 Representations ('the Regulation 19 representations') were made on the Regulation 19 Publication Draft Local Plan by TWSL and in respect of the Site (respondent no.317), through which changes to the plan were sought.
- 1.7 Matters raised within this Hearing Statement seek to avoid repeating points already made in the representations on the Regulation 19 iteration of the DLP, unless they expressly relate to the Matters, Issues and Questions published.
- 1.8 Our position is that the DLP is capable of being made sound, but that modifications are required to ensure this is the case.
- 1.9 Under the 2024 NPPF transitional arrangement, it is recognised that the DLP will be examined in relation to national policies contained in the December 2023 NPPF. Consequently, unless expressly stated otherwise, references to the NPPF in this Hearing Statement refer to the December 2023 NPPF.

2. ISSUE 3 – SUSTAINABILITY APPRAISAL

- 2.1 We suggest that as a general point regarding the Sustainability Appraisal (SA), it is important to distinguish between matters pertaining to legal compliance (i.e. meeting the requirements of the Environmental Assessment of Plans and Programmes Regulations 2004 ('the SEA Regulations')); and those which relate to matters of soundness, such as how the Sustainability Appraisal has been used to inform and justify the DLP.

Question 1

The SA tests a range of housing growth options in Table A, from 300 dwellings per annum to 1,200 dwellings per annum. What are the figures based on and do they represent an appropriate range of reasonable alternatives to the submitted Plan? How does the SA consider the potential for wider unmet housing needs?

- 2.2 We consider that at the heart of this question, insofar as concerns legal compliance, is the level of discretion which Local Planning Authorities have when it comes to determining reasonable alternatives to be appraised through the SA.
- 2.3 Regulation 12(2) of the SEA Regulations requires the SA to identify, describe, and evaluate the likely significant effects on the environment of proposed options, as well as those of reasonable alternatives.
- 2.4 In general, provided the reasons for the identification of alternatives are rational and that the Council has not sought to avoid its obligation to evaluate alternatives by improperly restricting the range of options it has identified, then it is unlikely that the approach to identification of alternatives will result in a breach of the SEA Regulations.
- 2.5 If, however, it were to be found that the approach to considerations of alternatives did constitute a breach of the SEA Regulations, **Cogent**¹ confirms these can be rectified, even at this advanced stage in the plan-making process. Any measures to rectify potential breaches must not, however, simply be an exercise in justifying the approach currently proposed, and it would be important for decision-makers to keep an open mind in respect of the outcome of further appraisal and its relevance to the DLP.

¹ *Cogent Land LLP v Rochford District Council* [2012] EWHC 2542 (Admin)

- 2.6 It is of course perfectly possible for the preparation of a Local Plan to be legally compliant, and for its preparation to accord with the requirements of the SEA Regulations, but to still be unsound.
- 2.7 Whilst we appreciate the question has been posed here in the context of legal compliance, we consider there is still merit in commenting here on the potential soundness implications of the issues raised.
- 2.8 If ultimately it were to be found that there was a need to examine higher growth options, and for that the results of this exercise determined that the DLP were required to be amended to support such higher numbers, we consider that there will likely be additional sites that can be allocated through the DLP.
- 2.9 It is of course entirely appropriate that the allocation of additional sites be explored at this stage in the plan-making process if necessary. Indeed, we note that the Inspectors in the on-going examination of the Ashfield Local Plan have expressly asked the Council to do so², following hearing sessions through which it was established that the plan needed to be provided for more housing.
- 2.10 As we set out in Section 6 of our Regulation 19 representations, we consider that the site selection process has been unduly negative, resulting in at least one site (Land at Pipers Lane, Harpenden (‘the Site’) being rejected for allocation despite being sustainable and deliverable for housing. We anticipate there will be others.
- 2.11 We suggest that it is particularly important in this instant to seek to ensure that the DLP is amended to be made sound through main modifications, as opposed to simply being found unsound, given the acute urgent need for housing and the constraints on meeting this imposed by the current Development Plan.
- 2.12 If allocation of the Site, plus any others that might be found to be sustainable and deliverable following their reappraisal, still does not provide for sufficient housing to meet any higher housing requirement that might be identified following any reappraisal exercise, then rather than finding the DLP unsound, one option would be to allocate the additional sites *and* insert an additional policy requiring the DLP to be subject to an immediate review with a focus on identifying options to increase housing delivery. This is the approach that the Inspectors found to be a “*necessary and pragmatic approach*”³ to addressing the shortfall in the housing supply identified in the Brentwood Local Plan through its examination.

² Ashfield Local Plan Examination: Initial Findings following hearing sessions for Matters 1-3 (3 December 2024) (INS05)

³ Report on the Examination of the Brentwood Borough Local Plan (23 February 2022) [248]

Question 2

Do any of the spatial options test a scale of housing growth that would enable affordable housing needs to be met in full? If not, what are the reasons why?

- 2.13 Many of the points raised in our response to Question 1 are considered to also be relevant to this question.
- 2.14 We consider that there are opportunities for the DLP to better meet affordable housing needs, even if this would not meet them in full.
- 2.15 This is perhaps more of a soundness concern, rather than a matter of legal compliance, but we consider there are additional sites (including the Site) which are sustainable and deliverable, and which could be added to the sites proposed for allocation in order to better meet affordable housing needs through main modifications to the DLP.
- 2.16 Such an approach could then be tested through an update to the SA in which an option that better meets affordable housing needs is appraised. It is of course entirely typical that main modifications are made to a submitted Local Plan which are then subject to further sustainability appraisal.

Question 3

How does the SA consider different spatial options for housing and employment growth over the plan period and test reasonable alternative strategies?

- 2.17 Please see our response to Question 1.

Question 6

How were reasonable alternative site options defined and considered as part of the SA process? Does the SA adequately test a suitable range of reasonable alternatives to the sites allocated in the Plan, including for housing and employment sites?

- 2.18 Please see paragraphs 6.15 – 6.21 of our Regulation 19 representations.
- 2.19 We do not repeat the points raised in our Regulation 19 representations here. However, we do wish to note that we consider these issues to be more of a soundness concern in terms of how the DLP has justified the rejection of sites (and in the context of the need to significantly boost housing land supply) and how the DLP has been informed by the sustainability appraisal (as required by NPPF paragraph 32).

2.20 It is an issue that can be addressed through main modifications to the DLP, and is not considered to render the DLP fundamentally incapable of being made sound.

3. ISSUE 5 – STRATEGIC FLOOD RISK ASSESSMENT

Question 1

Where sites were identified in areas at risk of flooding as part of the sequential test, what was the reason for taking them forward to be assessed against the exceptions test? Are there reasonably available sites appropriate for the proposed development in areas with a lower risk of flooding?

- 3.1 We are aware of at least one site (Land at Pipers Lane, Harpenden ('the Site') that is entirely within Flood Zone 1 and can be developed without any development that would be vulnerable to flood risk impinging on any areas at risk of surface water flooding.
- 3.2 As confirmed through our Regulation 19 representations, the Site is patently reasonably available for residential development. Indeed, and as discussed in detail in paragraphs 6.15 to 6.21 of our Regulation 19 representations, the SA recognises the Site to be a reasonable alternative; and one that has seemingly only been rejected on the basis of its alleged harm to the purposes of the Green Belt (which, as per our Regulation 19 representations, we considered to be overstated).
- 3.3 Additionally, and a matter that we consider goes more to the soundness of the DLP than legal compliance, we note that the Council's Flood Risk Sequential Test and Exception Test (SADC/ED64) notes several sites in Harpenden which are subject areas of flood risk, including those for which a substantial proportion is at risk of flooding. It is unclear how the Council justifies the proposed allocation of such sites in and around Harpenden, ahead of alternative options to facilitate growth for Harpenden such as the Site.
- 3.4 As per our representations on the Regulation 19 draft DLP, we consider that it is a case that the DLP needs to allocate more sites, rather than alternative sites. From a flood risk perspective, there are sites that the DLP evidence base acknowledges to be readily available / reasonable alternatives, and which appear to be at a lesser risk of flooding than at least some sites that **are** proposed to be allocated. We suggest that such sites should be prioritised for consideration as additional allocations through main modifications to the DLP.