



Hertsmere
Borough Council

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Planning and Economic Development

Hertsmere Borough Council

Proof of Evidence – Five Year Housing Land Supply

APP/N1920/W/22/3311193

March 2023

LPA reference: 22/0971/OUT

Appeal by: Griggs (Options) Ltd

Site Address: Land Adjacent And To The Rear Of 52 Harris Lane, Shenley,
WD7 9EG

Proposal:

Construction of up to 37 dwellings with associated landscaping and open space to include access from Harris Lane. (Outline Application with Appearance, Landscaping, Layout and Scale Reserved).

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1.0 Introduction, Qualifications & Experience

- 1.1 My name is Mark Silverman and I have worked as a town planner for over 27 years. I am the Planning Policy Team Leader at Hertsmere Borough Council (HBC) and have been a member of the Royal Town Planning Institute since 1998. I have led the planning policy team at HBC since 2005.
- 1.2 Since joining HBC, I have had day-to-day responsibility for the preparation of a wide range of statutory and non-statutory planning documents including the Core Strategy (2013), Elstree Way Corridor Area Action Plan (2015) and Site Allocations and Development Management Policies Plan (2016). Most recently, I have led the work on the preparation of a new Local Plan, resulting in the publication of a Regulation 18 draft revised Local Plan in 2021. My team has also worked closely with local Parish Councils resulting, in 2021, in the making of the Shenley Neighbourhood Plan and Radlett Neighbourhood Plan.

2.0 Policy Context

- 2.1 The adopted Hertsmere Local Plan comprises the following suite of documents produced by HBC:

- Core Strategy (2013) (CDE.1)
- Elstree Way Corridor Area Action Plan (2015) (CDE.2)
- Site Allocations and Development Management Policies Plan (2016) (CDE.2.1)

and the following documents produced by other bodies:

- Minerals Local Plan (Hertfordshire County Council) (2007)
- Waste Core Strategy and Development Management Policies (Hertfordshire County Council) (2012)
- Shenley Neighbourhood Plan (Shenley Parish Council) (2021) (CDE.3)
- Radlett Neighbourhood Plan (Aldenham Parish Council) (2021)

A Regulation 18 draft revised Local Plan was issued for public engagement in 2021. At a meeting of the full Council in April 2022, it was resolved¹ to

Set aside the current Regulation 18 draft Local Plan, but continue the local plan process by completing consideration of the Regulation 18 engagement responses and carrying out additional work as necessary to inform a local plan spatial strategy, whilst awaiting clarity from the Government on changes to law or policy affecting that matter

2.2 The current Local Plan includes an implementation and monitoring framework. This includes the following:

SADM1: To complete 100% of the total dwelling capacity by 2027

2.3 As of April 2022, the housing delivery had exceeded the Local Plan target of 3,990 with a total of 4,123 completions (gross). Against an annualised housing target of 266 homes per year, this represents a net 'surplus' of 1,457 homes.

3.0 Housing Monitoring

3.0 Housing monitoring is undertaken throughout the year, primarily in relation to s106 and CIL reporting requirements. Overall housing development data is collected annually following the end of the monitoring year. This is undertaken in collaboration with Hertfordshire County Council who maintain a County-wide development database known as CDP Smart and who undertake site visits and update housing starts and completions data. Data for the previous monitoring year is normally agreed between HBC and Hertfordshire County Council by the beginning of June each year.

3.1 A five year housing land supply ('5YHLS') note is issued each year by HBC and follows the same format each year. It records net housing completions against the following five year land supply benchmarks:

- Core Strategy
- Standard national methodology using 2014-based population projections

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https://hertsmere.moderngov.co.uk/documents/s57021/20220427FC08%20Full_Council_Report_Local_Plan_Options_FINAL.pdf

- Standard national methodology using 2018-based population projections

3.2 The 5YHLS note (CDE.9) calculates the housing requirement using the standard method which is, currently, based by government on the 2014-based population projections. This is then offset against a five year land supply based on various sources of land supply reflecting those used in Housing and Economic Land Availability Assessments (HELAA) (CDE.26) issued by the Council. Table 3 of the most recent 5YHLS note², for the 2021/22 monitoring year, identifies the following sources of land supply:

Source of land supply	Net units
Planning Permissions under construction	287
Prior notifications under construction	26
Planning permissions*	383
Prior notifications*	171
HELAA sites	290
AAP (excl. sites with pp)	250
Local Plan allocations (excl. sites with pp)	26
Windfall allowance of 56 pa HELAA	280
Total	1713

*includes 5% lapse rate

Source: Hertsmere Borough Council, HELAA and CDP Smart

3.3 Using the standard method, the 5YHLS for 2021/22 records a 5YHLS of 2.25 years based on a housing requirement of 724 dwellings per annum (plus 5% buffer) over the next five years. By comparison, the housing land supply using the more recent 2018-based household projections is 7.9 years.

3.4 It should be emphasised that paragraph 74 of the NPPF and footnote 8 to paragraph 11 set a requirement for a 5YHLS to be demonstrated. This is essentially a binary requirement and the Council does not dispute that it does not have a 5YHLS, a position which is reflected in the Statement of Common Ground. The appellant has sought to dismiss almost all of the sites within the 5YHLS beyond existing housing commitments, to reduce the 5YHLS from 2.25 years to 1.58 years.

3.5 Nevertheless, it should be emphasised that the Council has taken a conservative approach to calculating housing land supply with regard to a projected 5YHLS and this has been the approach over many years in its 5YHLS position. This has included a very

² <https://www.hertsmere.gov.uk/Documents/09-Planning--Building-Control/Planning-Policy/Planning-Publications/21-22-5-Year-Housing-Land-Supply-PDF-871Kb.pdf>

modest windfall allowance rate of 56 homes per annum and a cautious approach to housing densities on identified sites.

- 3.6 Windfall sites, as noted in the Council's HELAA methodology, have been a significant source of housing supply over many years and increasingly make up a large share of housing completions. The allowance of 56 homes per annum is based solely on sites of fewer than 5 units and should be compared with an overall windfall average over the past five years of **193 homes** per year. An increased site threshold, for the purposes of calculating a windfall allowance, is likely to be introduced in the 2023 HELAA and the 5YHLS moving forward. Until that change is made, my view is that the windfall allowance of 56 homes per year is extremely conservative. If the actual figure over the next five years mirrors performance over the last five years (i.e. an average of 193 per annum) that would add **965 homes** to the five-year supply. Windfall data for the borough is set out below in Table 1:

Table 1: Windfall sites in Hertsmere – total completions

	Windfalls (less than 5)	Urban windfalls (less than 5)	Rural windfalls (less than 5)	Large windfalls (more than 5)	All windfalls
2014/15	47	48	-1	21	68
2015/16	56	51	5	82	138
2016/17	60	58	2	122	182
2017/18	67	57	10	147	214
2018/19	45	41	3	177	222
2019/20	68	54	14	139	207
2020/21	52	43	9	138	190
2021/22	29	25	4	104	133

- 3.7 A number of the sites within the urban area are also likely to be capable of accommodating more homes than the indicative yields in the HELAA. The HELAA uses a density multiplier, starting with a baseline of 30 dph which can increase subject to various criteria including accessibility and area type. A HELAA density of 120 dph for land west of Potters Bar station and 161 dph for The Point, Shenley Road, Borehamwood, both within town centre locations, are relatively modest compared to other schemes which have come forward. For example, the nearby Isopad House on Shenley Road, Borehamwood was built out at a density of over 400 dph. Again, I would expect actual delivery to exceed the

HELAA density multiplier-derived number, and this is another way in which I consider the housing land supply calculation to be conservative.

- 3.8 The 5YHLS does also not currently include an empty homes allowance in relation to what the HELAA has previously identified as genuinely long-term empty homes i.e vacant for at least 18 months. Previously an aspirational capacity of 70 homes, or 5 per year, has been identified in the HELAA. This will be updated as part of the 2023 HELAA and included in the future 5YHLS.
- 3.9 The Council has also published a Housing Delivery Test ('HDT') Action Plan³ because housing completions comprised 88% of the required housing need over the three monitoring years between 2018 and 2021. The application of a 20% buffer and presumption in favour of sustainable development, triggered when completions fall below 85% and 75% of housing required over the previous three years respectively⁴, does not apply in Hertsmere. The Council notes that the government has proposed, in its draft revisions to the NPPF, to modify the HDT and remove some of the 'penalties' that are applied; HBC in its response to the recent NPPF consultation supported reforms to HDT.

4.0 Housing and Economic Land Availability Assessment (HELAA) and Calls for Sites

- 4.1 The current HELAA was published in 2019 following a call for sites in 2017. Since 2017, officers have regularly reached out to landowners to verify whether existing and new sites are being made available for development. This has included an employment call for sites in 2021 and a wider call for sites in 2022, which covered housing sites and a range of other land uses including for Biodiversity Net Gain and other 'blue and green' infrastructure.
- 4.2 Officers are currently preparing a revised HELAA for publication in 2023. This will take account of the sites submitted in the most recent call for sites.

³ <https://www.hertsmere.gov.uk/Documents/09-Planning--Building-Control/Planning-Policy/Housing-Delivery-Test-Action-Plan-Final-September-2022.pdf>

⁴ See paragraph 222 of the NPPF (July 2021)

- 4.3 The 2022 call for sites was accompanied by consultation on an updated methodology⁵. Paragraph 2.7 of the methodology states that the following will be taken into consideration:

Sites previously promoted for development since 2017 through calls for sites and included in the previous HELAA, unless the promoter has indicated they are no longer available or they are otherwise no longer suitable available or achievable.

- 4.4 No objections to the methodology were submitted on the methodology and it is intended to use the methodology to guide the preparation of the updated HELAA this year.

5.0 Basis for five year land supply

- 5.1 As set out in paragraph 3.4, the HBC 5YHLS is derived from a number of sources including monitoring data and the HELAA which, as indicated in National Planning Practice Guidance, form part of one of the two ways of demonstrating a 5YLS⁶. The approach for the HBC 5YLS is predicated on the requirement for such sites to be deliverable, as described in the NPPF. The NPPF glossary clarifies that such sites should be available now, offer a suitable location and be achievable, with a realistic prospect that housing will be delivered on the site within five years and specifically:

where there is clear evidence that housing completions will begin on site within five years (emphasis added).

- 5.2 Those sites where development is under construction or with planning permission/prior approval can, with the greatest degree of certainty, be stated as having a presumption of deliverability within the next five years. Almost all planning permissions are built out in Hertsmere (with the exception of schemes which are superceded) and this is reflected in the low, trend-based 5% lapse rate applied to both the HELAA and 5YHLS. A list of housing commitments is set out in Appendix A. The Council acknowledges that for sources of housing supply, evidence should exist to support their inclusion within the 5YLS.

⁵ <https://www.hertsmere.gov.uk/Documents/09-Planning--Building-Control/Planning-Policy/Planning-Publications/HELAA-2022-Methodology-Word-132Kb.docx>

⁶ Paragraph: 004 Reference ID: 68-004-20190722

- 5.3 It is only strategic policies in the Core Strategy, rather than individual allocations within other Development Plan Documents, which can potentially be considered as out of date under paragraph 11 d)/footnote 8 of the NPPF. As such, sites identified in both the Site Allocations and Development Management (SADM) Policies Plan and Elstree Way Corridor Area Action Plan (EWCPAA) are suitable for development; as such, they can be considered for inclusion within land supply for the borough and where clear evidence exists, within the 5HYLS.
- 5.4 There is only one remaining allocated housing site in SADM which has yet to be delivered, the former Directors Arms public house site in Borehamwood. This site is now being taken forward by Hertsmere Development Limited, a wholly owned subsidiary of the Council and is presently subject to a pre-application with the Local Planning Authority. There is no justification for not including this site within the five year land supply.
- 5.5 A small number of sites are safeguarded within SADM for housing and for employment development. These are typically sites containing an element of previously developed land and buildings and a number of these have been or are expected to be subject to development proposals before a review of the Local Plan is complete. This includes the approved Sky Studios Elstree development in Borehamwood which was brought forward on safeguarded employment land which previously comprised a large area of hardstanding.
- 5.6 Safeguarded sites are required under Policy SADM2 to 'respect their former Green Belt designation' but the extent of previously developed land and buildings on some of these sites would essentially justify a quantum of replacement development which does not undermine the wider Green Belt. In terms of evidence of their deliverability, the principle of the sites' suitability for development has already been established through their safeguarding in the Local Plan and their availability and achievability is reflected in the call for sites submissions and site-specific assessments in the HELAA. As such, some safeguarded housing sites are included in the 5YHLS where it has previously been indicated when development could come forward.

Elstree Way Corridor

- 5.7 The EWCAAP forms part of the adopted Local Plan for the borough. It sets out proposals for the residential-led regeneration and redevelopment of the key regeneration area in Borehamwood through to 2027; the EWC itself was designated as a national Housing

Zone by the government in 2015. The Strategic Vision for the EWCAAP sets out that the area is capable of accommodating between 1,000 – 1,500 units.

- 5.8 At the time of the EWCAAP public examination in 2014, 500 units had been built or were under construction. As of 1st April 2022, 895 units have been built across multiple sites within the EWC. The inclusion of 250 units across 5 remaining opportunity sites, for delivery within the remainder of the EWC plan period and on allocated land for which the principle of development has already been agreed, represents a modest projection of the total number of remaining units to come forward in the next five years. 50 units across each site is essentially a minimum baseline; it is anticipated more homes are likely to come forward on at least some of those sites, either within the next five years or potentially on sites commenced within the next five years and completed beyond the EWCAAP plan period (recognising that the NPPF defines a deliverable site as one where housing completions will *begin* within five years).
- 5.9 This is borne out in a number of the schemes which have come forward. For example, within Opportunity Site 5, for which an indicative 50 units are indicated within the five year land supply, the former police station has received consent for planning permission for 96 units (20/0057/OUT) subject to the outstanding signing of the s106 agreement. Only 50 of these are included in the five-year supply presently but it is clear to me that 96 will in fact be delivered within that period. Elsewhere within the EWC, on Opportunity Site 1, a 12 storey building with 150 units (TP/13/1307) was permitted and built out on a site which was originally envisaged in the Area Action Plan for only 6 storeys of development.
- 5.10 The uplift in the number of units which the remaining sites within the EWC can yield is consistent with paragraph 125 of the NPPF which advocates a significant uplift in the average density of residential development in town centres and other locations well served by public transport and specifically sets out that applications which fail to make efficient use of land should be refused. Despite the likelihood of this uplift occurring, the supply contained within the 5YHLS note does not include any such uplift and remains, in my view, conservative.
- 5.11 No representations have been received by or on behalf of the respective landowners within the EWC withdrawing those sites from future consideration. Hertsmere BC continues to engage with Hertfordshire County Council and NHS Estates teams on a range of development proposals and it remains HBC's intention to see the remaining EWC

sites brought forward before the end of the EWC plan period in a co-ordinated manner. In my view, there is clear evidence that land within the EWC will deliver housing in the next five years, and in all probability more than projected within the supply.

Other sites within the 5YHLS

5.11 All of the promoted sites included in the five year land supply are those which have been considered suitable for development within the current policy framework and within the next five years. These sites were consequently also included in the draft Regulation 18 Local Plan (CDE.20) issued in 2021. No representations were received by or on behalf of the respective landowners withdrawing those sites from the process and the majority were specifically re-submitted during the 2022 call for sites. Copies of call for sites submissions are attached in Appendix B and a detailed assessment of each sites' suitability is set out in the HELAA. As such, it is considered that there is a realistic prospect, as required by the NPPF, of those sites' delivery within the next five years as outlined below:

Site Ref in 2019 HELAA	Site	Number of dwellings	Justification for inclusion in 5 year land supply for development within current policy context
HEL175	Hartsbourne Country Club	25	Current application (20/0198/FUL). Decision pending.
HEL176	Bushey Golf and Country Club	50	Resubmitted by Hertsmere BC Asset Management in 2022 Call for Sites. Previously developed land in the Green Belt with capacity for development indicated in HELAA. No change in the use of the site or suitability/achievability for development.
HEL235	Bushey Hall Garage	20	Promoted through Call for Sites in 2017. No change in the use of the site or suitability/achievability for development.
HEL502	Birchville Cottage	15	Promoted for development in 2019, at the time for development within 6 – 10 years (i.e. within the next five years). No change in the use of the site or suitability/achievability for development. Safeguarded housing site in Local Plan. Land immediately adjacent to the safeguarded area and until 2016 within the

			Green Belt, has been granted planning permission and built out for residential.
HEL505	Greenacres, Heathbourne Road, Bushey Heath	35	Resubmitted in 2022 Call for Sites for development within 5 years. Safeguarded housing site in Local Plan. Land immediately adjacent to the safeguarded area and until 2016 within the Green Belt, has been granted planning permission and built out for residential. No change in the use of the site or suitability/achievability for development.
HEL152	Lyndhurst Farm, Borehamwood	10	Resubmitted in 2022 Call for Sites for development within 5 years. Previously developed land within the Green Belt with capacity for development indicated in HELAA. No change in the use of the site or suitability/achievability for development.
HEL388	The Point, Borehamwood	50	Current pre-application on the site. Previously developed site in Borehamwood town centre. Hertsmere BC is freeholder.
HEL179	Hilfield Lane, Aldenham	5	Resubmitted in 2022 for development within 5 years. Rural exceptions opportunity with market housing. Hertsmere BC Affordable Housing SPD sets out that sites of 5 units are considered suitable for rural exceptions in small villages including an element of market housing where required to make a scheme viable. No change in the use of the site or suitability/achievability for development.
HEL199	Land at Church Lane	5	Resubmitted in 2022 Call for Sites for development within 5 years. Rural exceptions opportunity with market housing. Hertsmere BC Affordable Housing SPD sets out that sites of 5 units are considered suitable for rural exceptions in small villages including an element of market housing where required to make a scheme viable. No change in the use of the site or suitability/achievability for development.

HEL219/252	Pegmire Lane	5	<p>Resubmitted in 2022 Call for Sites for development within 5 years.</p> <p>No change in the use of the site or suitability for development.</p> <p>Rural exceptions opportunity. Affordable Housing SPD sets out that sites of 5 units are considered suitable for rural exceptions in small villages.</p> <p>No change in the use of the site or suitability/achievability for development.</p>
HEL345	Aldenham Glebe / Roundbush Nursery	10	<p>Resubmitted in 2022 Call for Sites for commencement of development within 12 months. Previously developed land within the Green Belt with capacity for development indicated in HELAA. No change in the use of the site or suitability/achievability for development.</p>
HEL216	Land west of Potters Bar Station	40	<p>Resubmitted in 2022 Call for Sites for development within 5 years. Previously developed site (car park) in Potters Bar town centre. No change in the use of the site or suitability/achievability for development.</p>
HEL318	HCC 6 – Former Sunny Bank Primary School	15	<p>Resubmitted in 2022 Call for Sites for development within 5 years. Previously developed land within the Green Belt. No change in the use of the site or suitability/achievability for development.</p>
HEL220	Potters Park Golf Club	5	<p>Resubmitted in 2022 Call for Sites for development within 5 years. Previously developed land (club house) within the Green Belt with capacity for development indicated in HELAA. No change in the use of the site or suitability/achievability for development.</p>
	Total	290	

6.0 Conclusion

- 6.1 The Council acknowledges that it is unable to demonstrate a 5YHLS as set out in its 5YHLS note for 2021/22. However, I am confident that a 5YHLS of 2.25 years is a realistic and evidence-based projection of deliverable housing land within the next five years. I also consider that significantly more than the indicative figure of 1,713 homes is likely to come forward in this period given (1) the high number of windfall sites on previously developed sites in the borough and (2) the increased densities which are expected to come forward on some identified sites.

7.0 List of Appendices

Appendix A: Housing commitments as at 01/04/22

Appendix B: Copies of call for sites submissions