

Town and Country Planning Act 1990 (As Amended)

Tunbridge Wells Borough Local Plan  
Examination – Main Modifications Consultation

Representations on Behalf of:  
**Rydon Homes Limited**

25 February 2024 v2

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## **Appendices:**

**Appendix 1** Housing Technical Paper – Neame Sutton Limited – February 2024

**Appendix 2** Finches Farm, Five Oak Green:

- Landscape and Visual Appraisal – Liz Lake Associates
- Green Belt Assessment Review – Liz Lake Associates
- Transport Infrastructure Assessment – Velocity Transport Planning

## 1.0 Instructions and Introduction

1.1 Neame Sutton Limited, Chartered Town Planners, is instructed by Rydon Homes Limited (“Rydon Homes”) to prepare and submit representations in relation to the Council’s Proposed Main Modifications consultation for the Examination version of the Tunbridge Wells Borough Local Plan (“the Plan”) published in January 2024.

1.2 This document sets out Rydon’s Representations on the Plan and deals with the following specific matters:

- Matters of Legal Compliance
- Consideration of the correct Housing Need and Housing Requirement within the Plan in the context of the Housing Supply identified by the Council; and,
- Other Matters of Soundness together with Site-specific representations in relation to Rydon’s promotion site at Finches Farm, Five Oak Green

1.3 The relevant sections of the Plan, including paragraph and policy references, are cited throughout these representations along with the soundness tests that it is considered the Plan as proposed to be modified fails to comply with.

1.4 These representations are supported by a series of technical reports and appraisals prepared by Rydon’s professional project team, which comprise:

**Table 1: Technical Reports and Appraisal Accompanying Representations**

Document	Author	Appendix
Housing Technical Paper	Neame Sutton Limited	Appendix 1
Site-Specific Technical Reports:		
• Landscape and Visual Appraisal	Liz Lake Associates	Appendix 2
• Greenbelt Assessment Review	Liz Lake Associates	Appendix 2
• Transport Infrastructure Review	Velocity Transport Planning	Appendix 2

## 2.0 Legal Compliance

### Proposed Plan Period:

- 2.1 At the heart of the National Planning Policy Framework 2021<sup>1</sup> (“the Framework 2021”) is the presumption in favour of sustainable development. For plan making this means that strategic policies should, as a minimum, provide for objectively assessed needs for housing and other uses. The only exceptions to this are set out at Paragraph 11 b) i. and ii. of the Framework 2021 and do not include instances where a Council has been required to delete a strategic allocation during the Examination of its Plan as a result of serious issues of soundness.
- 2.2 The Council identifies that its objectively assessed need for housing, calculated via the Standard Method, equates to 667 dpa over the period 2020 – 2038, which is a minimum total of 12,006 dwellings. The Council does not however intend, through the main modifications proposed to the Plan to meet, or even get close to, this minimum total. Paragraph 3 of the Updated Local Plan Housing Trajectory (December 2023) (PS\_062) confirms a shortfall of at least **-1,073 dwellings** against the need identified.
- 2.3 Paragraph 22 of the Framework 2021 confirms that strategic policies should look ahead over a minimum 15 year period from adoption. Allied to this Paragraph 68 confirms that planning policies should identify a sufficient supply and mix of sites to deliver a) a supply of specific deliverable sites for years 1-5 of the plan period; and, b) specific developable sites or broad locations for growth for years 6-10 and, where possible, for years 11-15 of the Plan.
- 2.4 The PPG<sup>2</sup> also confirms that strategic policies should be prepared over a minimum 15 year period and a LPA should be planning for the full plan period.
- 2.5 It must therefore follow that a LPA that does not plan for the full plan period has failed in its legal obligation to prepare and maintain an up-to-date Development Plan, which is of course fundamental to the Plan led system.
- 2.6 The Council's proposed Main Modification to Policy STR1 (Ref: SLP Mod 3) seeks to reduce the period covered by the Plan down to 10 years from the anticipated date

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<sup>1</sup> The Plan is still being examined under the Framework 2021 as set out in the transitional provisions at Paragraph 230 of Annex 1 to the Framework 2023. Where relevant reference is also made to the Framework 2023 in these representations and clearly identified as such.

<sup>2</sup> Plan Making section of the PPG - Paragraph: 064 Reference ID: 61-064-20190315 Revision date: 15 03 2019

of adoption (end of 2024). Rather than seeking to plan for the full plan period the Council is proposing an early review immediately following adoption of the Plan to cover the remaining 5 years of the Plan period upto 2038.

- 2.7 That approach does not comply with the Framework 2021 nor the PPG and consequently fails the tests of Soundness in respect of being Effective, Positively Prepared, Justified or Consistent with National Policy. Furthermore, the Council fails in its Statutory duty to prepare a Development Plan covering the full Plan period.
- 2.8 The reason the Council is proposing this modification is that with the deletion of Tudeley from the Plan and the reduction in the size of the allocation at Paddock Wood the Plan will be deficient by at least 1,073 dwellings over the full Plan period to 2038.
- 2.9 Rather than tackling the issue properly in order to meet the Government objective to significantly boost the supply of housing in the Borough and allocating further sites to meet the shortfall, the Council instead proposes a 'sticking plaster' of reducing the Plan period following by an early review. That approach will not meet the need identified by the Council and will result in significant delay in the delivery of much needed homes across the Borough.
- 2.10 The Council's approach should be rejected by the Inspector as unsound and a failure of legal compliance. Whilst it is noted that the Inspector's Interim Findings letter made reference to Paragraph 68 and the potential for considering meeting objectively assessed needs over a shorter timeframe (Paragraph 99) the Inspector also noted at Paragraph 100 that the process was not a straightforward exercise. It does not necessarily follow that the Council approach is a sound one nor that it meets with the relevant Statutory obligations.

### 3.0 Housing Need, Housing Requirement/Target and, Supply

- 3.1 This section of the Representations explores the Council's updated Housing Trajectory to establish whether it represents a sound approach to the delivery of housing across the proposed reduced Plan period. The matter of 5-year housing land supply is also considered. This is particularly important given the new provision set out at Paragraph 76 of the Framework 2023.
- 3.2 This section is supported by a Technical Note prepared by Neame Sutton that is attached at **Appendix 1** of these Representations.
- 3.3 The Council proposes to meet its minimum Local Housing Need ("LHN") via the following sources of supply:
- Completions 2020 – 2023
  - Extant permissions as at 01 April 2023
  - Windfalls (Small and large sites)
  - Outstanding unimplemented allocations in the adopted Local Plan
  - Outstanding Brenenden Neighbourhood Plan Allocations
  - Allocations made in the Plan
- 3.4 The total supply identified by the Council equates to 10,933 dwellings from the above sources, which set against the LHN of 12,933 dwellings leads to a deficit of -1,073 dwellings.
- 3.5 The Plan does not therefore meet the full objectively assessed needs over the full Plan period as a matter of fact.
- 3.6 It is clear from the analysis undertaken in the attached Technical Note that the Council's assumptions in terms of delivery from the supply sources identified suffer the same deficiencies as were identified by Neame Sutton during the Matter 9 Examination Hearing session, namely failure to meet the Annex 2 test in terms of deliverability and failure to demonstrate compelling evidence<sup>3</sup> in respect of Windfalls. Furthermore the assumptions made in respect of the delivery rates for the strategic site at Paddock Wood are flawed and not supported by credible evidence.
- 3.7 The consequence of the deficiencies in the Council's evidence base is that even its proposed reduced level of supply is unrealistic leading to a reduction of at least **1,389 dwellings** over the Plan period.

<sup>3</sup> Paragraph 71 of the Framework 2021

- 3.8 That means the Plan as proposed to be modified will fail even to deliver the shortfall the Council has identified of -1,073 dwellings. This will lead to a worsening of the housing crisis in the Borough and is unacceptable.
- 3.9 The position is compounded when the rolling 5-year housing land supply position is considered. Trajectory 2 in the attached Technical Note confirms that at no point over the remainder of the Plan period will the Council be able to demonstrate a 5-year housing land supply. That is shocking and is manifestly a failure of the Plan as proposed to be modified to meet the relevant Soundness tests.
- 3.10 All of the above exists before the Inspector considers whether there is a case for an uplift to the LHN.
- 3.11 The answer to the above problems is a simple one, the Council needs to allocate more sites across the Borough to meet the need identified and ensure a robust housing delivery strategy for the full Plan period that maintains a rolling 5-year housing land supply.

## 4.0 Other Matters of Soundness

### (i) Green Belt

- 4.1 The Inspector's interim findings letter confirms at Paragraph 6 his concern that the Green Belt Stage 3 study is restrictive and only considers the sites proposed for allocation in the submitted Plan. No consideration has been given, by the Council of reasonable alternatives.
- 4.2 It would appear that the Council has taken this interim finding (partially) on board and has produced a Stage 3 addendum report considering reasonable alternatives (PS\_035).
- 4.3 That addendum report does consider a range of alternatives including Rydon Homes' promotion site. However, the report does not consider, nor does any of the other documents contained in the Council's evidence base, the detailed evidence that has been provided by Rydon Homes in relation to its promotion site. As a consequence, the conclusions drawn in the addendum report effectively discount potential reasonable alternatives, such as Rydon Homes' promotion site without having full regard to the available evidence.
- 4.4 Furthermore, it is apparent that the addendum report has removed sites from consideration for reasons unrelated to the Green Belt purposes. For example Site Ref: 330 in Five Oak Green (part of Rydon Homes' promotion site) has been removed on the basis that it is within Flood Zone 3b. Consequently no analysis has been undertaken on the site in terms of Green Belt by the Council.
- 4.5 On this matter alone Rydon Homes has provided detailed surface water drainage evidence to the Council, which is supported by the LLFA, to confirm that development can take place on land within Flood Zone 1 following remodelling of the floodplain, with adequate compensation and surface water drainage measures. Furthermore, the land can deliver tangible betterment in terms of the existing surface water flooding that takes place in Five Oak Green resulting in a net benefit to the existing community. Clearly the presence of Flood Zone 3b on part of the site is not therefore a constraint to its delivery and to achieving flood alleviation benefits to the wider community.

- 4.6 Similar conclusions have been reached in relation to a range of other sites across the Borough.
- 4.7 The addendum report is therefore still flawed and does not represent a robust analysis of reasonable alternatives to enable the Council to at least minimise harmful impacts to the Green Belt. The Inspector's interim finding on this matter has not therefore been addressed by the Council.
- 4.8 Rydon Homes' landscape consultant Liz Lake Associates has therefore undertaken the assessment that the Council has failed to complete for the promotion site at Finches Farm, Five Oak Green (see **Appendix 2**).
- 4.9 The assessment undertaken by Liz Lake Associates demonstrates that development of the parcel of land containing Rydon Homes' promotion site would only result in limited effect on the Green Belt by reference to the 5 purposes.
- 4.10 Had the Council completed a robust and full assessment of the reasonable alternatives it would have been in a position to release this site (and potentially others across the Borough) to help meet the significant shortfall against the minimum Local Housing Need it is currently planning to create. The Council should therefore revisit its evidence base and take up the opportunities encouraged by the Inspector in his interim findings to allocate sites that at least minimise harmful impacts where possible.
- 4.11 Rydon Homes' promotion site is one such missed opportunity that the Council could and should have taken as part of these main modifications to the Plan to help meet its housing land supply shortfall in a sustainable manner.

(ii) Transport Infrastructure

- 4.12 The Inspector's interim findings letter has raised a number of issues of concern relating to transport infrastructure across the Borough. These Representations deal with two key components of transport infrastructure, namely The Five Oak Green Bypass and the Colts Hill Bypass.
- 4.13 Rydon Homes' highway engineer Velocity Transport Planning has prepared a technical note dealing specifically with the two components of transport infrastructure, which is attached at **Appendix 2**.



4.14 Dealing with each in turn:

Five Oak Green Bypass:

- 4.15 The feasibility of delivering the bypass would be extremely difficult to achieve given the land required and the multiple landowners involved. There are also potential significant impacts in terms of air quality, noise, safety and the operation aspects of Capel School, which have not been addressed by the Council.
- 4.16 In terms of viability the Council does not currently know whether this is a viable project, which is a significant concern. The bypass was originally conceived, by the Council, as part of a development strategy that included Tudeley Village. Now that Tudeley has been deleted it is difficult to see how the bypass can be a viable project and the Council has not addressed this fundamental point in the evidence base.
- 4.17 In fact the Council's own modelling undertaken by SWECO demonstrates that whilst congestion will be experienced along the B2107 Five Oak Green Road as a result of the development numbers in the Plan as proposed to be modified it is not at a level that would justify the delivery of the bypass.
- 4.18 It would therefore appear that the Council's proposal for the bypass no longer has any credibility and should be deleted.

Colts Hill Bypass:

- 4.19 This bypass also has difficulties in terms of its feasibility given the land required and the multiple landownerships involved.
- 4.20 As with The Five Oak Green Bypass the Council is still not in a position to confirm the financial viability of the scheme.
- 4.21 Velocity consider that the traffic generation estimates set out by SWECO over estimate the amount of traffic. As a consequence of this overestimate the cost benefit analysis associated with the bypass could be based on inaccurate information, which may lead to a funding gap. This further calls into question the viability of the scheme.
- 4.22 Furthermore the modelling undertaken by SWECO demonstrates that the capacity issues at the A228/B2017 could be addressed via local mitigation at the roundabout junction and therefore the bypass is not required in highway capacity terms.

4.23 The evidence base underpinning these two components of highway infrastructure still contains fundamental gaps. It is also apparent that neither are necessary to meet the needs arising from the development strategy proposed by the Council at the present time. Neither proposal can be considered sound in their present form or on the basis of the evidence provided to support them.

## 5.0 Areas Where Changes are Required for Plan to be Legally Compliant and Sound

5.1 In summary the following areas of change are required for the Plan to be both legally compliant and sound:

1. The Council needs to ensure that the Plan meets the full objectively assessed needs for the full plan period i.e up to 2038 at least;
  2. Further allocations are needed to ensure Point 1 above is met;
  3. Further allocations are needed in any event to enable the Council to demonstrate a 5-year housing land supply at the point of adoption and then to maintain a rolling 5-year housing land supply thereafter;
  4. The Green Belt Stage 3 study needs revisiting again to address the deficiencies identified in Section 4 of these Representations and also within the Technical Note prepared by Liz Lake Associates;
  5. Neither The Five Oak Green Bypass nor The Colts Hill Bypass are currently sound. Should the Council continue to wish to include these two components of transport infrastructure the deficiencies identified in Section 4 of these Representations and the Technical Note prepared by Velocity Transport Planning need to be addressed; and,
  6. Based on these Representations Rydon Homes' promotion site at Five Oak Green represents an ideal opportunity for allocation in the Plan that will deliver sustainable growth and tangible planning benefits to the wider community in line with the Council's strategic policy objectives.
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