

TUNBRIDGE WELLS BOROUGH LOCAL PLAN 2020-2038 EXAMINATION

REPRESENTATIONS TO: Proposed Changes to the Tunbridge Wells Borough Local Plan (2020 - 2038): Response to Examination Inspector's Initial Findings, Received November 2022 and Supporting Documents, including Sustainability Appraisal

Prepared by Pro Vision on behalf of Cooper Estates Strategic Land Ltd

February 2024

LAND AT SANDOWN PARK, TUNBRIDGE WELLS

TUNBRIDGE WELLS BOROUGH LOCAL PLAN

PROJECT NO. 2133

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1.0 Introduction

- 1.1 These representations have been prepared by Pro Vision on behalf of our clients, Cooper Estates Strategic Land Ltd, in response to the public consultation on the Council's response to the Inspector's Initial Findings Letter, including the revised Development Strategy for the Submission Local Plan¹ and the additional supporting documentation within the Evidence Base.
- 1.2 Our representations continue to conclude that the Plan as proposed to be modified is not sound. Where relevant, we have set out the changes / modifications necessary to ensure that the Plan is sound.

¹ [Consultation on Council's Response to Inspector's Initial Findings \(tunbridgewells.gov.uk\)](https://www.tunbridgewells.gov.uk)

2.0 The Plan Period and a Commitment to an Early Review

- 2.1 The revised Local Development Scheme² (LDS), confirms (Paragraph 2.16) that the new Local Plan covers the period 2020-2038. Indeed, modification ref³ SLP MOD2 and MOD3 confirm that the plan period is 2020-2038 and Table 3 at Appendix 3 confirms that it is setting out the housing need and supply for the period 2020-2038.
- 2.2 Paragraph 22 of the Framework⁴, requires *“Strategic policies should look ahead over a minimum 15 year period from adoption” (Our emphasis).*
- 2.3 The LDS published in October 2021⁵ alongside the submission Local Plan stated at Paragraph 3.15 that *“The new Local Plan sets out a new growth strategy for the borough over a 15-year period, allocates sites for development, and provides general ‘development management’ policies to guide development”*. The timescale for the new Local Plan envisaged adoption in January 2023, and therefore the plan period would have, just, accorded with the requirement of Paragraph 22 of the Framework.
- 2.4 However, the Examination concluded in November 2022 with the Inspector producing an Initial Findings Letter⁶ which set out the clear need for the Council to undertake further work to address deficiencies in the Submission Local Plan. It has taken the Council more than a year to complete this work, and the public consultation on the proposed changes is now taking place in February 2024 i.e. over a year after Adoption of the Plan was anticipated.
- 2.5 The revised LDS at Paragraph 2.16 states *“The new Local Plan covers the period 2020 – 2038, setting out a new growth strategy for the borough by allocating sites for development, and provides general ‘development management’ policies to guide development.”* The reference to the growth strategy covering a 15-year period has therefore been deleted.
- 2.6 The timetable for adoption of the new Local Plan has also been amended, and now envisages this could be October – December 2024 subject to the conclusion of this consultation and the receipt of the Inspectors final report.

² Published December 2023

³ Of the *“Summary of Proposed Modifications to the Development Strategy, following Inspector’s Initial Findings Letter”* Document dated January 2024

⁴ NPPF 2021

⁵ Core Document 3.143

⁶ ID-012

2.7 No amendment to the Plan Period is proposed to compensate for the delay in adoption, and therefore the strategic policies of the plan do not meet the requirement of Paragraph 22 of the Framework. This is also inconsistent with the NPPG⁷ which reiterates *“The National Planning Policy Framework is clear that strategic policies should be prepared over a minimum 15 year period and a local planning authority should be planning for the full plan period.”*

2.8 At Paragraph 96 of ID-012, the Inspector asked the Council to explain how *“the Plan could be modified in a way that would make it sound and capable of adoption”*. The Inspector then went on to outline the three broad options available to the Council:

- *“Provide additional information to justify the Tudeley Village allocation as submitted.*
- *Modify the submitted Plan by making significant changes to the Tudeley Village allocation, and in doing so, seek to overcome the soundness issues identified above.*
- *Delete the allocation from the submitted Plan.*

2.9 The Proposed Modifications put forward by the Council propose the deletion of the Tudeley Village allocation i.e. the Inspectors third option. Paragraph 99 of ID-012 is therefore relevant since the Inspector states:

“One of the main consequences of deleting Tudeley Village is the impact on housing provision. The Plan envisages 2,100 dwellings coming forward over the plan period. In deciding how to proceed, the Council will therefore need to give further consideration to how best the Plan can still meet housing needs, having particular regard to the requirements in paragraph 68 of the Framework. It may be, for example, that needs could be catered for over a shorter timeframe without the need for any specific additional sites to be identified at this stage.”

2.10 Table 3 of PS_04 sets out the Council’s Housing Need and Supply over the period 2020-2038. It concludes that the gross housing need is 12,006 based on an 18-year plan period starting in 2020 and ending in 2038. We have already established above that the plan period should look ahead for a minimum of 15 years from adoption, and so in fact the plan period should be until 2039 or 2040 depending upon exactly when adoption might now occur. Therefore, if accepting the Council’s need figure of 667dpa an additional 667-1,334 homes are needed to account for the adjusted plan period making the gross need 12,673 - 13,340.

⁷ Paragraph: 064 Reference ID: 61-064-20190315

- 2.11 At Table 3 of PS_04, the Council also say that the minimum total additional allocations needed is 5,495 dwellings. However, to meet the need to 2039, the minimum need would rise to 6,162 dwellings, or 6,829 dwellings to meet the need to 2040.
- 2.12 At Paragraph 3.13 of PS_04, the Council accepts that the new Local Plan as proposed to be modified only now identifies a supply of 4,150 – 4,595 dwellings, and at Paragraph 13.4 accepts that this *“would not provide a 15-year’ housing land supply”*. Whilst at Paragraph 13.5 of PS_04 the Council considers the shortfall at the end of the plan period would be 1,073 dwellings, in fact this would be 2,407 dwellings⁸ if the plan period was extended to 2040.
- 2.13 Proposed Modification SLP MOD 3⁹ states *“Following adoption, the Council will undertake an early review of the Local Plan, which will include further investigation of ways of meeting identified housing needs for the period post 2034.”* This is also explained in Section 14 of the Development strategy Topic Paper – Addendum January 2024¹⁰ where at Paragraph 14.2 the Council invites the Inspector to find the plan sound on the basis of a commitment to undertake a review of the plan within five years of the date of adoption, and at Paragraph 14.7 it is stated: *“A commitment to early review will need to be clearly set out in the Local Plan. A policy is expected to be required to properly demonstrate this. It should be along the lines of: Following adoption, the Council will undertake an early review of the Local Plan, which will include further investigation of ways of meeting identified housing needs for the period post 2034”*.
- 2.14 Whilst it is noted that Paragraph: 062 Reference ID: 61-062-20190315 of the Planning Practice Guidance state that *“plans may be found sound conditional upon a plan update in whole or in part within 5 years of the date of adoption”*, Proposed Modification SLP MOD 3 does not address the basic shortcomings of the Plan as identified by the Inspectors Initial Findings.
- 2.15 The commitment to an early review does not put right the errors the Council has made in preparing the Submission Local Plan. Its failure to undertake a comprehensive review of the Green Belt for example and to make decisions based on evidence. Proposed Modification SLP MOD 3 does not enable the Council to meet in full its objectively assessed need for housing as required by the Framework.

⁸ Using the Council’s midpoint of 4,422 dwellings

⁹ Of PS_063

¹⁰ PS_04

- 2.16 Further, what exactly does the Council mean by “*an early review of the Local Plan*” and when would such a review commence i.e. what is the commitment and how will this be monitored? The December 2023 LDS¹¹ gives no indication as to when an early review might commence. There is no reference at all to the next Local Plan. A clear commitment would have been to set out a timescale to commence a review immediately, so that by the end of the five-year period a new Local Plan is in place, otherwise, how is “an early review” any different from the legal requirement for a Council to review its Local Plan every five years?
- 2.17 It is also relevant to consider whether such commitments are effective in practice. The Inspector’s Report into the Decorum Core Strategy found the Plan sound in 2013 subject to the commitment to undertake a partial review to be adopted in 2017/2018. The Inspector noted the Council’s Core Strategy would provide a 10-year supply of housing against its 15 year requirement. In 2017 the Council adopted a Site Allocations DPD to support the delivery of the adopted Core Strategy requirement, and the Inspectors Report noted the commitment in the Core Strategy to a partial review. Again, the Inspector’s Report refers to the Council having commenced work on a new Local Plan expected to be adopted in 2019. In October 2023, Dacorum Borough Council consulted on its Regulation 18 Local Plan, over 11 years after adoption of the Core Strategy. The Council presently claims a 2.19-year supply of housing land.
- 2.18 In 2017, Lichfield’s prepared an Insight report into Local Plan making under the NPPF¹². In 2017, Lichfield’s noted that:
- 161 Plans had been submitted and examined post-NPPF.
 - 105 had been found sound with 31 (30%) being subject to a requirement for an early review.
 - Of the 31 found sound subject to an early review 90% of these were required to address housing need;
 - 42% of the 31 were given a specific deadline which is less than five years from adoption.
 - 23% were given a deadline “within five years”.
 - 6% given a deadline that was over five years.
 - 29% given no deadline for an early review.
- 2.19 Dacorum was one of the 31 authorities referred to in the Lichfield’s Report. A few more include:

¹¹ PS_057

¹² Planned and Deliver – Local Plan-making under the NPPF: A five-year progress report.

- Wealden – Core Strategy Adopted in 2013 with a commitment to an early review. New Local Plan at Regulation 18 Stage as at February 2024. The Council currently claims a 3.83-year supply of housing land.
- Chichester – Local Plan Adopted in 2015 with a commitment to an early review. New Local Plan at Regulation 19 Stage as at February 2023. The Council currently claims a 4.19-year supply of housing land.
- Swindon – Local Plan Adopted in 2015 with a commitment to an early review. New Local Plan at Regulation 18 Stage with consultation expected summer 2024. The Council currently claims a 4.87-year supply of housing land.

2.20 Further examples could be cited, but this seems unnecessary when it is evident that a commitment to an early review on paper, does not mean that the review will be undertaken in a timely way. Therefore, finding a plan sound on the basis of a commitment to an early review is not effective at ensuring compliance with the Framework. What is clear from the examples highlighted is that where the issue of housing delivery has not been adequately addressed prior to adoption, this will lead to an increased housing shortfall, and one which then tends to continue throughout the entire period in which the “early review” is due to occur.

2.21 Turning this back to Tunbridge Wells; a Borough with a high housing need; and a significant need for both affordable housing and older persons housing; there is a clear need to get it right first time. An early review will not result in a positively prepared, justified, and effective plan that is consistent with national planning policy.

2.22 In conclusion, the new Local Plan therefore continues to fail to meet the tests of soundness at Paragraph 35 in that:

- a) The Plan does not provide an “effective” or “justified” strategy which, as a minimum, seeks to meet the area’s objectively assessed needs. The Plan is therefore not “positively prepared”.
- d) The Plan is not “consistent with national policy”.

2.23 We therefore respectfully request the Inspector find the Plan unsound. Our concerns could be addressed by extending the plan period to at least 2040; and by making additional allocations

to meet the additional housing needs. These additional allocations would seek to meet the needs of older people and will be addressed in the next section.

3.0 Need for Older Persons Housing

Extra Care

- 3.1 The Inspectors Initial findings at ID_012 comments, at Paragraph 92, that the Inspectors *“Final Report will consider in detail the evidence supporting the Plan and conclude whether or not its policies will be effective in meeting housing needs for older people. At this stage, for effectiveness, the Plan should be modified to clearly set out the gross need for extra care housing based on the two methods used (as per the tables in Examination Document TWLP_032a which show a range between 342 and 431 units). For the same reasons the Plan should then make it clear how needs will be met by listing the relevant sites, including any committed schemes.”*
- 3.2 ID_012 also notes that any modifications in relation to Tudeley Village and Paddock Wood could *“no doubt have consequential impacts on how the needs for older people and people with disabilities will be met (both strategic sites include requirements to provide sheltered and extra care housing). In the first instance this will be a matter for the Council to consider in suggesting ways that the Plan could be made sound.”*
- 3.3 At Paragraph 13.10 of PS_054, the Council sets out in a table the gross need for Extra Care to 2038.
- 3.4 Based on the SHOP@ model, the gross need for extra care units for persons over the age of 75 to 2038 would be 431 extra care units. Using the SHOP@ model, the Council say there is a net need for 248 extra care units to be met to this same 2038 end point. We maintain that the SHOP@ model is an on-line toolkit but it is not a measure of need.
- 3.5 Based on the Kent County Council forecasts for extra care units, the Council say the gross need is 342 extra care units to 2038, leaving a net need for 159 extra care units to be met through the Local Plan to 2038.
- 3.6 However, the Council will be aware that it has accepted that a prevalence rate of 45/1000 is appropriate in recent applications for extra care units in the Borough. In Paragraph 10.26 of the Committee Report for the provision of extra care units on the former cinema site, which was approved by the Council in January 2023¹³ the Council stated:

¹³ Application Reference: 22/02304/FULL

*“The appropriate prevalence rate for calculating the need for extra care housing was debated at the Examination in Public for the Local Plan and at the Sandown Park Public Inquiry (both held in the summer 2022). The Sandown Park appeal was for 108 extra care units within the Green Belt. As part of the Sandown Park Inquiry, the Council commissioned a specialist to provide evidence on the need for extra care accommodation within the borough. It was common ground between both parties that the Council has a current supply of 183 extra care units. The prevalence rate for calculating future need was a matter of dispute; **with the Council arguing that a rate of 45 per 1,000 population was appropriate and the appellant argued that a figure of 65 per 1,000 was appropriate. The Inspector concluded that a prevalence rate of 45 per 1,000 population ‘is not an inappropriate or unreasonable rate to use’ (Para 80 of appeal decision 3289034). Based on a prevalence rate of 45/1,000 there is a need for an additional 593 extra care units (above existing supply) within the Plan period (up to 2038).” (Our Emphasis)***

3.7 Based on the Council’s accepted prevalence rate for extra care units of 45/1000, the Council say the gross need is 776 extra care units to 2038, leaving a net need for 593 extra care units to be met through the Local Plan to 2038.

3.8 It is important to note that this need is only calculated to 2038. In section 2 we raised concerns regarding the Plan Period, and that the SLP as proposed to be modified does not cover a minimum 15-year period in line with the Framework. Therefore, if the gross need figures are rolled forward to 2039 or 2040, we consider that the need for Extra Care Housing (based on the 75and over proportion of the population via 2018 ONS population projections¹⁴) is as follows:

	Gross Need (2038)	NET Need (2038)	Gross Need (2039)	NET Need (2039)	Gross Need (2040)	NET Need (2040)
KCC model	342	159				
25/1000 (SHOP@)	431	248	443	260	455	272
45/1000	776	593	798	615	819	636

¹⁴ [Subnational population projections for England - Office for National Statistics](#)

- 3.9 To conclude in terms of extra care need, as a minimum the Council should be planning for a net additional 593 extra care dwellings if the plan-period of 2038 is retained. This is based on the prevalence rate of 45/1000 which (a) this Council has accepted and used to determine a recent planning application for extra care housing and (b) has been well tested elsewhere and is widely used.
- 3.10 However, if the plan-period is rolled forward to 2039 or 2040 as we consider is necessary to ensure the plan is consistent with Paragraph 22 of the Framework, then the minimum net additional extra care need to 2039 would rise to 615 to 2039 and 639 to 2040.
- 3.11 We will consider how the Council propose to meet the need for extra care housing and demonstrate why the planned supply will not be sufficient to meet the need for extra care housing, in Section 4.

Residential Care Homes / Nursing Care

- 3.12 In the Council’s Hearing Statement on Matter 8 (TWLP_032), the Council confirmed that whilst the Borough was relatively well provided for in terms of residential/nursing care home places, there will still be a demand for this type of housing throughout the plan period, specifically for places funded by the local authority and places to support dementia care, which was also reflected in the findings of the SHMA update (page 55 paragraph 8.2).
- 3.13 The Council stated that the Local Plan allocates 3 sites (213 places) for Residential and Nursing Care as identified in paragraph 6.366 of the SLP. However, the SHMA Update 2017 had identified that based on demographic modelling, there would be *“an increase of about 750 people living in institutions over the 2015-2035 period in Tunbridge Wells – equivalent to 37 per annum”*. Paragraph 3.38 of the Housing Needs Assessment Topic Paper confirmed that the *“per annum need”* for residential Care Homes for the period 2015-2035 (based on 2014 ONS projections) was 37 bedspaces per annum. Therefore, the need to 2035 is 740 bedspaces.
- 3.14 We consider that the Council has not shown how this need will be met, as discussed in Section 4.

4.0 Supply of Older Persons Housing

4.1 Looking first at the proposed supply of Care Homes, the Council list the following in the SLP:

- AL/RTW 9: Land at Beechwood Sacred Heart School, 12 Pembury Road, Royal Tunbridge Wells (69 bed care home).
- AL/PE 7: Cornford Court, Cornford Lane, Pembury (68-bed suite, integrated community health centre).
- AL/PE 8: Owlsnest, Tonbridge Road, Pembury (76-bed care home).

4.2 These 3 site allocations would provide a total of 213 care home bed spaces against the need to 2035 of 740 bedspaces.

4.3 The Council also identify that proposed allocation AL/PE 6 at Woodgate Corner could either be provided for extra care housing or a further 120 spaces of residential care or nursing care.

4.4 Given the need for care home bedspaces is 37 per annum and the identified supply leaves an unmet need of at least 527 bedspaces, it appears clear that AL/PE6 Woodsgate Corner should be allocated as a Care Home.

4.5 At Paragraph 13.11 of PS_054, the Council lists the *“Sites with outstanding planning permission and specific site allocation policies for extra care housing”*. The Council conclude at Paragraph 13.12 that *“It can be seen that the identified supply would meet the estimated need for extra care units using both the KCC and SHOP@ forecasting approaches. While the identified supply falls somewhat short of the 593 units using a higher 45/1,000 prevalence rate, the shortfall of 61 units is equivalent to only about 2 years’ worth of need, which may be addressed through the Local Plan review, if further windfall sites do not come forward in the interim. Only one or two windfall schemes would be required to meet this shortfall of 61 units.”*

4.6 Our commentary on the Council’s proposed Extra Care allocations is below:

Site	Status	Units	Commentary
Arriva Bus Depot, RTW	Planning permission; (Allocation AL/RTW 4) Under construction and nearing completion	89 Units	This site has planning permission for 89 units.

<p>St Michaels Burrswood, RTW</p>	<p>Planning permission (pp for certificate of lawful development)</p>	<p>72 units</p>	<p>This site is an existing Care Home. Listed Building Consent is still required to carry out the development. We note that if the development is completed, this would result in the loss of Care Home accommodation.</p>
<p>Former Cinema site, RTW</p>	<p>Planning permission (pp) (Allocation AL/RTW 1</p>	<p>166 units</p>	<p>This site has planning permission for 166 units.</p>
<p>Woodsgate Corner, Pembury</p>	<p>Allocation (AL/PW 6* * The policy also allows for an alternative residential care scheme of c100 units)</p>	<p>80 units</p>	<p>This site has a dual allocation for either 80 extra care units or a 120 bed care home. The site cannot provide both. We consider this site more suitable to meet the need for Care Home bedspaces given its location in a supermarket car park with no road frontage and adjacent to a dual carriageway. This site should be deleted as an Extra Care allocation.</p>
<p>Paddock Wood – Strategic Allocation (including East parcel)</p>	<p>Allocation (STR/SS 1 Planning application pending consideration (70 bed care home or 60 extra care units)</p>	<p>C.125 units 60-70 units (form part of the above c 125 units)</p>	<p>This strategic site has a dual allocation, and the pending planning application is for either 70 bed care home or 60 extra care units. It cannot be both.</p>

- 4.7 Based on the above, the Council considers it has identified a supply of 532 extra care units against its identified need of 593 units to 2038. This gives rise to a shortfall on the Council's figures of 61 extra care units. The Council optimistically say this shortfall can be addressed by windfall provision; however we consider that this is a clear failure to plan effectively for the needs of older persons, and in any event we consider the shortfall is greater than the Council identify.
- 4.8 If St Michaels Burrswood remains as a Care Home, the shortfall would increase by 72, to 133 extra care units. If St Michaels Burrswood is converted to an extra care facility, there would be a loss of 40 beds from a care home environment.
- 4.9 Woodsgate Corner, Pembury remains a dual allocation. Simply, if it is delivered as a Care Home, the shortfall would be increased by 80 to 141, or to 213 extra care units if St Michaels Burrswood remains as a care home.
- 4.10 The Strategic Site allocation at East Paddock Wood also includes a dual allocation, and there is a planning application pending consideration for either a 70-bed care home or 60 extra care units. If the Care Home is developed, the shortfall would rise to 121 extra care units, or 283 if St Michaels Burrswood remains as a Care Home and Woodsgate Corner is also developed as a care home.
- 4.11 The Council's calculations above also include a further 65 units on the Strategic Site allocation at East Paddock Wood (c.125 – 60). We understand that these units are intended to provide Sheltered Housing, and therefore a further 65 units should be deducted from the Council's supply. This increases the shortfall to 126 units, or 348 extra care units if the three sites referred to above remain or are delivered as a care home.
- 4.12 Clearly, this shortfall is also against the 2038 need. If the plan period is extended to 2039, then the shortfall increases by 22 to 81, or 303 extra care units if the three sites referred to above remain or are delivered as a care home or 368 if the remaining 65 units at East Paddock Wood are delivered as Sheltered Housing units.
- 4.13 In 2040, the shortfall increases by 43 to 104 extra care units, or 326 if the three sites referred to above remain or are delivered as a care home, or 391 if the remaining 65 units at East Paddock Wood are delivered as Sheltered Housing units.

- 4.14 It is clear that as a minimum, there will be a shortfall of 61 extra care units. This is more likely a shortfall of 126 extra care units (given that 65 of the 125 units at Paddock Wood are anticipated to provide sheltered housing). Therefore, as a minimum, 1 additional allocation should be made within the plan to ensure the extra care housing needs are capable of being met. In that regard, we consider our client's site at Sandown Park is the only suitable site that has been promoted for such a use and which is available to meet the need.
- 4.15 It is disappointing that despite the lengthy debate on older persons housing need at the Examination, the Council continue to pursue dual allocations that give no certainty as to whether the Extra Care need identified would be met through the Submission Local Plan. Whilst the Council can evidence that extra care housing has been delivered through windfall sites, this is due to the lack of an up-to-date plan to deliver the need. The Council invite the Inspector elsewhere to favour the plan led system, and this should apply to meeting the need for older people's housing as well. It is therefore not sufficient to rely on windfall sites to meet the significant shortfall.
- 4.16 In conclusion, the SLP as proposed to be modified continues to deliver insufficient housing for older persons over the plan period, and this is a failure of the plan in terms of the social facet of sustainable development. The plan is therefore unsound.
- 4.17 To address our concerns, Woodsgate Corner should be allocated as a Care Home and not a dual allocation. The Council should also allocate at least one additional site to meet the extra care needs identified, and in that regard, we consider our client's site at Sandown Park to be suitable.