



Stage 9 Statement Response to EX221 (Windfall)

On behalf of:

King & Co

Representor ID:

863963

In respect of:

Welwyn and Hatfield Local Plan

Examination in Public

Date:

January 2021

Reference:

MA/KING & CO/003-04/R007m

KEY DOCUMENTS LIST

- **EX221** (WHBC Note re Windfall November 2020)
- **EX226** Trajectory Information
- **2019 HELAA** (December 2019- not included as an Examination document)

1.0 Introduction

- 1.1 This Statement is submitted pursuant to the **EX221** Note dated November 2020 in respect of the Council's position in terms of windfall as a component of housing supply.
- 1.2 This is therefore separate to the Council's position in terms of the extent of Full Objectively Assessed Housing Need ("FOAHN") in a relevant time period. However, the quantum ascribed to windfall and historic delivery rates is entirely relevant to what would be determined to be a realistic target for additional allocations to meet the unmet need once the various components of supply and requirement are established.
- 1.3 For the purposes of this Statement, we recognise that the adopted Plan had a design period ending March 2011 and that the Examination is currently working on the basis of a Plan period which as originally submitted commenced 2013 and is now envisaged to run to 2036. The Inspector has previously concluded that an FOAHN of 800 dwellings per annum has been found justified on that basis.
- 1.4 The Council is advising that their proposed allowance for windfall is derived from historic evidence, but also having regard to the fact that windfall supply will tend to be at its lowest during the period of peak delivery of allocations and then increase as the Local Plan moves toward or even beyond the end of the Local Plan design period.
- 1.5 The current Local Plan has a design period 1991-2011 but was not adopted until 2005. Post-adoption, it therefore had a design period of only six years and almost a decade has passed thereafter. We would note that the windfall figure in the 2005 Plan was 25 houses per annum and that this figure was "based upon historic evidence."
- 1.6 The Council's proposed windfall allowance to 2036 aggregates to 1402 dwellings all delivered from April 2023 onward (so 108 dwellings per annum) but the skewed trajectory suggests that almost half of this is assumed to be delivered in years 11-15 of the Plan period.
- 1.7 It is unsurprising that windfall delivery will become more dominant where the residual planned supply begins to diminish but nevertheless the latent demand for new homes still has to be met. Of course, that eventuality is more likely if the Development Plan would fail to meet the FOAHN and/or the planning authority would allow slippage such that the design date for the Plan has passed prior to the replacement Plan being capable of adoption.
- 1.8 The Council seeks to argue for an inflated windfall allowance in the latter part of the Plan period on the basis that the supply of sites is beginning to diminish at that point. That is of

course an inevitable and avoidable consequence of taking forward a strategy to propose an identified housing supply considerably below the FOAHN.

- 1.9 We also note that the trajectory includes components of windfall supply which vary across the Plan period, this includes:
- Office to residential conversions (211 additional from 2023-2026); and
 - Other Uses (528 additional from 2030-2036).
- 1.10 Given that the Council is already accounting for office to residential conversions as “commitments” and they have imposed Article 4 directions, we have been unable to reconcile how the Council’s proposed inflation of this component of supply (for the years 2023-2026) is justified. Without robust evidence to justify this component of the allowance (in addition to commitments), we would argue that the trajectory should assume 21 dwellings/ annum as per the remainder of the Plan period.
- 1.11 The likelihood of delivering these additional homes through windfall will be impeded because the more straightforward opportunity sites are already identified and Plan strategy such as Article 4 directions will reduce it further.
- 1.12 The consequence of the above is that the windfall allowance being promoted by the Council appears to have little basis in evidence and its deliverability is in considerable doubt.
- 1.13 If the Council is unable to justify these inflated components (office to residential and the “other” category) then the windfall allowance should reduce accordingly from 1402 dwellings to 663 dwellings.

2.0 Sources of Windfall Supply

2.1 The Council sets out in Section 2 of **EX221** the various component elements of the assessment of windfall over the Plan period.

2.2 This comprises four key elements which are:

- A. Residential redevelopment (26 dwellings per annum from 2023 onward);
- B. Office to residential (inflated allowance 2023-2026, 21 dwellings per annum thereafter);
- C. Redevelopment of agricultural buildings (4 dwellings per annum from 2023 onward); and
- D. Other category (88 dwellings per annum from Year 11 of the Plan period onward).

2.3 We raise no issue in regard to components A and C. We would also agree the 21 dwellings per annum/allowance for office to residential across the period 2023-2036.

2.4 However, we do not agree that the suggested yields for “other uses” in the early years or the inflated yield for office to residential (in the later years) are well-based in evidence.

Office to Residential Allowances

2.5 Clearly there is potential for unimplemented approvals to be delivered in due course, whether this is through full approvals or through the prior approval regime. As is accepted by **EX221**, the Council has invoked Article 4 directions which have been put in place to minimise the potential for the loss of further employment land to residential uses.

2.6 Our review of **EX226** clarifies that a considerable proportion of the Commitments quantum of supply is to be delivered through approvals (prior approval conversions or full approvals) which would cause loss of employment land. We would also note that there must be a likelihood that some of these approvals will not be implemented but the new EX226 trajectory does not allow for any non-implementation. This may therefore mean that the supply from commitments will be inflated.

2.7 Given that the commitments supply is heavily based in “office to residential” and that this quantum is likely overstated, it seems hugely unlikely (and without evidence) that a further 211 homes will be delivered from this source unless there is double-counting.

2.8 The Council must properly justify how this supply can be delivered (in addition to all commitments with no allowance for non-implementation) in the context of Article 4 Directions and a general diminution of the supply of plausible candidate sites.

2.9 The evidence-based position would appear to be the flat trajectory of 21 units per annum.

“Other Uses” Allowances

- 2.10 The Council’s argument to seek an inflated allowance in the latter part of the Plan period appears to be “based upon historic evidence”.
- 2.11 This additional “boost” to windfall would more than double the annualised windfall from year 11 onwards. This would result in an annual windfall allowance of 139 homes per annum for years 11-15.
- 2.12 In the context of the adopted 2005 Development Plan, this was subject of formal consultation from early 2001 onwards. Once finally adopted in 2005, its terminal design date was March 2011. The following table sets out the extent of windfall (sourced from the 2019 HELAA) and for robustness this includes year 2008/09 which includes a considerable spike as several large employment sites were redeveloped:

YEARS	COMPLETIONS	WINDFALLS	% WINDFALLS	AVG WINDFALLS PER ANNUM
2001-2005	1959	224	11.4%	56.0
2005-2011	3009	680	22.6%	113.3
2011-2013	381	108	28.3%	54.0
2013-2019	2396	1909	79.7%	318.2

- 2.13 It is self-evident from the above that the “averages” over this extended period are considerably skewed by the more recent period where the development industry has had to identify speculative sites to try and meet the obvious latent demand for housing in the prism of a Development Plan position where the Plan is obsolete to the point where it is now a decade out of date.
- 2.14 It is important to note that the current Local Plan was adopted in 2005, only then having a design period of only six years (to March 2011) and almost a decade has passed thereafter.
- 2.15 The Council’s proposed windfall allowance to 2036 is informed by a skewed trajectory which boosts windfall delivery in years 11-15 of the Plan period. This is entirely regrettable because it largely reflects an approach where the Council would fail to adopt an effective Plan that genuinely met needs and simply relied upon the development industry to identify and take forward new sites absent of any Plan strategy.
- 2.16 The historic windfall delivery for Welwyn Hatfield has become inflated by consequence of:
- Allowing a position where the Development Plan only designed for a six year period following adoption;

- That the Development Plan is now comprehensively out-of-date (design date ceased nearly a decade ago);
 - Failure to maintain 5 year housing land supply in the context of what could be agreed to be an objectively assessed housing need;
 - Consistent housing under-delivery in the HDT framework; thus
 - Giving the development industry little option other than to take forward speculative schemes to meet latent demand.
- 2.17 The Council seeks to argue for an inflated windfall allowance in the latter part of the Plan period on the basis that the supply of sites is beginning to diminish at that point. That is of course an inevitable and avoidable consequence of taking forward a strategy to propose an identified housing supply considerably below the FOAHN.
- 2.18 The likelihood of delivering these additional homes through windfall will be impeded because the more straightforward opportunity sites are already identified and Plan strategy such as Article 4 directions will reduce it further.
- 2.19 The consequence of the above is that the windfall allowance being promoted by the Council appears to have little basis in evidence and its deliverability is in considerable doubt.
- 2.20 If the Council is unable to justify this inflated "other use" component then the additional 88 dwellings/annum in years 11-16 of the Plan period then the windfall allowance should be removed accordingly (removing 528 dwellings).

The Composition of "Other Uses"

- 2.21 We note through paragraphs 1.5-1.9 of EX221 (and attendant footnotes) that there are three key components of windfall supply (residential redevelopment, office-residential and agricultural conversions) as well as a more collective "other uses" category.
- 2.22 The composition of "other uses" is set out as a footnote and includes education and residential institutions (amongst numerous other uses). The Exeter case clarifies that the decision-maker can take into account components such as C1 and C2 accommodation in terms of housing requirement over the Plan period, at which point they can have regard to their contribution to supply analysis.
- 2.23 Given that the most recent Council evidence infers that there is no projection of additional student housing requirement during the Plan period (i.e. from 2016 onward), this approach would not align with reliance on any significant contribution towards yield whether that is

through C1 completions or any argument to inflate windfalls later in the Plan period.

- 2.24 At this point, the evidential basis to rely upon C1/C2 supply without reference to any additional requirement on the same basis over the Plan period appears opportunistic. In the context of any windfall supply pertaining to “other uses”, this does not assist any argument to justify that there should be a substantial reliance on windfall delivery for these “other uses” when the Council’s evidence is that there is no substantive requirement that would justify that investment during the Plan period.

3.0 Summary

- 3.1 We note that windfall was considered in evidence through the Stage 2 Hearings but it does not appear to have been comprehensively considered through the Inspector's Interim Findings in October 2020. Our assessment of this position is therefore that the Inspector has not concluded this element of the Council's evidence to be agreed or that it would pass the tests of soundness.
- 3.2 Our position re this matter is that there should inevitably be an allowance for windfall (in the same way that there should be an allowance for non-implementation), both of which are largely factors which recognise that not all outcomes can be planned for definitively.
- 3.3 However, by inflating windfall allowances it places a greater reliance upon the development industry to deliver new growth rather than taking the responsibility to plan for "good growth". Our strong view is that the Council should take all opportunity to identify new sites for housing across the entirety of the Plan period that would genuinely meet FOAHN with confidence (by exceeding the FOAHN and/or having a suitable non-implementation buffer).
- 3.4 If the Council is unable to justify these inflated components (office to residential and the "other" category) then the windfall allowance should reduce accordingly from 14,02 dwellings to 663 dwellings.
- 3.5 Our view is that the two components of the Council's windfall evidence (office to residential and the "other uses" category) which would serve to boost windfall delivery both at the start and end of the Plan period) are contrived and lack proper justification.
- 3.6 Despite our comments above, we do not seek to impede the progress of this Plan and nor would we encourage a proposal to defer these matters to immediate Local Plan Review cycle. If that were to follow, that would inevitably arrive in the requirement for a new Local Plan process informed by an even higher annual requirement consistent with the published Standard Methodology of 875 dwellings per annum.
- 3.7 If the Council is seeking to rely upon a suppressed Plan requirement as well as a constrained genuine supply then it is inevitable that the resultant Plan will fail to properly address the chronic issues which stem from under-delivery for a considerable period. We therefore recommend that the Council should focus upon a Plan strategy that delivers the full FOAHN rather than instead seeking to inflate components of supply (such as windfall) without proper justification from the Council.