



St Helen's Local Plan Examination

Lovell Partnerships Ltd's Response to Matter 11 – Monitoring and Implementation

Land at Chapel Lane

On behalf of Lovell Partnerships Ltd.

June 2021

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1. INTRODUCTION

- 1.1 This Hearing Statement has been prepared by Asteer Planning on behalf of Lovell Partnerships Limited ('Lovell') in relation to **Matter 11 – Monitoring and Implementation**. Lovell are working closely with the landowners (previously promoting the site) and have an agreement in place to promote the land at Chapel Lane, Sutton Manor ('the site') which is proposed to be removed from the Green Belt and designated as a safeguarded site for housing (Site 6HS) through the Local Plan (Policy LPA06: Safeguarded Land).
- 1.2 This Hearing Statement is issued following the conclusion of Week 1 Hearings in respect of Matters 1, 2 and 3 (25-27 May 2021) and the submission of Lovell's Hearings statements in respect of Matters 4, 5 and 7 on 28th May 2021. In the Matter 2 and 3 sessions, and in the Matter 5 and 7 hearings statements, we identified two overarching soundness failures in respect of (a) affordable housing provision and (b) housing land supply. Lovell's proposed development is a direct response to both.
- 1.3 Lovell are seeking to bring forward a high quality, sustainable residential development for 100% affordable housing on the site, delivering approximately 150 affordable homes early in the plan period through its joint venture partnership (Lovell Together) with Together Housing Group, a Registered Social Landlord. Lovell – Together Corporate Joint Venture LLP is an existing special purpose vehicle under which this site would be delivered. Together Housing Group are a Homes England Strategic partner and have an existing £53m of Homes England grant allocation secured to give greater certainty on delivery.
- 1.4 It is proposed that the site will deliver 50% affordable rent and 50% shared ownership using existing grant funding. As a consequence of the funding, the site is highly deliverable and would make a significant positive contribution towards meeting both affordable housing and overall housing needs early in the Plan period.
- 1.5 Lovell are requesting main modifications to Policy LPA05 (Meeting St.Helens Borough's Housing Needs) and Policy LPA06 (Safeguarded Land) to convert the safeguarded site allocation back into a full allocation. This would effectively return the site to the status it held in the draft development plan documents as recently as 2017 as set out in previous representations made at Preferred Options stage. The site is located adjacent to the settlement boundary of the St Helens Core Area, identified by Policy LPA02, as supplemented by the Council's submission as the most sustainable location for growth – and the appropriate location to address major current issues of deprivation.
- 1.6 Matter 11 (specifically Issue 6) of the Inspectors' Matters, Issues and Questions ('MIQs') considers the Council's proposed monitoring framework in relation to five-year housing land supply, safeguarded land, targets and/or triggers for action/potential action, and contingencies.

- 1.7 This Statement responds directly to the Inspectors' MIQs, however, it should be read in conjunction with previous representations issued on these issues. Where relevant, the comments made are assessed against the tests of soundness established by the National Planning Policy Framework ('NPPF'), as supplemented by the National Planning Practice Guidance ('PPG').
- 1.8 Separate representations have been submitted in respect of the following matters and should be read in conjunction with this Statement:
- Matter 1 – Introduction to the Hearings, Legal Compliance, Procedural, Requirements, and the Duty to Cooperate;
 - Matter 2 - Housing and Employment Needs and Requirements;
 - Matter 3 – Spatial Strategy and Strategic Policies;
 - Matter 4 – Allocations, Safeguarded Land and Green Belt Boundaries;
 - Matter 5 – Housing Land Supply; and,
 - Matter 7 - Specific Housing Needs and Standards.

2. LOVELL'S RESPONSE TO MATTER 11

- 2.1 This section of this statement sets out the relevant Matter 11 issues and questions within the Inspectors' MIQs to which Lovell wishes to provide a response, including identifying elements/issues that render the plan unsound in the context of paragraph 35 of the NPPF, and how these should be resolved to make the plan sound.

Issue 6: Monitoring and Implementation

26) Taking into account any modifications, is the Plan clear in indicating how the Plan's policies and proposals will be monitored?

27) Will the indicators in the monitoring framework be effective in monitoring the success of the Plan's policies and proposals?

Paragraph 33 of the Framework and the Local Planning Regulations require that policies in LPs should be reviewed to assess whether they need updating at least once every five years. Notwithstanding these requirements, there may be a need, due to a significant change in circumstances, to update the LP before five years.

28) Is the LP clear as to when a need to update the Plan before five years would be triggered, for example, for reasons relating to the delivery of housing?

- 2.2 The following text provides Lovell's response to Issue 6, Questions 26, 27 and 28.

Council's Proposed Monitoring Framework

- 2.3 Policy LPA05 of the submitted Local Plan states (with our emphasis in **bold**):

"The delivery of new housing development will be monitored annually to ensure that:

- a) an adequate supply of new housing is provided at all times in accordance with the Housing Delivery Test set out in national policy; and,*
- b) there is a deliverable supply of housing that is sufficient to provide at least 5 years' worth of new housing development against the housing requirement. The 5 year land supply to be maintained shall include any buffer that is required under national policy. If annual monitoring demonstrates the **deliverable housing land supply falls significantly below** the required level, a partial or full plan review **will be considered** to bring forward additional sites."*

2.4 The supporting text (Paragraph 4.18.21) to LPA05 states (with our emphasis in **bold**):

*“The delivery of housing will be monitored over the Plan period. If at any stage delivery falls below 95% of the required level over the previous three years, the Council will prepare an action plan (in accordance with the Housing Delivery Test set out in national planning policy) to address the causes of under-delivery. If delivery or **current deliverable land supply falls substantially below the required level**, the Council **may undertake** a Local Plan review to bring forward additional sites such as those that are safeguarded under Policy LPA06.”*

2.5 The Council published a Draft Schedule of Main Modifications (SHBC010) on 17 May 2021, within which it sets out modifications to its monitoring framework for Policy LPA05 which includes the following ‘potential action of contingency’ should the Council have ‘fewer than 5 years’ supply (plus the required buffer) of housing land. SHBC010 states (with our emphasis in **bold**):

- *“Consideration of the barriers to delivery of sites after permission is granted, and working with partners to overcome them;*
- *Consideration of whether sufficient planning permissions are being granted (and within statutory time limits);*
- *Seek to maintain an appropriate mix of sites to sustain delivery;*
- *Use proactive pre-application process to speed up the application process;*
- *Seek funding to unlock brownfield sites to boost the housing supply;*
- ***Consider early review of the Local Plan if there is long term underperformance against the 5 year supply”.***

Soundness Failings of Submitted Plan and Relationship with Monitoring Framework

2.6 The NPPF paragraph 73 states that the supply of specific deliverable sites should include a 10% buffer where the Local Planning Authority wishes to demonstrate a five year supply of deliverable sites through an annual position statement or recently adopted plan.

2.7 The NPPF paragraph 74 allows Local Planning Authorities to demonstrate a five year supply of deliverable housing sites, with the appropriate buffer *“where it has been established in a recently adopted plan, or in a subsequent annual position statement”*. The Planning Practice Guidance (PPG) paragraph 009 (How can authorities confirm their 5 year housing land supply?) makes it clear that Local Planning Authorities can also confirm their 5 year housing land supply position ***once in a given year through either of these methods.***

- 2.8 As set out in Lovell's Matter 5 and Matter 7 submissions, the Council is seeking to confirm its 5 year housing land supply position through the adoption of the plan. Therefore, a 10% buffer must be applied to the housing requirement.
- 2.9 Lovell's response to Matter 5 (Question 16) also sets out that the Council will not be able to demonstrate a five-year supply of deliverable housing sites on adoption of the Local Plan. Indeed, the Council's claimed 5 year housing land supply position has progressively worsened since the Local Plan was submitted to the point where its latest claimed supply (SHBC007) is now just **4.6 years**. Lovell's own analysis has however, identified that the correct position, applying NPPF and PPG guidance, is in fact much worse and the Council can only realistically demonstrate a **3.2 year** supply of housing land. Furthermore, other representors, through their Matter 5 hearing statements, have argued (for example by challenging the Council's claimed supply from allocations in the first five years, which Lovell has not done), that the Council's true 5 year housing land supply position is even lower (e.g. Redrow – 2.6 years¹, Wainhomes – 2.2 years²).
- 2.10 Based upon the Council's proposed monitoring framework set out above, the plan as currently drafted would require a Local Plan review to be undertaken immediately upon adoption of the Plan. This is clearly not a sound approach to plan making and in any case the actual forward supply of deliverable sites that the Council is currently able to demonstrate, represents both a significant and substantial shortfall against what is required.
- 2.11 Furthermore, in accordance with NPPF paragraph 73, the plan would not be sound on adoption as the Council cannot demonstrate a 5 year supply of deliverable housing land. It is directly contrary to NPPF paragraphs 59, 68 and 73, and the broader provisions of NPPF paragraphs 11b, 20 and 35a-d. In order to ensure that a 5-year housing land supply can be demonstrated and thus avoid an immediate review of the Local Plan, the Council must allocate additional deliverable sites now, such as the Chapel Lane site.

Effectiveness of Proposed Monitoring Framework

- 2.12 The monitoring framework as currently proposed would not be effective in delivering or maintaining a 5 year supply, and therefore the plan as submitted is not sound.
- 2.13 Firstly, the monitoring framework does not explicitly state how the Council will measure progress on 5 year supply. It instead states that the data source to monitor progress will be "*Development management processes.*"
- 2.14 Secondly, Policy LPA05 states that If annual monitoring demonstrates the '*deliverable housing land supply falls significantly below*' the required level, a partial or full plan review

¹ Paragraph 4.19 of M5.14

² Paragraph 2.67 of M5.18

'will be considered'. However, the subtext to the same policy states that if *delivery or 'current deliverable land supply falls substantially below the required level'*, the Council **'may undertake'** a Local Plan review. The subsequent schedule of Main Modifications (SHBC010) then stated that the Council will *'consider early review'* of the Local Plan if there is *'long term underperformance against the 5 year supply'*. All of these different terms are confusing and unclear and the plan is not justified because 'significant', 'substantial', and 'long-term' are not defined.

Affordable Housing

- 2.15 The Local Plan and monitoring framework as submitted (including proposed Main Modifications) do not propose anything in relation to the monitoring of the delivery of affordable housing.
- 2.16 Lovell's responses to Matters 2, 5 and 7 and the Tetlow King Affordable Housing Need and Supply Statement have identified that there is a critical need for affordable housing in St Helens to respond to the current affordable housing crisis, and the Council's proposed trajectory falls woefully short in delivering against this need. When considering future affordable housing delivery against the expected delivery, there would be a loss in the number of gross affordable dwellings per annum, over the next five years (-7 or -50) and over the length of the Local Plan period would make either a very marginal gain or a greater loss of affordable dwellings (+41 or -63).
- 2.17 Clearly these future supply figures fall significantly short of the 144 per annum figure (720 over the first five years) required when backlog needs are addressed in line with the Sedgefield approach (or the 117 per annum figure thereafter).
- 2.18 When average losses as a result of the Right To Buy are taken into account, it is clear that the Council is facing a bleak prospect of very few additional affordable dwellings being delivered. The plan will not lead to a boost in the supply of affordable housing, based on Tetlow King's analysis.
- 2.19 This is a fundamental soundness failure identified by Lovell during the Week 1 hearings and Matter 5 and 7 hearings statements. It should be rectified by allocating additional deliverable sites that can deliver affordable housing, such as the Chapel Lane site as set out in Lovell's Matter 4 hearing statement and accompanying Development Statement.
- 2.20 The delivery of affordable housing by the Local Plan should be specifically monitored.
- 2.21 In its Matter 7 hearing statement (paras 2.7 – 2.13), Lovell noted that the Council's submissions on the basis of Kings Lynn and West Norfolk BC [2015] EWHC 2464 (Admin), to the effect that there is no requirement that affordable housing need should be met in full through the housing requirement.

- 2.22 Lovell's position however, is that in assessing the soundness of the plan, it is plainly necessary pursuant to NPPF 61 and PPG 2a-024 to consider (a) the correct level at which to set the housing requirement; (b) any policies in respect of developer contributions, but also most importantly (c) whether additional specific allocations should be made to provide for identified affordable housing needs early within the plan period (e.g. within the first five years).
- 2.23 It therefore follows that given the importance of delivering substantial amounts of affordable housing in the first five years, and the fact that the overriding shortage is unlikely to be met quickly, that a continuous supply is maintained, at a sufficient level. Ignoring the affordable housing crisis would be a fundamental failing. The Monitoring Framework should therefore specifically monitor the delivery of affordable housing (including fully taking into account Right to Buy losses) in addition to overall housing land supply, in order to ensure an adequate forward supply of at least 5 years' worth of deliverable sites is maintained.

Comments on Soundness in respect of Issue 6

- 2.24 As set out throughout Lovell's submissions at the Week 1 hearing sessions and written responses to Matters 5 and 7, when considering the tests of soundness set out in Paragraph 35 of the NPPF, the Plan as submitted is not sound for two fundamental reasons:
- Firstly, Paragraphs 67 and 73 of the NPPF, the Council is unable to demonstrate a 5-year supply of housing land upon adoption of the Local Plan; and,
 - Secondly, the Council's approach to delivering affordable housing will fall substantially short of meeting the over-riding current need for affordable housing in the context of NPPF Paragraph 61 and Paragraph 2a-024 of the PPG1.
- 2.25 These are issues that cannot be addressed through a statutory review of the Local Plan (full or partial) after 5 years.
- 2.26 In accordance with the requirements of Policy LPA05 as drafted (including the Council's proposed schedule of Main Modifications in SHBC010), a Local Plan review would be required immediately upon adoption of the Plan. This is clearly not a sound approach to plan making.
- 2.27 These failures can only be addressed through allocating additional deliverable sites, and sites that will deliver a substantial amount of affordable housing.
- 2.28 Even if these soundness failures are addressed prior to the adoption of the plan, both are critical issues for the Borough and the performance of the Local Plan in delivering enough overall housing, and specifically affordable housing must be closely monitored in order that any emerging issues are addressed.

2.29 In this context, the Council's proposed monitoring framework will not be effective and is therefore unsound. As drafted, the wording is far too vague, in precis and confusing. It both fails to include a firm commitment to a Local Plan review should a shortage of deliverable housing sites be present, and does not include any form of monitoring for the delivery of affordable housing.

2.30 In order to make the plan sound in this respect, the Council should:

- Ensure that clear and precise wording is used to include explicit commitments. The monitoring framework should state that the Council "*will undertake*" rather than "*will consider*" an early review of the Local Plan to provide a firm commitment.
- Ensure that the proposed Local Plan review mechanism is specific and quantifiable i.e. if the 5 year supply falls below 4.0 years, a review will be undertaken and additional deliverable sites allocated to make up the shortfall.
- Include a mechanism within the Local Plan and Monitoring Framework which specifically relates to affordable housing and would trigger a Local Plan review should affordable housing delivery fall below 144dpa in the first five years of the plan period (and any subsequent equivalent figure that takes into account any further accrued backlog thereafter).