

Elmbridge Local Plan 2037
Examination of the Local Plan
Matter 5: Housing Delivery
Statement on behalf of Taylor Wimpey

March 2024

Turley

Contents

1.	Introduction	3
2.	Response to Matter 5: Housing Delivery	4
Appendix 1: EBC's 'Exceptional Circumstances Case' (September 2016)		13

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Client
Taylor Wimpey

Our reference
TAYR3017

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1. Introduction

- 1.1 This Statement is submitted on behalf of Taylor Wimpey to Stage 2 of the Elmbridge Local Plan Examination and in response to 'Matter 5: Housing Delivery' as set out in the Inspector's 'Schedule of Matters, Issues and Questions for Stage 2 of the Examination' (document ID-005).
- 1.2 This Statement should be read in conjunction with the other Statements submitted on behalf of Taylor Wimpey, and their representations to consultation on the draft Local Plan.
- 1.3 Taylor Wimpey has an interest in, and has actively promoted the land west of Woodstock Lane North, Long Ditton to the emerging Local Plan. The representations submitted to the Regulation 19 draft of the Local Plan included a Vision document which demonstrated how the site could be developed and a Technical Note regarding the site access arrangements and its accessibility.
- 1.4 The land promoted by Taylor Wimpey west of Woodstock Lane North, Long Ditton is currently within the Green Belt. However, at the previous consultation stage¹, this land was identified (via Options 3 and 5 (including 5a)) as a one of three 'Key Strategic Areas', including an area of retained open space and a 'Potential Development Area to be Master planned'. This Statement has been prepared on the basis that the Local Plan is to be examined against the NPPF published in 2021. Unless specifically referred to, any references to the NPPF are to that version.

¹ The 'Options Consultation' undertaken in 2019

2. Response to Matter 5: Housing Delivery

Issue 8 – Whether the approach towards the delivery of housing land is justified, effective, consistent with national policy and positively prepared.

4.1 Please can the Council update the housing trajectory (Appendix A5 of the Plan) with the latest figures from the AMR and to reflect the updated Plan period (see Inspector’s initial letter ID-001).

- 2.1 We welcome the Inspector’s request for this information. It would have been helpful if the Council had made that information available in time for it to be addressed in these Hearing Statements. Once the Council’s response to is made available, further opportunity must be given to interested parties to provide comments on this evidence.

4.2 The spatial strategy focus is on brownfield sites, with a significant component of the supply coming forward on small sites. In accordance with paragraph 60 of the Framework, in what way would this approach ensure that there is a sufficient variety of land to come forward?

- 2.2 One of the key concerns arising from the Council’s approach is the likelihood of brownfield sites generally delivering smaller housing sizes and typologies, particularly if they are to deliver the levels of housing envisaged by EBC. As a consequence, the Council appears to pursue an approach which, by its very nature, has less scope to accommodate the needs for family sized housing for example.

4.4 Will the Plan provide for a five year supply of deliverable housing sites upon adoption with particular reference to the definition of deliverable contained within Annex 2 of the Framework?

- 2.3 Firstly, we note the difficulties associated with this question given that the Council has not provided a detailed trajectory outlining how many homes are expected to come forward each year of the plan period (as sought by question 4.7).
- 2.4 Although there is a draft trajectory found in appendix A5 and we note that the LAA provides some, albeit limited detail setting out deliverability in five year periods (rather than an expected start and end date for the development of the sites assessed), this is not sufficient to enable any consideration as to whether the Plan will provide for a five-year supply.
- 2.5 It is also worth reflecting on the longer term implications of the approach being pursued by the Council due to the quantum of development proposed being significantly lower than the identified (minimum) requirement. If it is assumed that the housing requirement remains reasonably constant, then in light of paragraph 77 of the NPPF (December 2023), the Council will obviously struggle to demonstrate a 5YHLS once the Local Housing Need is used in the housing land supply calculation. Of course, the Council might, as others have done, review its policies through the self-regulating ‘Regulation 10A’ process and find that they are still up-to-date and therefore capable of being used in the housing supply calculation. That would represent an ongoing failing to positively address housing needs.

4.5 HOU002 states that the five year housing supply position is 4.36 years. How does this accord with paragraph 74 of the Framework which requires Local Planning authorities to identify and maintain a supply of specific deliverable sites sufficient to provide a minimum of five years worth of housing against their housing requirements? Is the Plan positively prepared in this regard?

- 2.6 We note that where a Local Plan does not provide for a five-year supply of deliverable housing sites on adoption would mean that the plan is out of date on adoption and require the application of the presumption in favour of sustainable development with immediate effect. Such a plan should not be considered to be sound and as such this is a strong indication that this draft Local Plan is neither justified nor positively prepared.

4.6 Is the identified housing supply contained within the Plan and set out in the trajectory based on a sound understanding of the evidence? In responding to this question, the Council should provide an updated housing response which identifies the completions, existing commitments, site allocations and any other sources of supply it is seeking to rely upon.

- 2.7 We welcome the Inspector's request for this information. It would have been helpful if the Council had made that information available in time for it to be addressed in these Hearing Statements. Once the Council's response to it is made available, further opportunity must be given to interested parties to provide comments on this evidence.

4.7 In addition to the trajectory required by the Framework, the Council should prepare a spreadsheet to support the trajectory which confirms how many dwellings each site allocation is expected to deliver in each year of the Plan period, and identify any windfall allowance which is being relied upon. This information should be supported by cross references to the evidence base where necessary.

- 2.8 We welcome the Inspector's request for this information. It would have been helpful if the Council had made that information available in time for it to be addressed in these Hearing Statements. Once the Council's response to it is made available, further opportunity must be given to interested parties to provide comments on this evidence.

4.8 The Planning Practice Guidance provides advice in relation to the preparation of housing and economic land availability assessments, and sets out that when carrying out a desktop review, Plan-makers need to be proactive in identifying as wide a range of sites and broad locations for development as possible. It goes on to note that identified sites, which have particular constraints (such as Green Belt), need to be included in the assessment for the sake of comprehensiveness but these constraints need to be set out clearly, including where they severely restrict development. An important part of the desktop review, however, is to identify sites and their constraints, rather than simply to rule out sites outright which are known to have constraints. Is the approach adopted by the Council in terms of the Land Availability Assessments completed consistent with this and if not why not?

- 2.9 Firstly, we note that the LAA (both HOU2 and HOU3) do not appear to consider sites within the Green Belt, despite the matters set out in the PPG. Such sites are considered within OTH039, OTH040 and OTH041. A single approach to assessment would have provided a better basis to compare sites with each other.

4.9 The Housing Needs Assessment (HOU005) notes the greatest demand is for 2 bedroomed units (50%). Are there any implications for the spatial strategy adopted and the dwelling types which will be delivered?

- 2.10 As far as we can establish, there is no evidence to suggest that the Council has considered whether the supported sites are capable of delivering the mix of housing which is said to be required.
- 2.11 TOP001 explains² that of the options considered in the 2016 / 17 Regulation 18, Option 1 ('Intensify urban area') "Will not deliver the desired mix of houses and flats". In the assessment of Option 1 for the 'Options Consultation' in 2019, TOP001 stated "It is likely the through intensification, new residential development will likely be flats and there wouldn't be a mix of housing types, including family homes." The same concerns are not listed for Option 4/4a, but in our view, in the absence of any evidence from the Council, the same principles apply.

Policy HOU1 – Housing Delivery

4.10 Policy HOU1 cross references to appendix 5 of the Plan however appendix 5 lists two alternative indicative approaches to the housing trajectory. Which is the trajectory the Council is relying upon and is this a justified approach?

- 2.12 This is a matter for the Council, although note that there is no 'clear' explanation (in the draft Local Plan itself) to explain what the difference between the two approaches is. It would clearly assist in understanding the draft Plan if that clarification were provided.
- 2.13 On the basis of Appendix A5, we assume that the difference is the application of a non-implementation rate.
- 2.14 The responses given by the Council in response to this question may have implications for the contributions made during the Examination on behalf of Taylor Wimpey.

4.11 What is the justification for the dpa figure to be included within the policy wording? Is this approach positively prepared and consistent with national policy? Should the policy refer to the homes to be delivered across the Plan period and if so what should this figure be? (noting the actions raised under question 2.2 for the Council in relation to the Plan period).

- 2.15 We are concerned by the inclusion of the 'dpa' figure within the Policy. Firstly, it appears to be unnecessary as Policy SS3 sets out the quantum of growth being planned for. However, if such a figure is retained then of course it should reflect the eventual level of growth (noting the comments about the Plan-period for example as well as other considerations).
- 2.16 We are also confused by the inclusion of the term "Adopt a requirement in line with the Elmbridge Housing Trajectory". It is unclear what the Council means in this regard and we note that it could be interpreted that the 'housing requirement' (against which matters such as housing land supply are considered) will reflect the housing trajectory. In our view that is a fundamentally flawed approach.

² Topic Paper 1, paragraph 5.45

4.12 Is it clear what the 30% affordable homes in part 2 of the policy relates to?

- 2.17 This is particularly unclear, especially when considered in relation to part 1 of Policy HOU4.

The Green Belt

These questions relate to the Council's consideration of the release of green belt land to meet their housing and employment needs in the context of the overall spatial strategy. In addition, it does not address the wording of policy ENV4: Development within the Green Belt which will be addressed under the stage 3 hearings. It will not address specific sites and this is not an opportunity for those seeking to promote omission sites to make specific reference to them.

There is a significant amount of evidence concerning the existing Green Belt and how this land performs against green belt purposes including a Green Belt boundary review. An assessment has been made as to the potential contribution the release of some areas of green belt could have towards meeting housing need over the Plan period. The Council do not agree that there are exceptional circumstances which would warrant the release of any green belt land. The Council also disagree with the assessment made in relation to a number of areas which ARUP have identified as weakly performing areas of the Green Belt.

4.13 Do the exceptional circumstances identified at paragraph 6.18 Topic Paper 1: How the Spatial Strategy was formed (TP001) represent all of the exceptional circumstances which the Council have taken into account?

- 2.18 For the reasons discussed below, we agree that the matters set out at paragraph 6.18 of TOP001 are a reasonable starting point to consider whether exceptional circumstances exist.

4.14 What is the relevance of the fact that the current housing need is significantly higher than the existing target set within the Core Strategy (Paragraph 6.24 of TP001)?

- 2.19 The draft Plan is prepared on the basis that the Standard Method housing requirement is 9,705 homes to 2037. That figure is significantly higher than that of the current Development Plan, both by total quantum and the implied annual average requirement (225 dwellings per annum; 3,375 net dwellings across the Plan period between 2011 and 2026).
- 2.20 In our view, this is a highly relevant consideration, having regard to the acuteness/intensity of the housing need.
- 2.21 In TOP001 (paragraph 6.24), the Council explains that *"At no point in the last 11-years has the Council delivered below the housing target set out in the Core Strategy."* Whilst the current housing need is a relevant consideration (for reasons explained below), we do not consider that the fact that housing has not been below the targets in the Core Strategy is relevant. That is because the current housing need is so demonstrably different to that of the Core Strategy.

4.15 The Council have stated that the need in Elmbridge is no more acute/intense than in neighbouring boroughs. However, a majority of neighbouring boroughs (Guildford, Waverley, Runnymede, Spelthorne) have progressed a strategy with an element of Green Belt release and/or are able to meet their housing need in full. If the Council consider the need to be no more acute than these neighbouring boroughs, what is the rationale for Elmbridge not following this approach?

2.22 If the Council's position is correct, then it is bizarre that it has concluded that the situation in the Borough does not justify exceptional circumstances, when they have existed in other authorities in a similar position.

2.23 In addition, we note with interest that the SoCG with Spelthorne Borough Council³ states that *"In any case, Spelthorne does not consider Elmbridge to have evidenced its own position that they are unable to meet their housing need in full and that they do not have exceptional circumstances to release any Green Belt. Elmbridge is the only neighbour who has asked us to assist in meeting their housing need."*

4.16 In general terms, the Framework seeks to support the Government's objective of significantly boosting the supply of homes. Paragraph 35 states that Plans should provide a strategy which, as a minimum, seeks to meet the area's objectively assessed needs. Paragraph 11 of the Framework sets out the approach to Plan making. In what way does the Green Belt in Elmbridge provide a strong reason for restricting the overall scale, type or distribution of development?

2.24 We welcome the Inspector's identification of relevant extracts from the NPPF. However, it is also worth noting that paragraph 11 of the NPPF states that there is a social objective to sustainable development which, among other points, "to support strong, vibrant and healthy communities, by ensuring that a sufficient number and range of homes can be provided to meet the needs of present and future generations."

2.25 We recognise of course that land should only be released from the Green Belt in 'exceptional circumstances' and in that regard our earlier representations referred to the various considerations of the 'Calverton Judgment'⁴.

2.26 The Draft Plan and its supporting evidence base markedly understates the degree to which exceptional circumstances exist. This underestimation is one of the reasons why the Draft Plan fails to meet the identified housing need and address the various other housing-related matters set out above. As such, we provide additional commentary below (structured around the Calverton judgment) to explain the extent to which exceptional circumstances are considered (by our client) to be present.

2.27 At paragraph 51 of the Calverton Judgment Mr Justice Jay stated that:

"In a case such as the present, it seems to me that, having undertaken the first-stage of the Hunston approach (sc. assessing objectively assessed need), the planning judgments involved in the ascertainment of exceptional circumstances in the context of both national policy and the positive obligation located in section 39(2) should, at least ideally, identify and then grapple with the following matters: (i) the acuteness/intensity of the objectively assessed need (matters of degree may be important); (ii) the inherent

³ CD022, page 10

⁴ 'Calverton Parish Council vs Greater Nottingham Councils [2015] EWHC 10784'

constraints on supply/availability of land prima facie suitable for sustainable development; (iii) (on the facts of this case) the consequent difficulties in achieving sustainable development without impinging on the Green Belt; (iv) the nature and extent of the harm to this Green Belt (or those parts of it which would be lost if the boundaries were reviewed); and (v) the extent to which the consequent impacts on the purposes of the Green Belt may be ameliorated or reduced to the lowest reasonably practicable extent.”

2.28 Addressing those points in turn, we note:

- **The acuteness/intensity of the objectively assessed need (matters of degree may be important):** The draft Plan is prepared on the basis that the Standard Method housing requirement is 9,705 homes to 2037. That figure is significantly higher than that of the current Development Plan, both by total quantum and the implied annual average requirement (225 dwellings per annum; 3,375 net dwellings across the Plan period between 2011 and 2026). However, our representations in 2022 noted that the Council’s own evidence at the time indicated that the uncapped local housing need (to address affordability) is equivalent to 845.094 dwellings per annum, a figure which is significantly greater than the capped figure (647 dpa) or the 452 dpa supported by Policy SS3 and that the affordable housing need equates to 269 dwellings per annum. As noted elsewhere, that uncapped figure is now even greater again at 930 dwellings per annum. TOP001 appears to discount this issue as being supportive of exceptional circumstances as *“Whilst the Council acknowledges that the local housing need is a challenge, it does not consider the acuteness / intensity of the objectively assessed need to be so much so that, this would justify amending the Green Belt. This is particularly given that approximately 70% (circ. 6,787 units) of the local housing need figure can be met within the urban areas.”* In our submission that conclusion is bizarre, not least because it fails to consider matters such as affordability but recognises the shortfall against the Standard Method. Although consideration is given to affordable housing later in the Council’s assessment of this part of the Calverton Judgment, that is discounted from supporting exceptional circumstances for equally bizarre reasons and because *“As such the Council considers that with a First Home becoming available on the open market after 6-months if not sold, is in juxtaposition to the release of Green Belt to meet affordable housing need (both in terms of the types of homes required but also by being able to become market housing).”*
- **The inherent constraints on supply/availability of land prima facie suitable for sustainable development:** We note Figure 5 of the draft Local Plan and the indication that a very significant part of Elmbridge Borough other than the existing urban areas, is within the Green Belt. It is then immediately apparent that the extent of completely unconstrained (including by Policy, rather than actual constraints) land, to accommodate new housing, is limited. In our view that represents a clear indication that the release of Green Belt land will be required. The boundaries of the Green Belt are tightly drawn around the Borough’s settlements. In addition, it is immediately clear from the Council’s draft Local Plan that sites within the existing urban areas/settlements cannot accommodate the necessary levels of development, even with a reliance on

‘windfall’ style sources of housing land supply, which the Council could have little certainty would be delivered during the Plan period. We note that Topic Paper 1 does consider this part of the Calverton Judgment, but no clear reasons are given as to why the constraints on development do not support exceptional circumstances.

- **The consequent difficulties in achieving sustainable development without impinging on the Green Belt:** This follows the previous comment and is reinforced by the Draft Local Plan itself which, without any Green Belt releases fails to achieve the Standard Method requirement or address other housing considerations by a significant margin. We note that Topic Paper 1 does consider this part of the Calverton Judgment, but no clear reasons are given as to why the constraints on development do not support exceptional circumstances.
- **The nature and extent of the harm to this Green Belt (or those parts of it which would be lost if the boundaries were reviewed):** This matter requires consideration on a site-by-site basis, as well as the Green Belt as a whole. Reference should be made to the conclusions of the Green Belt Assessments in this regard. Whilst we do not repeat the conclusions of those assessments at this point, the Council’s own evidence has not indicated that the nature and extent of any harm to the Green Belt (or those parts of it which would be lost if the boundaries were reviewed) is such that development should be resisted. We comment on this matter in our representations in 2022, but note that the Council’s own evidence base in support of this emerging Local Plan has consistently identified Local Area 58 (within which the land promoted by Taylor Wimpey is located) performs weakly against the Green Belt purposes. The Council has sought to distance itself⁵ from its own evidence by disputing the findings in relation to Local Area 58, however in our view the position it expresses in relation to Local Area 58 are fundamentally flawed.

2.29 Of course, the Council has also prepared a statement on ‘Exceptional Circumstances Case: Green Belt’⁶ dated January 2022 (OTH043). However, that document does not appear to claim that exceptional circumstances would not exist. In fact, that document states that *“In assessing Option 5a (optimisation and small scale Green Belt release) officers also consider a merit of this approach, to be providing a balance between meeting our development need, with the need to ensure that the overall integrity of the wider-strategic Green Belt is maintained. Overall, officers consider that the benefits of releasing land from the Green Belt outweigh the harm.”*

2.30 We note that Topic Paper 1 explains⁷ “At a Special Council meeting on 13 June 2022, the Council agreed that the preferred spatial strategy for the borough, forming the basis of the new Local Plan was, Option 4a – Optimisation”. That decision was made on the basis of the recommendation of EBC’s Cabinet on 8th June 2022 which in turn was based on the outcome of the meeting of EBC’s Cabinet on 16th March 2022. The minutes of the meeting in March 2022 record that:

⁵ See paragraphs 6.92 – 6.98 of TOP011

⁶ Available through the ‘Post Submission Evidence Based Documents’ section on EBC’s website

⁷ Paragraph 8.12 of Topic Paper 1

“Having considered the appropriateness of the spatial strategy for the draft Local Plan and being mindful of paragraphs 11(b), 140, 141 and 142 of the NPPF, the five factors from the Calverton Case as well as the evidence base, the Working Group was of the view that the exceptional circumstances to justify the release of Green Belt land had not been evidenced or justified.”

2.31 So far as we are aware, EBC does not publish the reports to / minutes of the Local Plan Working Group and so we have not had sight of the basis upon which it was found that exceptional circumstances do not exist.

2.32 It is worth noting (as it does not appear to be clear from the material submitted as part of the Examination by EBC) that the Council has published evidence wherein it set out the *“the factors that the Council will recommend to the Planning Inspector which it considers are capable of amounting to “exceptional circumstances” that, would justify any amendments to the Green Belt boundary, as part of the preparation and examination of the Elmbridge Local Plan”*. A copy of EBC’s ‘Exceptional Circumstances Case’ (September 2016) is provided at **Appendix 1** of this Statement. Those reasons were considered to be:

- *“Housing Need;*
- *House Prices & Affordability Issues;*
- *Affordable Housing Need;*
- *Starter Homes, Self-Build & Custom Housebuilding; and*
- *Imbalance in Housing Mix”*

2.33 In our submission, the current housing circumstances in this Borough demonstrate exceptional circumstances now (just as at the point of the Plan being submitted), to an even greater degree than in 2016.

2.34 In our view, the Green Belt in Elmbridge does not provide a strong reason for restricting the overall scale, type or distribution of development. However, the housing considerations in the Borough do provide a strong reason to conclude that exceptional circumstances exist to release land from the Green Belt.

4.17 CD034a which was updated in November 2023 states that the Council consider the release of land from the Green Belt for housing purposes would negatively effect the boroughs existing settlement pattern and thus cause harm to the character of Elmbridge’s existing communities. Where in the evidence base is this assessment undertaken which explains how this conclusion has been reached?

2.35 We also note that CD043a includes comments to the effect that *“Moreover, the Council considers that the release of land from the Green Belt (for the purposes of housing development) would negatively affect the borough’s existing settlement pattern, thus harming the character of Elmbridge’s existing communities”*.

2.36 We have been unable to identify evidence to that effect.

- 2.37 In the case of the land promoted by Taylor Wimpey at Long Ditton, that is adjacent to the settlement and existing built development, and in fact, it was identified (as part of Options 5/5a) to be released from the Green Belt.

4.19 With reference to paragraph 143 (e) of the Framework, are the Council able to demonstrate that Green Belt boundaries will not need to be altered at the end of the Plan period?

- 2.38 No, the Council will not be able to demonstrate that the Green Belt boundaries will not need to be altered at the end of the Plan period. This Plan is predicated on the basis that it meets around 70% of the identified (minimum) housing need to 2037. This appears to be an approach which is intended to avoid the release of Green Belt to accommodate housing now.
- 2.39 The Council's approach is reliant upon the reuse of previously developed land in order to achieve even the levels of growth which it does provide for. It would be wholly unrealistic, in our view, to assume that, at the end of the Plan period, alternative/additional levels of previously developed land can be identified which would allow for a continued and meaningful supply of housing into the future.
- 2.40 In our submission, it is inevitable that the Green Belt boundaries will need to be reviewed at the end of the Plan-period.

Windfall Allowance

Issue 9: Is the approach to the windfall allowance justified and consistent with national policy?

4.21 The Housing trajectory includes a windfall allowance of 987 dwellings over the Plan period, 15% of the overall housing land supply. As 32 of the proposed site allocations contained within the Plan are on sites of 5 units or less, is this approach justified?

- 2.41 Our fundamental concern is that the nature of this draft Local Plan, relying on previously developed land is to a large degree 'a windfall led' Plan. Put another way, a significant number of the allocations are, either by their size, or by virtue of the lack of evidence regarding their availability / deliverability (see our comments set out in other Statements), what might be considered 'windfall' sites.
- 2.42 We note, as is reflected in question 4.6, that this Local Plan does not appear to be supported by a detailed position statement on matters such as completions, commitments, site allocations and any other sources of supply that it is seeking to rely on. It is unclear whether the sites identified in the draft Local Plan would fall into the completions or commitments categories for example.

Appendix 1: EBC's 'Exceptional Circumstances Case' (September 2016)

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