



Rossendale Local Plan Examination Matter 19

Land off Hollin Lane, Rawtenstall

for L Bower

Project : 8095
Plan : Land off Hollin Lane,
Rawtenstall
Stage : L Bower

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1. Introduction

- 1.1 Emery Planning was instructed by L Bower to make representations to the Regulation 19 consultation on the local plan. Our specific interest is the land south of Hollin Lane, Rawtenstall which was allocated for development in the previous version of the plan but has been omitted from the current consultation. Our objection is principally on this omission and we requested that it is reinstated, either in advance or during the examination process if the Plan progresses. No such change has been made to date.
- 1.2 We maintain that the plan is unsound with regard to the provision of housing development proposed and we rely on those previously submitted representations. The only matter that we wish to provide an update on is for Matter 19 (Housing Supply and Delivery).

2. Policy HS1

- 2.1 Setting our objections to the figure of 212 dwellings per annum to one side, we have significant concerns as to whether the plan would provide sufficient land to meet the planned requirement and deliver a 5 year supply.
- 2.2 Our concern at Submission stage remains following the publication of EL1.002j(i-iv).

A)i. Is the non-application of a lapse rate justified?

- 2.3 The evidence in paragraph 5.12 onwards of EL1.002j demonstrates a consistent lapsing of permissions. Even if the lapse rate has been minimal, in the context of the plan to 2031 and the marginal oversupply of 82 dwellings, then a lapse rate should be included and we would recommend 10%.

ii. Are the estimated lead-in times and build-out rates for each committed site, as shown in the housing trajectory, justified and soundly based? Where relevant, are the rates supported by clear evidence that sites are deliverable in line with the National Planning Policy Framework definition?

- 2.4 Section 6.5 of the SHLAA states:

“For sites that are deliverable and developable the lead-in time and build out rates will be assessed using information from the delivery of previous sites in the Borough and from information submitted by developers. A lead in time of 2 years is generally considered for the land acquisition, submission of planning

application and submission of discharge of conditions. An average build out rate of 20 dwellings per year is used to allow for the difference of build out rates between high value market area and low value market area."

2.5 The lead in times used are very basic and do not taken account of other considerations. For example some sites will be controlled by developers, others will not, some will be subject to planning applications or permissions and others will not. Therefore it is necessary to look at each site, consider its planning status, whom it is controlled by and then make a judgement on when first completions are expected. In summary, this is exactly the type of evidence the 2019 Framework and PPG require and not provided to this Examination.

2.6 Therefore sites without planning permission are likely to take materially longer for the following reasons.

- The assumptions made fail to take into account how long it takes for outline/full/reserved matters applications to be prepared, submitted and granted. For example in the Council's latest lead-in times, there is no difference between the lead in time for those sites with outline planning permission and those with full planning permission. Consequently, it is recommended that the lead-in times are set out for outline applications, reserved matters and full applications.
- Sites without planning permission – lead-in times must reflect the need for:
 - Marketing;
 - Preparation of an application and the necessary surveys and assessments;
 - Whether permission will be granted;
 - The preparation of masterplans (a requirement of Policy HS2 and not referred to in the SHLAA);
 - the preparation of the planning application and supporting documents;
 - The discharge of pre-commencement conditions;
 - Construction start up and infrastructure

2.7 An average build rate of 20 dwellings per annum is applied. However the housing trajectory applies higher build out rates for certain sites. This conflicts with the evidence base and the average of 20 dwellings per annum should be used.

e) Are all of the allocated sites confirmed as being available for development within the Plan period?

f) Does the Plan identify a sufficient supply of homes to meet identified requirements over the Plan period?

- 2.8 Policy HS1 proposes at least 3,180 additional dwellings over the plan period and paragraph 4.3 of EL1.002j states that the total to be delivered is 3,262. However the Housing Trajectory in Appendix B of EL1.002j proposes to deliver 3,046 dwellings between 2019 and 2034. This is some 134 dwellings short of the minimum requirement. Even if 3,262 is delivered that is only 82 dwellings over the requirement which provides no flexibility in the plan whatsoever.
- 2.9 We maintain that even on these figures, the proposed requirement (if found sound) will need to be met through additional omission sites. This is based on all the sites in the trajectory delivering. If any sites are removed from the plan, or if the projected supply from allocated sites is reduced, then further land will be required.
- 2.10 We consider that this clearly provides insufficient flexibility to respond to changing circumstances, i.e. slippage in the delivery of housing from strategic sites, as required by the Framework.
- 2.11 The Local Plans Expert Group published its report to the Communities Secretary and to the Minister of Housing and Planning in March 2016. The report recommends at paragraph 11.4 that the Framework should make clear that local plans should be required to demonstrate a five year land supply but also focus on ensuring a more effective supply of developable land for the medium to long term, plus make provision for, and provide a mechanism for the release of, developable Reserve Sites equivalent to 20% of their housing requirement, as far as is consistent with the policies set out in the Framework. Reserve Sites represent land that can be brought forward to respond to changes in circumstances.
- 2.12 These conclusions reflect precisely the concerns that we have in respect of the draft Plan. There is insufficient flexibility to deal with changing circumstances, specifically a failure to deliver housing at the anticipated rates. At present there is not sufficient sites allocated and any slippage from the identified sites would result in an even greater shortfall against the housing requirement. This would have serious implications in terms of the failure to meet identified housing need.

- 2.13 We consider that a much higher flexibility allowance is required, in the order of 20% as advised in the Local Plans Expert Group. This would give a reasonable degree of security that should sites not deliver at the rates anticipated, a 5 year housing land supply could still be maintained.
- 2.14 The housing trajectory sets out the expected delivery rates for each year of the plan period. The Council's position is that the plan requirement can be met and a 5 year supply demonstrated at the point of adoption. We make the following points.

h) Is the Council's approach to calculating five year housing land supply, as set out in the Council's response to the Inspector's Pre-Hearing Note (Question 13), robust and in line with national policy and guidance? In particular:

i. Is the application of a 20% buffer supported by the evidence?

- 2.15 Yes the 20% buffer is applicable based on the results of the HDT.

ii. Is there clear evidence to support the inclusion of sites which fall under category b) in the National Planning Policy Framework's definition of deliverable? E.g. sites which have outline permission for major development, are allocated in the Plan, have a grant of permission in principle or are identified on a brownfield register.

- 2.16 The LPA has proceeded with the intention to use the transitional arrangements to have the Local Plan in place. Even so, once the plan is adopted and the period of grace in Footnote 38 expires, the five year housing land supply will be assessed against the more onerous delivery tests in the 2019 NPPF and the updated PPG. Whilst we accept that this is a consequence of the transitional arrangements, it does raise a significant issue.
- 2.17 Under the 2012 Framework, all sites with planning permission, regardless of their size or whether the planning permission was in outline or in full were to be considered deliverable until permission expired unless there was "clear evidence" that schemes would not be implemented within five years. The previous version of the PPG¹ went further by stating that allocated sites "could" be deliverable and even non-allocated sites without planning permission "can" be considered capable of being delivered.

¹ Paragraph 3-031 of the previous PPG (dated 6th March 2014): "What constitutes a 'deliverable site' in the context of housing policy?"

2.18 Since then, the definition of “deliverable” has been changed and is set out on page 66 of the Framework as follows:

“Deliverable: To be considered deliverable, sites for housing should be available now, offer a suitable location for development now, and be achievable with a realistic prospect that housing will be delivered on the site within five years. In particular:

a) sites which do not involve major development and have planning permission, and all sites with detailed planning permission, should be considered deliverable until permission expires, unless there is clear evidence that homes will not be delivered within five years (for example because they are no longer viable, there is no longer a demand for the type of units or sites have long term phasing plans).

b) where a site has outline planning permission for major development, has been allocated in a development plan, has a grant of permission in principle, or is identified on a brownfield register, it should only be considered deliverable where there is clear evidence that housing completions will begin on site within five years.” (our emphasis)

2.19 The PPG was most recently updated on 22nd July 2019. Paragraph 68-007 of the PPG² provides some examples of the types of evidence, which could be provided to support the inclusion of sites with outline planning permission for major development and allocated sites without planning permission. It states:

“In order to demonstrate 5 years’ worth of deliverable housing sites, robust, up to date evidence needs to be available to support the preparation of strategic policies and planning decisions. Annex 2 of the National Planning Policy Framework defines a deliverable site. As well as sites which are considered to be deliverable in principle, this definition also sets out the sites which would require further evidence to be considered deliverable, namely those which:

- have outline planning permission for major development;*
- are allocated in a development plan;*
- have a grant of permission in principle; or*
- are identified on a brownfield register.*

Such evidence, to demonstrate deliverability, may include:

² Paragraph 007 Reference ID: 68-007-20190722: “What constitutes a ‘deliverable’ housing site in the context of plan-making and decision-taking?”

- *current planning status – for example, on larger scale sites with outline or hybrid permission how much progress has been made towards approving reserved matters, or whether these link to a planning performance agreement that sets out the timescale for approval of reserved matters applications and discharge of conditions;*
- *firm progress being made towards the submission of an application – for example, a written agreement between the local planning authority and the site developer(s) which confirms the developers' delivery intentions and anticipated start and build-out rates;*
- *firm progress with site assessment work; or*
- *clear relevant information about site viability, ownership constraints or infrastructure provision, such as successful participation in bids for large-scale infrastructure funding or other similar projects.*

Plan-makers can use the Housing and Economic Land Availability Assessment in demonstrating the deliverability of sites."

2.20 There are two key issues as a result of the revised Framework and the updated PPG:

- Firstly, there has been a radical change in terms of what constitutes a deliverable site; and
- Secondly, the Government's view as to what this means has been set out in the PPG

2.21 Whilst the previous definition in the 2012 Framework considered that all sites with planning permission should be considered deliverable, the revised definition is clear that only sites with detailed consent for major development should be considered deliverable and those with outline planning permission should only be considered deliverable where there is clear evidence that housing completions will begin in five years.

2.22 The revised definition of "deliverable" effectively sets out when sites at various stages of the planning process are realistically expected to deliver dwellings. This was made clear in the Government's response to the consultation on the then draft revised Framework, which was published in July 2018³ and stated:

"The Government has considered whether the definition of 'deliverable' should be amended further, but having assessed the responses it has not made additional changes. This is because the wording proposed in the

3
https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/728498/180724_NPPF_Gov_response.pdf

consultation is considered to set appropriate and realistic expectations for when sites of different types are likely to come forward.” (our emphasis)

- 2.23 As above, the PPG has been updated to provide the type and form of evidence required to be able to consider that sites with outline planning permission for major development, allocated sites and sites identified on a brownfield register are deliverable. Whatever form the “clear evidence” takes, this must clearly be prepared and made available at the same time as the housing land supply position statement.
- 2.24 From our review of EL1.002j(i –iv) that evidence simply has not been provided in the very limited commentary in Appendix B. If an assessment of the supply is to be undertaken under the 2019 Framework then the limited comments in Appendix B cannot form any meaningful evidence in which to test the 5 year supply.
- 2.25 To conclude the plan is seeking a do minimum approach to both the requirement and supply and it will not be able to either:
- Deliver a 5 year supply on adoption; or,
 - Deliver the housing requirement in the plan period.
- 2.26 We maintain that the proposed requirement (if found sound) will need to be met through additional omission sites. This is based on all the sites in the trajectory delivering. If any sites are removed from the plan, or if the projected supply from allocated sites is reduced, then further land will be required.