

Examination of the Elmbridge Local Plan 2037

Inspector - C Masters MA (Hons) FRTPI

Programme Officer - Charlotte Glancy

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14 September 2023

Dear Ms Pharoah

Introduction

1. By way of introduction, I am the Inspector appointed by the Secretary of State to carry out an independent examination of the Elmbridge Local Plan. I am appointed under Section 20 of the Planning and Compulsory Purchase Act 2004. The Plan I am examining is the Elmbridge Local Plan, 2037.
2. I am in the process of undertaking the initial preparation work in relation to the examination. At this stage, I have a number of questions and areas of clarification which I would be grateful for the Council's assistance with.

Missing documents

3. There are a number of submission documents which, according to the submission documents list say '*to follow*'. A number of these documents are core documents with parties the Council have identified as strategic partners within the Duty to Cooperate (DtC) Statement. These include the Statement of Common Ground (SoCG) with Natural England (CD028), SoCG with the Environment Agency (CD030), Heritage Impact Assessment (ENV006), Thames Basin Heaths Avoidance and Mitigation Strategy 2023 (ENV009), SANG Options Assessment 2023 (ENV011). In order to ensure the examination can proceed as swiftly as possible, and to allow me to prepare the Matters, Issues and Questions (MIQ) in relation to Legal Compliance and the DtC, please could you confirm the timetable for the submission of these documents?

4. Topic Paper 1 How the Spatial Strategy was formed (TOP001) refers to a housing topic paper (paragraph 6.23) which does not appear to be included on the submission documents list – please could you advise whether this document exists and, if so, should it form part of the submission documents? There are two further documents referred to within this topic paper which I would be grateful if the Council could make available within the examination library. These are the Green Belt Site Assessment – Explanatory Notes and Assessments (2021) and Exceptional Circumstances Case: Green Belt (January 2022) both referenced on page 80 of the topic paper.
5. The DtC Statement of Compliance Update (CD014) refers to additional modelling work being undertaken in the form of a Strategic Flood Risk Assessment (SFRA) Level 2. The document states this work is ongoing. I anticipate that this work has implications for the SoCG to be agreed with the Environment Agency referred to above as CD030. Please could you confirm the precise timetable for this work to be completed and identify which sites this additional modelling work relates to. It would also be helpful if in preparing this list you could be clear about which (if any) of the sites you are relying upon in terms of 5 year supply.
6. The DtC Statement of Compliance 2022 (CD015) refers to Housing Market Area (HMA) Partner Meetings which took place between 2020 and 2022 to discuss the respective emerging Local Plans and the issue of (potential) unmet housing need. Specifically, the document refers to meetings which took place on 2 July 2020, 14 October 2020, 29 October 2020, 25 November 2020, 15 July 2021, 10 February 2022 and 18 May 2022. Please could you provide the minutes from these meetings?
7. The Local Plans Procedure Guide for Local Plan Examinations, (Updated February 2023) states that it may well be worth investing time in producing a focussed and comprehensive statement of the main issues raised in the representations made in response to consultation at Regulation 19 stage. Has the Council produced such a document? The 'Council's response' column of the summary of representations table is of limited use as in a number of cases it either refers to the Topic Paper or states 'objection noted'. It would be useful if the Council could prepare a more focused and comprehensive statement, including a more detailed response to each of the representations made.

The Plan Period

8. Please could you confirm the Plan period? Several documents as well as the Plan itself refer to the Plan period starting at both 2021 and 2022. You will be aware that paragraph 22 of the Framework requires that strategic policies should look ahead **over a minimum 15 year period from**

adoption to anticipate and respond to long-term requirements and opportunities. The Local Development Scheme envisages adoption of the Plan by Autumn 2024. This represents a relatively optimistic timetable for a full local plan. At this time, I would strongly suggest that the Council considers extending the Plan period to 2039. The Council should be clear about the implications of this change for the level of planned growth across the borough and should be in a position to advise the examination what this would mean for the Plan. It will be necessary for the hearing sessions to consider the implications of this in some detail.

Vision, Spatial Strategy and Housing Need

9. The Vision for Elmbridge as set out at page 16 of the Plan and advises, amongst other things, that residents, existing and new, will have the choice of a range of housing types that meet their needs. This is followed by 5 guiding principles. Principle 3: refers to Delivering Homes which states that in order to deliver 'good growth', the Plan will improve housing choice and deliver well-designed high quality homes that we need in a highly sustainable way.

10. The evidence base sets out that utilising 2022 as the base date, the standard method indicates a requirement for 9,705 dwellings to be delivered to 2037. This would equate to 647 dwellings per annum (dpa). The Council's preferred strategy (termed option 4a within the Sustainability Appraisal) is to deliver 6,785 dwellings across the Plan period, at 452dpa, this represents a shortfall of some 2,918 dwellings¹. This would provide only 70% of the identified housing need for the borough across the Plan period. From my initial review of the evidence submitted, a fundamental issue for the examination will be whether this approach is a sound one, namely whether it has been positively prepared, is justified and is consistent with national policy.

Affordable housing

11. The Plan acknowledges at paragraph 2.7 (repeated within the TOP001 Topic Paper at paragraph 4.8) that the borough is one of the most expensive areas in the country to live, with high land values and intense pressure for new development. As a result, the text notes that too many young people and families are moving out of the borough to have a realistic prospect of owning or renting their own home, as well as older residents struggling to downsize.

¹ I note the main modification put forward seeking to reduce this figure by a further 105 units as there are sites which the Council now consider to be not deliverable.

12. Taking this overall context into account, I understand the affordable housing need is in the region of 269dpa. The evidence submitted sets out that affordable housing delivery to 2018 has averaged 64dpa. Please could the Council advise whether the affordable housing delivery rates since 2018 are included within the evidence base and, if not, please could these be provided? I have concerns that the Plan as drafted would fall well short of meeting the identified level of affordable housing need over the Plan period and how the Council proposes to address this shortfall.
13. Policy HOU4 as currently drafted presents a stepped approach to affordable housing, set at 30% for brownfield sites of 10 or more dwellings, 40% on greenfield sites of 10 or more dwellings, and a financial contribution equivalent to the provision of 20% on sites of 9 units or less. How does this approach align with the Framework and in particular paragraph 64 which advises that affordable housing should not be sought for residential developments that are not major developments, other than in designated rural areas? I note that the Viability Assessment (OTH025) refers to a 'track record of supply of affordable housing from small sites'. Please could you provide evidence of this approach and the precise number of affordable homes which have been delivered from the current policy approach to small sites. If this information is available for at least the last 5 year period it would be helpful.
14. In addition, my reading of the Plan is that its strategy to housing delivery relies entirely on previously developed land or sites within the existing urban area. Is this correct? If this is correct, would any of the proposed site allocations be subject to the 40% affordable housing requirement identified at policy HOU4?
15. As I understand, a significant proportion of the housing delivery would be coming forward on small sites (9 units or less). It would be useful to understand the impact that this would have on affordable housing delivery and as a result, I would be grateful if the Council could set out:
- How many sites would be subject to the 30% affordable housing requirement and how many affordable dwellings this would provide?;
 - How many sites would be subject to the 20% affordable housing financial contribution requirement and how many affordable dwellings this would provide?;
 - These figures should be split in line with the 1-5, 6-10 and 11-15 delivery years.
16. In undertaking this exercise, please could the Council consider how this approach aligns with policy SS3 1(a) which states that the Plan will deliver at least 6,785 homes, with at least 30% to be affordable.
17. At this stage, I am not clear to what extent the affordable housing position has impacted the Council's preferred option selection in terms of the spatial strategy and this is likely to be an area which I will need to

investigate further through the hearing sessions in due course. In order to address the above points, it would be useful if the Council could prepare a topic paper in relation to the matter of affordable housing. This paper should cover the above points as well as the additional points raised by representors in relation to affordable housing matters through the Regulation 19 consultation.

Other housing needs

18.I understand the assessment of housing needs identified a need for 133 units of extra care accommodation between 2020-2035. Given what I have set out above in terms of the Plan period, please could the Council advise what this would mean for this figure given the growth in the Elderly population within the borough? Could the Council also please identify precisely which site allocations are identified to address this need?

Gypsy and Traveller Assessment

19.As I understand it, the evidence base in this regard consists of a Gypsy Roma and Traveller Site Assessment, March 2022 (HOU007) and a Gypsy and Traveller Accommodation Assessment, October 2020 (HOU008). These reports conclude that there is a net need for 10 pitches for 'travelling' Gypsies and Traveller pitches and a net need for 7 further pitches for 'non travelling' households over the Plan period.

20.In the first instance, please could the Council advise whether the Lisa Smith v SSLUHC [2022] EWCA Civ 1391 judgement dated 31 October 2022 has any implications for these assessments?

21.Secondly, it would appear from the Plan that although no sites are allocated, the requirement would be met by providing additional caravans on existing sites. Please could you advise if any capacity assessment work in relation to the existing sites has been undertaken to assess whether this is a realistic or feasible option?

Houseboats

22.Paragraph 62 of the Framework sets out that the size, type and tenure of housing needed for different groups in the community should be assessed and reflected in planning policies. Furthermore, the Housing Act 1985, as amended by the Housing and Planning Act 2016 requires each housing authority to consider the needs of people residing, amongst other things, in places on inland waterways where houseboats can be moored.

23.I have read both the Boat Dwellers Site Assessment Paper, June 2022 (HOU009) as well as the Boat Dwellers Accommodation Assessment,

February 2022 (HOU010). I understand that this evidence has concluded there is a need to accommodate 10 permanent residential moorings over the Plan period. Please could the Council provide the letter to landowners and the responses referred to at paragraphs 4.1 and 4.2 of HOU008. I am also aware that a number of concerns have been raised by representors in relation to the needs' assessment generally and the lack of provision in more general terms. At this stage, I am not clear as to what extent any flexibility has been applied in relation to the land availability assessment search. Having regard to the Inspectorate Procedure Guidance on Local Plan Examinations, I would strongly encourage the Council to pursue a statement of common ground with the relevant representors on this issue prior to the hearing sessions taking place.

Housing Trajectory

24. Appendix A5 of the Plan sets out the housing trajectory for the period 2022-2037. Subject to the Council's clarifications regarding the Plan period, for those sites identified as Land Availability Assessment (LLA) sites August 2022-2037 (1-5 years), it will be necessary for the Council to evidence engagement with site promoters in relation to site delivery. I will have regard to the definition of deliverable as set out within the Framework, namely, that 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 5 years. For sites in the remainder of the Plan period, they will be considered in the context of the developable definition contained within the Framework.

25. Quite a number of the sites which the Council are relying upon for housing delivery form existing car parks, often connected to public transport nodes, within allocated centres or close to community facilities. Has the Council completed any work in relation to the following:

- Total number of car parking spaces to be lost through the Plan period;
- Surveys of use and capacity of the existing car park(s);
- Implications of the removal of the car park for the allocated centre/transport node (where relevant)

26. I note that as part of the LAA some sites refer to 'loss of car park to be relocated elsewhere and/or justified' and on other sites there is no mention of this. Please could the Council set out in a brief paper the rationale behind this approach and respond to the above points.

Procedural Matters

27. I note that the submission version of the Plan is accompanied by a schedule of proposed main modifications (CD009). As these were published in 2023, they have not been subject to consultation in the same way as the Regulation 19 consultation. For the sake of clarity, these do

not form part of the submitted plan. Modifications required at this stage can only be recommended by myself in order to address soundness or matters of legal compliance.

28. I note that paragraph 1.5 of the Plan makes a reference to strategic policies within the Plan however I cannot see any reference to non-strategic policies. In accordance with paragraph 22 and footnote 14 of the Framework, it is not clear to me at this stage which are the strategic and non-strategic policies within the Plan. Please could the Council clarify this. In doing so, the Council should have regard to paragraph 28 of the Framework which sets out that non strategic policies should be used to set out more detailed policies for specific areas and types of development, and can include allocation sites.
29. Paragraph 1.2 of the Plan advises that once adopted the Local Plan will replace the 2011 Core Strategy and 2015 Development Management Plan and a cross reference is made to appendix A1. However, appendix A1 only refers to the Core Strategy policies and makes no reference to the Development Management Plan, is this correct?
30. The Local Development Scheme (CD006) refers to the Burwood Park Neighbourhood Plan. Could the Council please clarify the status of this Neighbourhood Plan and confirm whether there are any other Neighbourhood Plans I should be aware of?

Next Steps

31. I trust this initial letter is helpful in providing the Council (and interested parties) an indication of the likely focus of the examination moving forward. I would be grateful if the Council could respond on points listed under 'missing documents' no later than **29 September 2023** to enable me to prepare the MIQ for stage 1 of the hearings. If there are any aspects of the letter on which you require clarification, please do raise the matter via the Programme Officer.
32. Subject to the Council's response and given the wider issues I have raised within this letter, I envisage that the hearings would be likely to proceed on the basis of a 3 stage process. The first stage would deal with legal compliance and the DtC. I would anticipate that this stage would require in the order of 1 or 2 days' sitting time. Subject to the outcome of this stage, I would anticipate moving forward to stage 2 hearing sessions which would cover the spatial strategy, housing need and delivery (including the consideration of reasonable alternatives). I would anticipate that this stage would require in the order of 3/4 days' sitting time. Subject to the outcome of this stage, stage 3 of the hearing sessions would cover the remainder of the Plan including individual site allocations, climate

change and the environment, non strategic policies, employment and infrastructure. I would estimate at this stage that these sessions would require in the order of 10 days' sitting time. I will liaise with the Programme Officer in due course to establish suitable dates for the hearing sessions.

C Masters

INSPECTOR