

**BUGLE NURSERIES, 171 UPPER
HALLIFORD ROAD, SHEPPERTON**

**EDWARD LEDWIDGE
REBUTTAL STATEMENT**

14 NOVEMBER 2023

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Appendices

- 1) Certificate of Lawfulness: Waste Transfer Station 1) Certificate and 2) Plans
- 2) Overlay Plan: Existing and Proposed
- 3) SBC Examination Written Statement: Main Matter 13 Housing (Policies H1-H3)

1.0 Introduction

- 1.1 This Rebuttal Statement is made in respect of the Proof of Evidence of Mr Philip Hughes representing the Council.
- 1.2 Principally I address PH's position relating to previously developed land and the application of Paragraph 149g of the Framework.
- 1.3 I also comment on matters related to residential amenity and unit mix.
- 1.4 Finally, I have updated the material considerations to which I give weight to include economic benefits related to housing development for consistency with the previous appeal decision and as referenced by Mr Hughes.

2.0 PREVIOUSLY DEVELOPED LAND AND PARAGRAPH 149g

- 2.1 Mr Hughes considers that the majority of the proposed development is accommodated on land that is not previously developed and thus does not meet the first requirement of Paragraph NPPF 149(g) (PH5.47). Accordingly, Mr Hughes takes the position that the appeal proposals do not benefit from an exception under Paragraph 149 NPPF (PH 5.48).
- 2.2 Mr Hughes supports this by estimating that 30% of the proposed housing development falls within an area of previously developed land (PH 5.54). In reaching this position he excludes the areas which sit north and south of the main access road, with the exception of the bungalow and garage buildings, from the definition of previously developed land by reference to the previous appeal decision (PH 5.29). He also excludes the waste transfer area on the basis that it is not currently operational and has become overgrown (PH5.37).
- 2.3 The position set out in my evidence is that the appeal proposal qualifies as an exception afforded under Paragraph 149(g) as it relates to the complete redevelopment of previously developed land. It also falls to be considered in relation to the second element of 149(g) on the basis that the development would reuse previously developed land and contribute to meeting affordable housing need.
- 2.4 Paragraph 149(g) does not stipulate that development proposals must relate entirely to an area previously developed land in order to qualify for the exception. Indeed, limited infilling of previously developed land would be regarded as an exception which, by its very nature, may not relate directly to a previously developed area.
- 2.5 There can be no doubt that the proposals relate to the complete redevelopment of a previously developed site. Furthermore, it is necessary to consider the totality of the development proposal which includes provision of housing development and public open space across the entire application site.
- 2.6 On this basis, I consider that Mr Hughes has not applied the exemptions afforded by the Framework correctly in this instance and hence the appeal proposals correctly fall within the scope of Paragraph 149(g).
- 2.7 My approach is consistent with that of Mr Hunter in relation to the previous appeals at the site. At Paragraph 11 of the decision letter, he states:

***“It was agreed between the parties that in terms of the exception identified in Paragraph 145 (g) both appeals fell to be considered as proposals that would deliver complete redevelopment of the appeal site and against the second test as set out in the Paragraph. I would concur with this view.*”**

- 2.8 I would also draw the Inspector’s attention to Mr Hunter’s position in relation to the waste transfer station at Paragraph 15 of the previous appeal decision which states:

“It was agreed that the western parcels of the site, with the exception of the former Waste Transfer Station, were not previously developed. I would concur with this position.”

- 2.9 Mr Hughes presented evidence at this appeal hearing and agreed matters of common ground on behalf of the Council. His case in relation to previously developed land and Paragraph 149 is therefore now inconsistent with the previous appeal and the position confirmed by Mr Hunter.

- 2.10 Furthermore, whilst the waste transfer site has not been operational in recent years, it is common ground between the parties that it is a lawful use. Indeed this is confirmed by the Certificate of Lawfulness attached at Appendix 1. Therefore whilst use of the land for this purpose is dormant at present, it can be brought back into operation on a lawful basis at any point without the need for planning approval. This further supports the position confirmed by Mr Hunter that the waste transfer site should be regarded as a previously developed component of the appeal site.
- 2.11 In presenting his position, Mr Hughes seeks to demonstrate that only 30% of the appeal scheme relates to previously developed land by overlaying the existing and proposed layouts in diagrammatic form (PH5.27). Whilst I have explained that this is not the correct approach in seeking to apply Paragraph 149(g), the rebalancing of the developed and undeveloped areas arising from the appeal proposal is shown at Appendix 2 to assist the Inspector.
- 2.12 This demonstrates that the existing developed part of the site (i.e. the industrial estate, waste transfer station and bungalow/garage footprint in accordance with the previous appeal decision) relates to 1.61ha. The proposed developed area comprises 2.02ha. On this basis the existing developed area comprises 80% of the proposed developed area (i.e. an increase of 20% rather than the 70% put forward by Mr Hughes). Accordingly, in applying the rebalancing approach I consider the proposed development to relate predominantly to the area of existing previously developed land.

Conclusion

- 2.13 I have demonstrated that the site comprises previously developed land; that the proposal relates to the complete redevelopment of previously developed land; and that Paragraph 149(g) is therefore engaged. This is consistent with the findings of Mr Hunter in the previous appeal decision and the position agreed by Mr Hughes at that time.

3.0 HOUSING MIX

- 3.1 Mr Hughes considers the proposed housing mix against the provisions of the relevant adopted and emerging policies. He concludes that housing mix should not form a reason to refuse the outline proposals but considers that a conflict with development plan is a harm to be afforded moderate weight (PH 5.153).

Status of the SHMA/emerging Policy H1

- 3.2 It is common ground that the evidence base includes the Strategic Housing Market Assessment 2015 and Update 2019 which has influenced emerging Policy H1 of the emerging Local Plan. However, it is not agreed that the evidence base standing behind the Plan should carry limited weight.
- 3.3 The SHMA 2019 confirms that this document reflects the current Planning Practice Guidance and follows the standard method for housing need. This will then inform the development of the new Local Plan for Spelthorne over the period 2020 to 2035.
- 3.4 The SHMA is a factual document, the purpose of which is to provide an evidential basis for the Local Plan. It is my understanding that the findings of the SHMA in relation to housing mix has not been challenged on the lead up to and during the Local Plan examination process.
- 3.5 Furthermore the approach taken by the Council in respect of Policy H1 and housing mix to refer to the SHMA or any similar evidence for housing and affordable housing units rather than dictate a specific mix within the policy. This affords an element of flexibility over the plan period whereby development proposals can be considered within the context of up-to-date evidence.
- 3.6 In my view the approach taken in respect of emerging Policy H1 is robust particularly as it would enable housing proposals to respond to current and possibly changing housing needs over the plan period. Consequently, far greater weight should be given to the SHMA than suggested by Mr Hughes as it provides a more up to date evidence base in relation to housing need than the adopted policies which are from 2009 (with the evidence base being older than this).
- 3.7 It would be illogical to give more weight to evidence base documents which are at least 14 years old, when the Council has better and more up to date evidence that provides a clear representation of current housing needs in the Borough. My view is that it is entirely logical to respond to current prevailing needs (as set out in the SHMA 2019) rather than the adopted Local Plan.
- 3.8 In the Examination Hearing Statement relating to Main Matter 13 ('Housing') in Appendix 3, the Inspector asked the following question of the Council:
- "Are the requirements of the Homes for All, Affordable Housing, and Meeting the Needs of Gypsy, Traveller and Travelling Showpeople policies justified by appropriate available evidence, having regard to national guidance, and local context?"*
- 3.9 Spelthorne Borough Council's answered as follows:
- "The requirements of Policies H1 to H2 are justified by appropriate available evidence and have had regard to national guidance and local context".*
- 3.10 The Council go on to set out the primary sources of evidence, which include both HOU004 and HOU006 (Spelthorne SHMA Update Report (2019) and Spelthorne SHMA (2015) respectively.

- 3.11 At Paragraph 1.6 SBC state that the elements of Policy H1 ('Homes for all') are supported by various elements of the evidence base. In particular, the SHMA 2015 and its 2019 update uses Spelthorne specific demographic information and trends to determine the overall needs for both mainstream and affordable housing, together with the housing mix to be sought and the levels of need for a range of specific needs including supported housing.
- 3.12 It is therefore clear that the Council is content that the emerging Policies of the Plan are robust in reflecting contemporary prevailing needs. It is contradictory to the Council's publicly stated position for Mr Hughes to suggest that the evidence base behind the Plan should carry limited weight.
- 3.13 It is also relevant that none of the Hearing Statements submitted by other interested parties in respect of the Examination Hearing Sessions raise an objection with the proposed unit mix policy set out in the emerging Local Plan or the evidence base that sits behind it. Hence my earlier assertion that the clear conclusions of the SHMA that have influenced draft Policy H1 can be afforded greater weight as a material consideration.

Unit mix

- 3.14 I do not believe that the approach taken by the Council in respect of housing mix in the new Local Plan is intended to be rigid. This is supported by the flexibility afforded by Policy H1 to consider an evidence base in determining the right balance of new homes in development. The supporting text also encourages applicants to discuss housing mix with the Council's Planning and Housing Officers which clearly supports a needs-based approach and flexibility on a site for site basis.
- 3.15 As I have stated in my evidence, the current proposal is in outline form and the final mix of units will be determined at the reserved matters stage. However, based on the siting of the units for which approval is sought an indicative unit mix has been put forward. The Parameters Plans clearly indicates that there will be some flexibility over unit position (tolerance of 1m), provides for maximum footprints and confirms a maximum 2 storey height threshold. Accordingly, there is scope for flexibility within these parameters to adjust the unit mix.
- 3.16 In any event I provide a summary of the indicative unit mix by comparison to 2019 SHMA mix below:

Overall indicative unit mix:

Unit Type	Number of Units (+Ratio %)
1 bedroom maisonette	18 units (22.5%)
2 bedroom maisonette	6 units (7.5%)
2 bedroom house	11 units (14%)
3 bedroom house	34 units (42%)
4 bedroom house	11 units (14%)
Total	80 units

Market housing:

Unit Type	Number of Units (+Ratio %)	Suggested mix from SHMA 2019
1 bedroom	0	0 – 5%
2 bedroom house	9 (22.5%)	20 – 25%
3 bedroom house	21 (52.5%)	50 – 55%
4 bedroom house	10 (25%)	20 – 25%
Total	40 units	

- 3.17 For market housing, the SHMA (2019) suggests a balance of dwellings that takes account of both the demand for homes and the changing demographic profile.
- 3.18 The indicative proposal provides an entirely appropriate mix in accordance with the suggested mix.

Affordable Rent:

Unit type	Number of Units (+Ratio %)	Suggested mix from SHMA 2019
1 bedroom	8 units (27%) maisonette	35 - 40%
2 bedroom	8 units (27%) 6 units maisonette and 2 units house	25 – 30%
3 bedroom house	13 units (43%)	25 – 30%
4 bedroom house	1 unit (3%)	5 – 10%
Total	30 units	

- 3.19 The proposal is broadly in accordance with the suggested unit mix for affordable rent. An under provision of 1-bed and 4-bed units would be provided (very minor for the latter) with an overprovision of 3-beds. However, the provision of 2-beds is within the suggested range and overall a good mix of affordable rented units would be provided, including 54% overall for 1- and 2-bed units.

Starter Homes

Unit type	Number of Units (+Ratio %)	Suggested mix from SHMA 2019
1 bedroom	10 (100%) (maisonette)	15 -25%
2 bedroom	0	40 – 45%
3 bedroom house	0	25 – 35%
4 bedroom house	0	5 – 10%
Total	10 units	

- 3.20 The SHMA states that the provision of affordable home ownership should be more explicitly focused on delivering smaller housing.
- 3.21 The Proposal would deliver 100% 1-bed units and therefore smaller housing. Albeit compliance with the suggested mix is not achieved in terms of providing 2-bed, 3-bed and 4-bed units for Starter Homes.

Conclusion

- 3.22 It is clear that the appeal proposal is capable of delivering a mix of units that accords with the most up to date evidence on housing and affordable housing needs in the Borough as set out in the SHMA. There is also scope to adjust this mix at the reserved matters stage should that be deemed necessary following discussions with the Council's Planning and Housing Officers.
- 3.23 I therefore do not consider that housing mix should form a reason to refuse the outline proposals and note that this is also the position of Mr Hughes (PH 5.153).
- 3.24 However, I disagree that any harm should be conferred to non-compliance with a housing mix policy that is considerably out of date within the context of the Council's own published evidence relating to housing need as set out within the SHMA.

4.0 RESIDENTIAL AMENITY

- 4.1 Mr Hughes considers the potential impact of the outline proposals on the amenity of existing residents by reference to the parameters of siting and building height put forward by the Appellant for approval. He identifies potential harmful impacts on residential properties adjacent of Halliford Close near the southern boundary and suggests that a precautionary approach should be adopted by the Inspector in the absence further detail and affords moderate weight to the harm arising from such matters (PH 5.174).
- 4.2 As stated above, the current proposal is in outline form and the final mix of units and design will be determined at the reserved matters stage. The Proposed Parameters Site Plan D2005 P1 clearly indicates:
- flexibility over unit façade position (tolerance of 1m);
 - no increase in footprint;
 - maximum 2 storey height threshold for houses and 1 storey for garages.

- 4.3 Subsequently, the Council has put forward the following condition to control potential impact on the amenity of neighbouring properties.

“Condition 24: The houses and maisonette blocks hereby permitted shall be implemented to a maximum of 2 floors of habitable accommodation.”

- 4.4 I consider that this adequately addresses the precautionary approach set out by Mr Hughes (PH 5.171). The agreed conditions provide a satisfactory means of establishing acceptable parameters of an outline approval and hence provides a robust basis by which future detailed proposals must comply.

Conclusion

- 4.5 Further to approval of the Parameters Plans and imposition of the agreed planning conditions I consider that potential impact on amenity of existing residential properties should not form a reason to refuse the outline proposals or be afforded any weight in the planning balance.

5.0 MATERIAL CONSIDERATIONS: ECONOMIC BENEFITS

- 5.1 In relation to the previous appeal Mr Hunter identified at Paragraph 52 of the decision letter that the proposal would deliver economic benefits during the construction phase of the development and would support existing local services and facilities once the homes are occupied. He considered that these factors weigh in favour of the proposal and attributed moderate weight to these economic benefits.
- 5.2 The economic benefits of the appeal proposal are appropriately recognised by Mr Hughes in his evidence, albeit afforded limited positive weight (PH6.28).
- 5.3 The omission of this material consideration from my original evidence was an oversight and I have added it here for consistency with the above.
- 5.4 The appeal proposals would give rise to direct and indirect economic gains during both the construction period and the operational stage. This is particularly relevant during the current downturn where housing delivery has been impacted by economic headwinds and delays related to the plan making process (as is being experienced in Spelthorne).
- 5.5 There will be considerable direct and indirect economic outputs related to the construction process. Identified receptors with the potential to be affected by construction phase encompass a range of resident and business groups: working age residents who may be hired to work on site; local businesses which may become part of the supply chain; and local businesses in which construction employees will spend some of their wages. These groups will benefit in terms of jobs created or safeguarded and new skills acquired.
- 5.6 The occupiers of the proposed housing will result in an increase in local spending and support for nearby services as a consequence of the final development.
- 5.7 The proposed development would therefore result in a beneficial effect on employment and the local labour market. In consistency with the previous appeal decision I afford this **moderate weight** as a material consideration in favour of the appeal proposals.
- 5.8 My updated table in this regard is provided overleaf below for completeness:

Negative				Positive		
Green Belt Harm		Substantial	As set out in national policy	Plan-led failure	Significant	No prospect of draft Plan being brought forward
				80 units of Class C3 housing	Very Substantial	Insufficient land supply and no prospect of sufficient land being brought forward
				50% affordable housing	Very Substantial	Severe supply issues and need for affordable housing
				Removal of bad neighbours	Significant	Remediation and removal of lawful and operational aggregates site
				Open space	Moderate	Public access to significant open space on land not currently accessible
				Strategic gap	Significant	Secures a permanent Green Belt boundary and a key objective of the draft site allocation
				Local opinion	Significant	Strong support locally for the redevelopment
				Draft site allocation	Moderate	Site is proposed for removal from the Green Belt in the draft Local Plan
				Economic Benefits	Moderate	Employment and expenditure related to development phase and future occupation.