

MATTER 22 – THE SUPPLY OF LAND FOR HOUSING

ED191B: Housing delivery and five-year housing land supply at 1 April 2020

NAME OF REPRESENTOR – Andy Thomas,

Introduction – the overall picture

- 1) This Matter is very technical and complex in nature but nonetheless very important as it goes to the heart of some of the more contentious issues facing communities in North Hertfordshire as a result of the NHDC draft Local Plan.
- 2) The housing numbers underpinning ED191B are such that, as a result of the re-calculation by Opinion Research Services (ORS) on behalf of NHDC of the OAN housing requirement in the light of the new ONS 2018 housing projections, NHDC believes that it will need to build 11,600 new houses during the period 2011-2031 for its own needs and a further 1,400 on the east of Luton sites to help meet Luton's unmet housing needs – totalling 13,000 houses.
- 3) As we have demonstrated in Matter 21 we believe that the ORS assumptions, calculations and recommendations that lead to 11,600 houses as their suggested new OAN for North Herts are fatally flawed in several respects. This point is also covered below in para 6.
- 4) My analysis and re-calculation in Matter 21 across a range of possible OANs using the mid-range 5-year migration trend results in figures ranging from 7,061, through 6,690 to 6,318.
- 5) However, as a first step I will start with answers to the questions posed by the Inspector. This will be backed up with detailed explanations and calculations in the three Appendices that are attached to this paper.
- 6) I'm afraid to say, but the most polite description that I can apply to the two NHDC papers in ED191B is that they are a 'dog's breakfast'. As will be seen below very little of what they say can be trusted, most of it can be easily pulled apart, numbers do not add up, explanations are vague and frankly I feel sorry for the trees that were felled to provide these dreadful documents.

a) The overall supply of land for housing

Question 22.1(a)

Is reducing the overall housing requirement to 13,000 and undertaking an early review of the Local Plan, the most appropriate way forward? If not, why not?

Answer:

- 7) I contend that only reducing the overall housing requirement to 13,000 is not appropriate. Of this total, the 11,600 earmarked for North Herts requirements is derived from an OAN calculation that is not methodologically robust. I believe that ORS has chosen the highest possible ONS projection, in preference to lower projections which are more realistic, has then added a further 1,470 houses that are the result of a flawed analysis; has used a 10% Market Signal uplift, whereas in light of the dire economic situation in the UK a negative Market Signal downgrade should be applied instead; and has then

extra counted its numbers by a factor of 10% plus 17% instead of what they say they in their explanation should be 10% plus 7%.

- 8) From my analysis in Matter 21 I would suggest that a far more appropriate housing requirement for North Herts would be found in the ONS 5-year trend projection coupled with Market Signals downgrades ranging from -5% through to -15%. Others might suggest that a -20% downgrade should be applied in view of the serious economic and market conditions that currently prevail. However, whilst I acknowledge the logic of that approach, I believe that we have to factor in over the period through to 2031 some recognition of an economic upturn over the next 3-5 years; hence my belief that a lower downgrade is more applicable. The applicable OAN figures I would suggest instead of the 11,600 would be between 6,318 via 6,690 and through to 7,061 representing -15%, -10% and -5% downgrades respectively.
- 9) In terms of the remaining 1,400 houses that are meant to be to help meet the so-called unmet housing from Luton, I contend that these houses are not required for the reasons I give in Matter 21 and also below. Put briefly, the heavy overbuild of housing in Luton (which NHDC resolutely ignores) means that if there is any unmet need it will be so low as to not require any assistance from NHDC. The Inspector who examined and approved the Luton Local Plan made it very clear that any unmet need from the town should first be directed towards Central Bedfordshire which has capacity to deliver up to 7,350 houses to help meet any unmet need. Secondly, building just 1,400 houses on the east of Luton Green Belt sites is not an option for NHDC. They will fall foul of the clear and resolute stance taken by Herts County Council with their declaration that they cannot justify capital expenditure on secondary education on the site – which they say has to be self-sustaining – unless the total housing allocation of 2,150 is built.
- 10) Finally, with a new last-minute *volte face* by NHDC buried, somewhat clandestinely, in paras 31 and 32 of their paper ('Housing delivery and five-year housing land supply at 1 April 2020') it has now suggested that the proposed east of Luton 1,400 houses can instead be used to act as a buffer to help ensure all the houses it needs to be built in North Herts are achieved. This is an incredible and frankly incredulous about-turn by NHDC. **These proposed houses on the east of Luton sites have never been for anything other than to meet a supposed unmet need from Luton; to suggest otherwise at this late stage of the examination smacks of appalling opportunism and must be rejected outright.**
- 11) In terms of a proposed early review of the Plan – it would appear that if it happens it will need to be done very quickly as the Government pushes ahead with its planned reforms to the planning system outlined in the recent White Paper. There could be a fear that any review might come after the White Paper ("Planning for the Future") has passed into law, meaning there could well be no public scrutiny of it. The Parliamentary timetable set out by the Government points to legislation being enacted during 2021 through to the early part of 2022.
- 12) The only early review I can see being of use theoretically, therefore, would be one that comes very soon after the Inspector has made his decision on the Plan. That hardly gives time for the Plan to be seen as working or not and as such is probably not very practical. I believe that it is important for a Local Plan to be agreed soon which is acceptable to the representors at large as well as something NHDC can work with rather than running the risk of speculative

housing applications being unleashed. Quite how an agreed Local Plan then sits with the Government's timetable remains to be seen. That timetable calls for Councils to draw up their new Plans in the time after the Act has passed through Parliament, and which then gives them 30 months to come up with new Plans which have to start being put into motion by the end of this current Parliament which is December 2024. We can only hope that any new Plan would draw heavily on the existing Local Plan, but in reality we are probably entering uncharted waters here.

Question 22.1 (b)

If the housing requirement should be modified to 13,000 dwellings, should the supply of housing sites proposed in the Local Plan also be reduced? If so, how?

Answer:

- 13) NHDC has stated that it sees no need to remove any sites from its Plan, but my view is that the 11,600 houses required for North Herts is a large overestimate and the smaller numbers represented by my suggested lower OANs will surely mean that some sites will have to be removed totally and others potentially downgraded in terms of numbers, notwithstanding the need to ensure adequate buffers are applied to the lower numbers to ensure robust delivery. As a first step, it would appear sensible to remove as many of the contentious Green Belt sites as possible from the Plan.
- 14) I strongly believe that it is now very clear that the East of Luton sites should be removed in their entirety from this Local Plan for all the many detailed reasons given in this paper and in Matter 21. The desktop analysis that I have carried out in Appendix B indicates that further reductions should be feasible across North Herts and I would suggest these should first and foremost be applied to the other threatened Green Belt sites. However, I am not sufficiently familiar with all the arguments relating to the Green Belt sites, other than those east of Luton, so would not like to make any particular recommendations.

Question 22.1 (c)

Is a buffer of around 13% an appropriate response? If not, why not?

Answer:

- 15) Given that until recently NHDC's various iterations of the Local Plan draft had buffers of around 6% - 7% on average, one might argue that a suggested 'doubling' of the buffer to 13% is probably too much. However, NHDC has fallen heavily foul of the Government's Housing Delivery Target (HDT) with the result that (as I read the rules) it is bound to apply a 20% buffer. The fact that it is not suggesting a 20% buffer indicates that there may be 'wriggle room' in these rules. But it is clear that further sanctions can be applied to councils that continually fail to meet their targets – in that regard this points to the need for an agreed Local Plan so that there is a clearly set-out target – and so the worry of speculative house building applications is forestalled.
- 16) My analysis of the housing requirements using the 5-year ONS mid-range variant in Appendix B shows that, depending on which Market Signal was

selected, and which buffer of 6%, or 13%, or 20% was applied, most of the scenarios resulted in the housing target being met to a greater or lesser extent. It is very difficult to choose what is best though it does look as if the -15% Market Signal is to be applied it would give an over-build across all buffers. Also the -10% Market Signal yields over-builds with the 6% and 13% buffer applied so those look to be the best choices.

- 17) Interestingly, this analysis does seem to indicate that the NHDC/ORS preferred OAN with 10-year trend variant plus a +10% Market Signal applied, but with the removal of the flawed 1,470 houses and also the 1,400 from the east of Luton sites (that cannot be built), will not result in anything close to meeting the housing requirement no matter what buffer is applied.

Question 22.1 (d)

If there is a buffer of around 13%, do the exceptional circumstances required for the 'release' of land from the Green Belt for housing development exist?

Answer:

- 18) I believe that exceptional circumstances must always be the default position in terms of releasing land from the Green Belt for housing and indeed for buffers. There must be no compromise on this position except for a clearly desperate housing need in a locality leading to carefully thought out, well argued, and relevant plans that are backed up by easily-understood and robust statistics. Sadly this has not been the case with NHDC and the east of Luton sites in particular, as we have demonstrated.
- 19) I also believe that the justification for such a release as a buffer should always have been clearly explained in the Local Plan draft and understood by the constituents. This has not been the case with NHDC's recent pronouncement in regard to the part of the east of Luton sites they propose to build on with the 1,400 houses. This has always been stated as needed to meet **so-called unmet needs from Luton**, which we have effectively disproved in Matter 21 and Matter 24. Their new stance that these houses are now being regarded by them as needing to be a buffer to help ensure surety of supply to meet housing needs **across North Herts** is totally unacceptable. This has never been mentioned before in any aspect of the Local Plan documentation and thus, has never been subject to any examination by representors and the Inspector. The fact that the building of just 1,400 houses in this area doesn't seem feasible because of the Herts County Council stance on secondary education provision, seems to have escaped the NHDC planners.
- 20) The burying of this latest suggestion by NHDC in paras 31/32 of a supporting document is completely underhand and opportunistic and needs to be exposed as such. I believe that this about-turn has come about because some bright legal mind in NHDC, or their legal representatives, has come across the Compton Parish Council v Guildford Borough Council court case of December 2019 and has suggested that this ruling might well apply to the situation that NHDC has in North Herts. One wonders what sort of moral compass is guiding the planners, the legal people and, frankly, the elected councillors who are meant to be overseeing them. If this is allowed to pass, I suspect that there will need to be a legal examination of this.

b) The five-year housing land supply

Question 22.2 (a) – Are the Council’s calculations correct/accurate?

Answer:

NHDC are basing their 5-year housing supply analysis on the discredited OAN of 11,600 derived from the ORS study and which we believe requires far more houses than are necessary. We believe that if lower OANs are applied, as we have suggested, resulting from a more appropriate selection of the other ONS trends, coupled with a more appropriate negative Market Signal of between -5% to -15% and eliminating the errors we have identified in the ORS analysis, then a much more realistic house building requirement results.

In terms of trying to understand the various tabulations provided by NHDC this is extremely difficult as it is impossible to know where several of the figures in the tables come from. I will therefore make no comment as to the correctness/accuracy of the calculations. I content myself with the observation that a much lower housing requirement, as we suggest, will be a much better way forward.

Question 22.2 (b) - All of the approaches used by the Council assume that the buffer required by Paragraph 47 of the NPPF should be 20% - that is to say, that there has been a record of persistent under-delivery of housing in the district. Has there been such that the 20% buffer is the most appropriate?

Answer:

As stated below in Appendix A (para 55) I find it difficult to know exactly what buffer NHDC is seeking to apply as both 13% and 20% are mentioned. For sure, NHDC has under-delivered on its housing requirements for the past four years not just in 2019 (by 44%), but also in 2018 (55%), according to the Government’s Housing Delivery Test results. Each of these sets of figures covers three years. So whether those four years’ figures represent a record of persistent under-delivery is for better-qualified people to judge, but it does seem that this might be so, in which case the 20% buffer is probably right.

Question 22.2 (c) – Is the ‘three-stepped’ approach proposed by the Council the most appropriate method for setting the five year housing land requirement. If not, why not?

Answer:

I am not sufficiently qualified to make a judgement on this point.

Questions 22.2 (d) – Is one of the other approaches to setting the five year housing land requirement explored in ED191B, or another approach entirely, more appropriate? If so, why, and:

- i) **What should the Council do to ensure that it can demonstrate a five year supply of land for housing under this approach?**

ii) What would taking this approach mean for the progress of the Local Plan examination?

Answer:

Again, I am not sufficiently qualified to make a detailed judgement on this point, other than to point out that I believe the adoption of a lower, more realistic OAN than what NHDC has opted for would result in a lower housing requirement and the removal of some sites from the Local Plan. The fact that the Council has under-delivered for the past four years gives little confidence that it can realistically hope to achieve the very ambitious yearly house building targets set out in its Appendix A paper. Delivery of over 1,000 houses a year from the middle of this decade seems a pipe-dream.

The answer therefore is for the Council to be encouraged to reduce its housing requirement, certainly deleting the east of Luton sites as a start and probably other contentious Green Belt sites as well.

Such an approach would surely lead to a quick progress of the Local Plan examination such that resolution could be achieved quite rapidly if all the parties were content with the result. It must be in everyone's interests to have an agreed Local Plan in place by (I suggest) Spring 2021. If these changes are not made I believe there are quite possibly sufficient grounds for the Plan to be found unsound in the worst case scenario, or even more lengthy examination through 2021.

Finally, I tentatively suggest that the reference by NHDC in paras 42 and 45 of their 'Housing delivery and five-year housing land supply at 1 April 2020' paper (as referenced in my paras 85/86 of Appendix C) indicates that the Council is looking to the Inspector to offer them a way out of their self-induced dilemma.

However, much as I would like to think this might be the case, I have been continually disappointed and disheartened by NHDC with its stubborn and relentless refusal to give up on the east of Luton sites in particular, despite the mounting evidence against the plans for those sites. Every argument put forward by NHDC for this Green Belt area has been demolished. I would add that I believe ALL the proposed housing on this east of Luton area should be deleted, not just the 1,950 for so-called unmet needs for Luton, but also the 150 that NHDC says is to meet North Herts' requirements.

It is perfectly obvious that NHDC has no proper plans for these 150 houses; they have been bundled into the overall build for Luton's needs as a convenient contrivance. No sites have been put forward by NHDC in, or closely aligned to, the three villages of Cockernhoe, Mangrove Green and Tea Green for any housing at all, let alone the 150 proposed, (other than one small site on Cockernhoe Green that has not yet been taken forward). In fact the 150 houses would represent a 75% increase in the housing stock in this area and it is probably too much.

Maybe the way forward for this area is a Neighbourhood Plan (which will not be easy), but will at least, hopefully, produce an outcome that is acceptable to the local community and which contributes something reasonable and sustainable to help meet North Herts' housing needs, rather than continually having solutions imposed upon the residents in the area. Encouragingly, the Government's Planning White Paper supports Neighbourhood Plans and has aspirations to make them somewhat easier to produce.

September 2020

APPENDIX A

DETAILED ANALYSIS OF THE OVERALL SUPPLY OF LAND FOR HOUSING

QUESTIONS 22.1 (a), 22.1 (b), 22.1 (c) and 22.1 (d) FROM THE INSPECTOR

a) **A close analysis of NHDC's suggested OAN of 11,600 - the suggested yearly build targets.**

- 21) In Para 8 of its supporting paper: ('Housing delivery and five-year housing land supply at 1 April 2020'), NHDC advises that its Revised Proposed Housing Trajectory Tabulation of 1 April 2020 has a total of houses proposed for build as 14,656 with the difference between this figure and the 13,000 number due to an approximate 13% buffer. According to NHDC no sites in the Plan/Trajectory are proposed for deletion including the contentious east of Luton sites.
- 22) Supporting this in its Appendix A, there is a tabulation of current housing delivery assumptions that leads to the 14,656 number. This shows that average per year housing delivery from 2011-2020 has been 312. The highest yearly housing build total was in 2016/17 at 539 houses built.
- 23) In para 28 of the same document reference is made, (and I paraphrase here), *'to the current extreme difficulties in the building sector and housing market due to the impact of the Covid-19 pandemic and that social and economic impacts may ultimately prove more severe than anticipated, adversely impacting the assumptions made'*. That all seems very sensible.
- 24) The NHDC says that notwithstanding these factors *'the Council retains its ambition to accelerate delivery on key strategic sites where possible'*.
- 25) Turning back to Appendix A, the tabulation shows that in the remaining 11 years of the Plan NHDC plans to deliver 11,482 houses at a yearly average build of 1,077 and this includes a lower front-end housing delivery between 2020/1 – 2022/3 of just over 500 houses on average during those three years as a recognition of the current difficulties in the building sector particularly due to Covid 19-related issues. This leaves, in the remaining eight years of the Plan, 10,316 houses to be built, and to achieve that, an eye-watering annual average of 1,290 houses per year will be needed.
- 26) It does not seem realistically feasible, surely, that such a high annual building rate can possibly be achieved by NHDC, especially since the figures presented by NHDC are based upon (they say) what are: *'best estimates based on robust data sources and informal liaison with site owners and promoters'*. I am not exactly sure what a robust data source is that can estimate how many houses will be built so far into the future, and as for the so-called 'informal liaison' please see my para 31 below.
- 27) In my view this points inexorably to the need for a lower housing total for North Herts to be applied. If the revised OAN figures we offer in Matter 21 as a realistic alternative to the 11,600 for North Herts are adopted, this would result in lesser OANs of between 6,318, via 6,690 to a maximum of 7,061. Taking away the 2,814 houses already built would leave 3,504, or 3,876, or 4,247 remaining over the 11 years left of the Plan – at yearly averages of 319, 352 and 386 respectively. This seems much more realistic and achievable.

b) A close study of the document: 'Revised proposed Housing Trajectory – base data 1 April 2020'.

- 28) The Trajectory in question is a supporting document supplied by NHDC that lists a number of proposed sites allocated for house building to meet both North Herts and also Luton's unmet needs (via the east of Luton sites) with suggested house numbers allocated per year.
- 29) The first point to make is that interestingly, there has been a failure of NHDC to adhere to the Inspector's reasonable request of January 2020 to provide and I quote (inter alia): *"I ask for a paper that sets out the sources of supply assumed..... – which shows on a year-by-year basis the supply from each of the proposed housing allocations and other sources such as windfall sites **over the whole plan period**. It would assist to know whether or not the housing delivery from proposed allocations has been agreed with site promoters/developers. Finally, I ask that either this table or a separate one illustrates the anticipated delivery of homes and the infrastructure necessary to support the housing development concerned – in short an update of the table previously requested and submitted to the examination."*
- 30) NHDC's paper, and particularly the Revised proposed Housing Trajectory, only partially covers the Inspector's request. It is a demonstrable failure by the Council to comply and leaves everyone in the dark.
- 31) For example in Para 9 of the main document NHDC states that this revised Trajectory has been **'informed by informal discussion with representatives for a number of proposed sites in the Plan'**. That strikes me as a lamentably feeble statement. What is it supposed to mean or convey? That NHDC has had a few chats with their developer contacts over a socially-distanced beer or there has been a brief exchange by telephone or email? I submit that this issue of housing provision – particularly where it affects those threatened on the Green Belt sites – is too important for this sort of seemingly slapdash approach. It also fails to comply meaningfully with the Inspector's request whether housing delivery from proposed allocations has been agreed with site promoters/developers, and across the whole plan timetable. The Trajectory only goes to 2024. NHDC has provided bar graphs which show the projected yearly build through to 2031 and broad identification of the type of sites the house building will be derived from (e.g. permissions/strategic allocations/local housing allocations/windfalls etc), but there is no detail at all in these graphs as to which particular sites could be deployed from 2024 onwards and for how many houses per year. Is this the robust data source that NHDC referred to? We are none the wiser. Is this all that NHDC can offer in seven months since the Inspector's request?
- 32) The end result of these 'discussions' is that NHDC states that most proposed sites remain in place (except for a drop in housing numbers from the proposed north of Baldock site).
- 33) To further emphasise the seemingly confused approach paras 14/15 of the NHDC paper lists progress on a number of sites, and some other sites that have been deleted through Main Modifications. A close study of this and double-checking with the Revised proposed Housing Trajectory tabulation to which para 14/15 refers show that most of these display irritating inconsistencies, specifically:

- Para 14 says development has commenced on site LG14, though there is no record of LG14 on the Trajectory. Furthermore, in Para 15 it says that LG14 has been deleted from development. It can't be both!
- Para 14 also says that development has now been completed on site BK1 and yet Para 15 indicates that BK1 has been deleted;
- Para 15 states that site LG17 for 30 houses has been deleted, but the tabulation shows that permission has been granted for LG17 for 71 houses;
- Para 15 says that policy LS1 for 120 homes has been deleted and yet the tabulation shows permission granted for LS1 for 144 homes;
- Para 14 states that site RY1 has commenced development and yet Para 15 has RY1 as deleted for 279 houses;
- Para 15 states that site RY2 has been deleted for 279 houses and yet the tabulation shows RY2 permission has been granted for 296 homes;
- Para 15 says that site WH1 has been deleted for 41 houses, though the tabulation lists a site called WH2 for exactly the same number of houses at the same location and I know for certain that those houses have been built or are in the process of being built.

34) Additionally, the Trajectory tabulation's total of houses (17,096) is also wrong. The simple addition of the 2,814 houses already built to the 1,962 houses counted line by line in the planning permissions (totalling 4,776) and then added to those sites counted line by line as proposed plan sites which comes to 10,072, yields a grand total of 14,848 houses. Just another example of sloppy work by NHDC?

35) It is possible that I might be mis-reading the words and the tabulation, but I don't think so. It is also possible that the Inspector might regard this element of my work as of little significance to what he has set out to be done, but I contend that these discrepancies go to the very heart of what is increasingly clear to me is a haphazard approach to these planning issues. If the NHDC planners can't get these little things right what hope have we got that on the fundamental points of contention in their Local Plan they also haven't made serious errors. It smacks of total disdain for the Council's constituents. In fact below I will demonstrate an example of their poor and inconsistent approach in regard to the proposed east of Luton sites.

c) How the East of Luton sites are factored in – confusion reigns!

36) No matter how many times I have read paras 20-24 of the NHDC paper I am none the wiser as to exactly what it is they are saying in relation to how the east of Luton sites are factored in. It is abstruse and prolix in the extreme, or worse - deliberate obfuscation - or, more charitably, an utterly appalling lack of clarity in something that residents in the threatened east of Luton sites need to have clearly explained to them.

37) In para 20 NHDC says that the '*revised Trajectory suggests that 13,250 homes might be delivered within the Plan period to address North Hertfordshire's own housing requirement*'. It is impossible to deduce where that 13,250 figure comes from since the Trajectory only goes to end 2024 and not 2031 as requested by the Inspector in January 2020. We have no idea

what NHDC plans to deliver on which sites between 2024 and 2031 and so the figure of 13,250 could well have been just plucked out of the air for all we know. It also doesn't tie in with the total of 14,656 that NHDC suggests will be built through to 2031.

- 38) Furthermore, we have no idea whether that figure of 13,250 includes the 2,100 houses proposed on the east of Luton site, and which are in the tabulation, of which all but 150 are to meet Luton's unmet needs.
- 39) To illustrate the possible confusion, my addition of the total houses required for build in the Trajectory comes to 14,848. The addition that yields the 14,848 figure most definitely does include the east of Luton allocation and so there must be some suspicion that NHDC has also included the 1,950 houses to meet Luton's unmet needs in their figure of 13,250.
- 40) In para 21 NHDC repeats the assertion that the 13,250 houses are for North Herts' own needs and that figure includes 100 from the East of Luton site also to meet North Herts' own needs. But the tabulation in para 21 shows that the North Herts requirement is 11,600 but the identified supply to meet that need is 13,250 (which may or may not include the non-North Herts east of Luton site allocations).
- 41) In para 24 the addition shows that the delivery for North Herts' needs is 13,250 and the delivery for Luton's unmet needs is 1,400; yet that 1,400 may already have been included in the 13,250 figure. The confusion caused is such that there may be double-counting going on here!!
- 42) If there has been double-counting this means that the buffer percentage of 13% quoted by NHDC would also be wrong because it may include the double-counting of the east of Luton allocation. In that event there might be only a small buffer because if the 1,400 houses for Luton have indeed been included in to the 13,250 houses, the true result would be that only 11,850 would be built to meet the 11,600 requirement (buffer of 2.15%).
- 43) **In short, because of the inadequacies of the NHDC response, the mistakes it contains, the deliberate confusion it creates, the lack of meaningful detail, and its failure to comply fully with the Inspector's request of January 2020, residents in the area around Cockernhoe are none the wiser as to what fate might befall them.**

d) A fundamental flaw

- 44) There is also a fundamental flaw in the NHDC's assumptions that they only will be able to deliver 1,500 houses in the east of Luton sites by 2031 (1,400 to meet Luton's unmet needs and 100 for NHDC's requirements). They say in para 22 that this reflects delays in the examination process, conveniently omitting to mention that the primary reason for the delays is because of the principled opposition to their plans from the community around Cockernhoe which has resulted in the Inspector asking serious questions of NHDC – amply illustrated by the confusion/obfuscation I report above.
- 45) The flaw is (and as discussed in Matter 21) Herts County Council has made it very clear that secondary schooling on the east of Luton sites has to be self-sustaining and, as a result, they cannot sanction capital expenditure to provide secondary schooling on this proposed site for anything less than the 2,150 houses proposed, having modelled the potential pupil numbers (ED109: February 2018; letter of July 10, 2015 from Herts County Council (HCC) to Mr

Simon Ellis, NHDC). NHDC itself has said before that for this East of Luton site it is either 1,950 houses or it is none at all!

- 46) This stark statement is contained in a document sent very recently to the Inspector (ED173 Paper C of 27 November 2019 "The proposed East of Luton sites") where in Para 23 they say: **"It is finally worth re-emphasising that a key influence on the scale of the proposed allocation East of Luton is the requirement for it to be self-sustaining in terms of education provision. This point has already been explained at length to the examination. In NHDC's view, the contribution that this authority makes to Luton's unmet needs will be 1,950 homes or it will be nothing."**
- 47) The fact that according to NHDC only 1,500 houses can be achieved through to 2031 (100 of which are for North Herts needs) means they will be 550 short of their 1,950 target. There are no plans in the public domain for the next Local Plan after 2031, so it very uncertain whether those final 500 will ever be needed/built and over what timescale.
- 48) This means that the policy decision by HCC surely has to be adhered to. If those 1,500 houses are built, it seems there will be no secondary school provision included which is unthinkable and probably illegal. It is already well established by HCC in ED109 that existing schools both nearby in Hitchin and Harpenden are full and that Luton Borough Council has also indicated that its schools are full; hence the requirement for the site to be self-sustaining for education provision.
- 49) There must be collective amnesia in the NHDC planning department as they seem to have forgotten this vital HCC intervention. And as we shall discuss below this aspect also plays into further consideration about the proposed east of Luton sites now being suggested as a buffer to help meet North Herts' own housing requirements.

e) Considerations of the proposed buffer

- 50) In terms of the housing buffer that is required, NHDC makes the point that there is no fixed policy to pursue a buffer of any particular percentage. Indeed the draft Local Plan had a buffer of 6% and over the examination period this has fluctuated through to 7% and then back to 6%.
- 51) Now NHDC argues that because of the current economic circumstances and the delays they have encountered in getting approvals for proposed housing sites in the Green Belt they state that the increased buffer to 13% is justified and also to demonstrate a 5-year housing land supply. But as we have seen, if there has been double-counting for housing delivery, the buffer is potentially reduced to only 2.15%.
- 52) There is also the consideration of what size of housing buffer is appropriate.
- 53) Not that NHDC has made much mention of the following, but they fallen foul of the Government's Housing Delivery Test (HDT). The 2019 test, published in February 2020, revealed that eight Local Authorities were being sanctioned for failing to meet the required number of new house builds (Source: 'Inside Housing'). NHDC is one of those authorities, having only produced 44% of the required housing (Source: Dept of Communities & Local Government Housing Delivery Test 2019 published 1 February 2020). Both Luton and Central Bedfordshire achieved 185% and 103% of their requirements respectively. Incidentally, the Luton figure in particular seems to support my argument that Luton is over-delivering on its house-building programme.

- 54) Under the HDT and the Government's rules, a 'pass rate' is said to be 95% and above. Councils that deliver between 85% - 95% must develop an action plan to identify how they are going to increase the house build rate. Councils that fall between 25% and 85% must identify 20% more land (i.e a buffer) for development than originally required in the 5-year supply in their Local Plans. In the case of NHDC they have triggered the presumption in favour of sustainable development (which means they will be forced to give greater weight to the National Planning Policy Framework) relative to their local policies when deciding whether to accept planning applications. Sites not allocated as part of local plans may therefore be more likely to receive planning permission, as long as proposals meet the NPPF criteria (Source: 'Inside Housing'). This wording is rather unclear as to what exactly this means for sites in the Green Belt but the overall thrust sounds rather like a possible planning free-for-all which surely must be avoided.
- 55) In para 41 of the NHDC document, NHDC states that in regard to its proposed continuation of the 'Liverpool' method of housing supply this will demonstrate a five-year housing land supply and also a 20% buffer. So is NHDC asking for a 13% buffer or a 20% buffer? This doesn't seem to be at all clear. Furthermore, they go on to state that this approach would also enable the Council 'to maintain delivery above the HDT's 75% threshold, below which the presumption in favour of sustainable development lies.'
- 56) Well it is clear from the Government's HDT tabulation that NHDC is already in 'presumption' - because it clearly says so - so presumably 'maintaining delivery' is not exactly an accurate way to describe the predicament they are in. Or are they in some sort of denial?
- 57) It is unclear to me how this will play out in practice in terms of unallocated sites being brought forward, and also the uncertainty created by the fact that NHDC does not yet have an adopted Plan, but it does seem clear that NHDC might well have to apply a 20% housing buffer rather than the 13% they are proposing, though as seen above, they seem to suggesting both figures in different parts of their document.
- 58) If we take the original NHDC figures in their paper of the OAN of 11,600, this housing requirement with a 20% buffer added would yield a further 2,320 houses, making a total of 13,920 houses required potentially for delivery.
- 59) The question then arises: will those extra 2,320 buffer houses actually be required and where will they be provided from?
- 60) This becomes apparent with the very worrying para 31 commentary where, NHDC suggests that releasing Green Belt sites now 'will ensure greater surety of supply when future plan reviews are undertaken'.
- 61) This is amplified in Para 32 where, quoting from the legal case of Compton Parish Council v Guildford Borough Council of 4 December 2019, NHDC suggests that the ruling in that case demonstrates that councils can lawfully propose a substantive buffer over and above the housing requirement, and that, "providing choice and flexibility over and above the housing requirement can be a contributory factor to the 'exceptional circumstances' required to release land from the Green Belt."
- 62) This is a dreadfully unwelcome and surprising development from NHDC particularly in relation to the east of Luton Green Belt sites. At no time in the past has there been any suggestion that this land could be used for anything other than to meet the supposed unmet housing need from Luton. And as we have seen there is no way that NHDC can sanction the build of anything less

than the 2,150 houses on this land in order to meet the requirements by Herts County Council of the proposed housing being self-sufficient in secondary education provision. So their notion that they can build 1,500 houses only is, surely, a non-starter. We are used to these desperate last-minute surprises from NHDC. In the past - having being confronted with evidence that there was in reality no unmet housing need from Luton - they tried to assert that the houses would be needed for the benefit of the wider Luton HMA, but this was shot down in flames and that argument withdrawn.

- 63) There is also the stupidity of the perverse logic of NHDC in making this statement, particularly in relation to the east of Luton sites. The vast majority of houses proposed for build on these sites are specifically and unequivocally meant to help meet the unmet needs from Luton under the Duty to Co-operate. They are NOTHING to do with meeting any need from within North Herts, except for the small number of 150 houses that are for that identified purpose. And yet, now, NHDC is saying that all these houses are needed, potentially, as a buffer to help meet the house building projections for within North Herts itself. If that logic is applied consistently then, in reality, only 150 of the homes planned for build on the east of Luton sites should theoretically be earmarked to meet the buffer requirements of North Herts.
- 64) Nonetheless, the fact that NHDC makes reference to the Guildford court case means we have to examine the situation in Guildford and compare that to what is happening in the case of the east of Luton sites.
- 65) Having read the Guildford Local Plan and the legal judgement it is apparent that right from the outset Guildford was very open with its constituents in regards to its plans and the needs for the release of Green Belt land. It was clearly identified in its Plan, but as a result of the lower ONS household projections Guildford reduced the overall housing requirement, but kept the Green Belt sites in the Plan to ensure that an adequate 5-year supply of land existed, so that if some allocated sites could not be proceeded with in a reasonable timeframe then other sites could be released as a buffer so ensuring the viability of the overall Plan. This decision was approved by their Inspector and in the subsequent legal case the judgement of the Inspector was upheld by the court.
- 66) Within NHDC I contend the situation is different. The land to the east of Luton has always been identified as being almost exclusively for meeting the unmet housing needs of Luton. At no time has there been any suggestion that any of these houses are for North Herts requirements (except for the 150 houses nominated for that purpose). To now suddenly state that the majority of houses in this area are needed to help make up the buffer for North Herts is contrary to the established position that has been the case for the years that the Local Plan has been under examination. As such, it is an entirely new development and one that was never envisaged/placed in the public domain at the time the Plan was launched. It smacks totally of a bright legal mind seeing this case and opportunistically suggesting it can be applied to NHDC, resulting in NHDC proposing this new idea, on the hoof.
- 67) Clearly however, if NHDC is allowed to prevail with this new policy stance - which is akin to leaving the residents in the threatened areas around Cockernhoe with the sword of Damocles poised continually above their heads - it will be a miserable outcome. I imagine that this new development, if allowed to proceed, will require legal examination.

f) But let us look at what happens when Lower OAN numbers are applied to ED191B

- 68) All of the above observations are based, as the Inspector required, on the stated revised NHDC OAN of 11,600. However, as discussed in Matter 21 this figure is derived from the Opinion Research Services (ORS) calculation of the OAN using the highest possible of the three Office for National Statistics (ONS) trend variations. As explained at length in Matter 21 this approach is flawed and I offered a range of alternative OAN figures for the Inspector's consideration.
- 69) The alternative OANs I offered were to use the ONS 5-year migration trend and apply Market Signals downturns of between -5%, through -10%, to -15% in preference to the ORS use of the +10% Market Signal. This results in new OANs of 7,061 (-5% MS), or 6,690 (-10% MS) and up to 6,318 (-15% MS).
- 70) In Appendix B (attached) I offer a similar calculation as in Appendix A in Matter 21 with the addition this time of suggested 6%, 13% and 20% buffers applied to the OANs.
- 71) To these OAN figures I have used the same methodology as in Appendix A looking line-by-line through the Trajectory, namely: I first deduct the 1,400 houses earmarked for the East of Luton sites which NHDC says they will build through to 2031 and which now NHDC states are needed as a buffer for North Herts in case other sites do not come through as expected. Also, these 1,400 are not required for any unmet need for Luton as we have proved beyond reasonable doubt there is no realistic unmet need from within Luton that requires any contribution from NHDC, and furthermore NHDC is unable to build any smaller number of houses on these sites than the proposed full allocation of 2,100, due to the Herts Council County secondary school requirement.
- 72) I then apply 6%, 13% and also 20% buffers to the resulting numbers from above.
- 73) From these figures I then deduct the 2,814 houses already built; then I deduct the 2,075 houses that in the Trajectory have been granted planning permission to 2031; then I deduct the 222 proposed allocations that are not in the Green Belt and earmarked for build through to 2024; followed by a further deduction of the 1,011 remaining allocations also not in the Green Belt.
- 74) The resulting calculations indicate that the NHDC/ORS preferred OAN with its much higher number will not achieve the required house numbers that NHDC says it needs to build no matter what % buffer is applied.
- 75) All of the other suggested OANs deliver mostly an over-build of the required numbers to meet the lower OANs. In the case of the -15% Market Signal the over-build will range from 909 houses with a 6% buffer compared to a smaller 220 at the lower end with a 20% buffer. In the case of the -10% Market Signal, the over-build ranges from 515 at the 6% buffer to an over-build of 144 at the 13% buffer, but will result in a small shortfall of 226 with the 20% buffer. With the -5% Market Signal, there is a 121 over-build with the 6% buffer, but both the 13% and 20% buffers yield shortfalls of 273 and 671 respectively.
- 76) Whilst I fully acknowledge this is not a detailed and exhaustive statistical analysis, the direction of travel seems to be clear. By removing the contentious 1,400 houses from the east of Luton sites and using any of the OANs with -15% Market Signals, or -10% Market Signals, or -5% Market Signals and using either a 6%, a 13% or a 20% buffer, the housing requirement will largely be

met in full and where there is a shortfall it is small to the extent that it probably could be regarded as being within the bounds of manageable error. Further, using these models the chances are good that in addition to the east of Luton site not being used, the over-build will mean that other Green Belt sites across North Herts can also be spared to a lesser or greater extent ranging from 144 to 909 houses, depending on which variable is chosen.

APPENDIX B

ANALYSIS OF OANS/MARKET SIGNALS AND HOUSING NUMBERS – (NO ADDITION OF 1,470 HOUSES DUE TO SUPPOSED SUPPRESSED DEMAND) AND RESULTING IMPACT OF ADDING DIFFERENT BUFFERS

SOURCES: (a) ORS REVIEW OF THE OFFICIAL PROJECTIONS FOR NORTH HERTFORDSHIRE

(b) REVISED PROPOSED HOUSING TRAJECTORY AS OF 1 APRIL 2020

Methodology

A – I have taken the three household projections supplied by ONS for its 2018-based projections covering the 2-year trend, the 5-year trend and the 10-year trend. The highest trend is the 10 year trend which is favoured by ORS in its analysis. To each of those three trends I have calculated market signals ranging from -20% to +10% to give indicative OANs. ORS favours the OAN calculated using the highest market signal – an uplift of 10%. The 2-yr calculations are shown in black; the 5-yr calculations are in red; and the 10-year calculations are depicted in green.

B – To these OAN figures I have deducted the 1,400 houses which NHDC says will be built on the East of Luton sites through to 2031, ostensibly and originally to meet so-called unmet needs from Luton. But, NHDC has now changed its tune in para 31/32 of its paper 'Housing delivery and five-year housing land supply as at April 1 2020'. We have proved in Matter 24 that an unmet need from Luton hardly exists, so the Council is now saying these 1,400 houses are now needed as a buffer for North Herts own requirements. While we disagree profoundly with that about-turn by NHDC, it does mean that we are justified in removing those houses from the tabulation (as they are now stated to be for North Herts needs) – particularly as there is severe doubt as to whether that lesser number of houses can ever be built on this land due to it contravening the stance taken by Herts County Council in relation to secondary school provision on this site where they say it can only be justified if the total allocation of 2,150 houses are built.

C – I then apply 6%, 13% and 20% buffers to the resulting numbers, concentrating on the three OANs with -5%, -10% and -15% Market Signals and for comparison the +10% Market Signal applied to the ORS/NHDC preferred and higher OAN

D – I then deduct houses already built during this Local Plan period (2,814) – built between 2011- March 2020 (Source: Revised Proposed Housing Trajectory completions – base data 1 April 2020)

E - From the same Trajectory tabulation as above I have deducted the number of house permissions granted on 32 sites across North Herts as these are houses that are being built for completion through to 2024 and totalling 2,075. Adding this 2,075 to the 2,184 already completed houses gives a running total of 4,889 houses built or being built.

F – From here and still using NHDC’s Trajectory I deduct 222 houses as these are proposed allocations from 6 sites (BA5, BK2, BK3, LG18, RY7 and Windfalls 1 – small sites) that are scheduled to start deliver delivering house builds during the period from 2022-2024. None of these sites or houses are in the Green Belt.

G – from figure E we need to deduct the remaining planned allocations in the Trajectory that are yet to be given full permission or to finish the completion of the site allocation (BA5, BA7, BA11, BK2, BK3, HT8, LG18, PR1, RD1, RY4, RY7, RY11, TH1, Broad Locations -1, Windfalls 1 –small sites, Windfalls 2 – large sites). These come to a further 1,011 houses, none of which are in the Green Belt.

| A | ONS 2 YEA R | ONS 5 YEA R | ONS 10 YR | OAN MKT SIGN AL - 20% | OAN MKT SIGNA L -15% | OAN MKT SIGNA L -10% | OAN MKT SIGNA L -5% | OAN MKT SIGN AL +5% | OAN MKT SIGNA L +10% |
|--|--------------------------------|--------------------------------|--------------------------|--|---|---|--|--|---|
| | 6393 | | | 5114 | 5434 | 5753 | 6073 | 6713 | 7032 |
| | | 7433 | | 5946 | 6318 | 6690 | 7061 | 7805 | 8176 |
| | | | 8638 | 6910 | 7342 | 7774 | 8206 | 9070 | 9502 |
| | | | | | | | | | |
| B DEDUCT 1400 HOUSES FROM EAST OF LUTON SITES | | | | 3714 4546 5510 | 4034 4918 5942 | 4353 5290 6374 | 4673 5661 6806 | 5313 6405 7670 | 5632 6776 8102 |
| | | | | | | | | | |
| C 6% BUFFER | | | | | 5213 | 5607 | 6001 | | 8588 |
| 13% BUFFER | | | | | 5557 | 5978 | 6395 | | 9155 |
| 20% BUFFER | | | | | 5902 | 6348 | 6793 | | 9722 |
| | | | | | | | | | |
| | | | | | | | | | |
| D DEDUCT 2,814 NHDC HOUSES BUILT TO | | | | | 2399 2743 3088 | 2793 3164 3534 | 3187 3581 3979 | | 5774 6341 6908 |

| | | | | | | | | | |
|---|--|--|--|--|---|--|---|--|--|
| MARCH 2020 | | | | | | | | | |
| E DEDUCT 2,075 NHDC HOUSE PERMISSIO NS GRANTED TO 2031 | | | | | 324 668 1013 | 718 1089 1459 | 1112 1506 1904 | | 3699 4266 4833 |
| F DEDUCT PROPOSE D ALLOCATI ONS FROM TRAJECTO RY NOT IN GREEN BELT (-222) | | | | | 102 446 791 | 496 867 1237 | 890 1284 1682 | | 3477 4044 4611 |
| G DEDUCT REMAININ G ALLOCATI ONS FROM TRAJECTO RY NOT IN GREEN BELT (- 1011) | | | | | -909 (overbu ild of 909) -565 (overbu ild of 565) -220 (overbu ild of 220) | -515 (overbu ild of 515) -144 (overbu ild of 144) +226 (shortfa ll of 226 | -121 (overbu ild of 121) +273 (shortfa ll of 273) +671 (shortfa ll of 671) | | +2466 (shortf all of 2466 +3033 (shortf all of 3033) +3600 (shortf all of 3600) |

Conclusion

Using the -15% Market Signal applied to the 5-year trend variant, results in an over build of housing delivery ranging from 220 to 909 over the period of the Local Plan, no matter what buffer is applied. With the -10% Market Signal applied results in an over build of 144 – 515 using the 6% and 13% buffers, but with the 20% buffer results in a shortfall of 226. The -5% Market Signal and 6% buffer results in an over build of 121, but with the 13% and 20% buffers applied results in shortfalls of building of 273 and 671 respectively. The shortfalls in all these scenarios are relatively small, however and might be considered to be in the realms of acceptable statistical error.

Where this is an over build, these figures indicate that there would be sufficient latitude to allow some other significantly impacted and contentious Green Belt sites to be spared.

The analysis also indicates that taking the NHDC preferred (as calculated by ORS) 10-year variant and with their +10% Market Signal added, but with the removal of the contentious 1,470 houses from the flawed analysis and also the removal of the 1,400 houses from the east of Luton sites, results in between a 2,466 to 3,600 shortfall in house building during the Local Plan period, further indicating that this is the least effective of the models to follow.

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APPENDIX C

ANALYSIS OF THE FIVE YEAR HOUSING LAND SUPPLY

- 77) This section is very technical but nonetheless important as within it are some indications that merit serious consideration.
- 78) I have no particular comment on which method of housing delivery (*Liverpool* or *Sedgefield*) would be more appropriate for NHDC to adopt. Although it does appear that the *Liverpool* method is more realistically achievable.
- 79) However, NHDC is constructing its arguments based upon the new proposed housing requirement of 13,000 (11,600 in North Herts and 1,400 from the east of Luton sites). Yet we have demonstrated that the 11,600 is too high and also the 1,400 on the east of Luton sites is also not realistic for the many reasons given in Matter 21 and also repeated in this paper.
- 80) In para 39, NHDC states that any suspension of the examination to look at alternate or additional sites is not viable...meaning they say that it is necessary to construct the existing housing delivery requirements of the Plan, as they see it, in a way which reflect the anticipated delivery trajectory.
- 81) I agree that it is not ideal to consider suspension of the examination and also to start looking at alternate or additional sites at this late stage, but then I am not sure who it is who might be suggesting that course of action. I consider that it is very important to have an acceptable Local Plan in place as soon as possible to forestall speculative development requests and also to provide something on which to build for when the new Planning legislation is enacted by the Government, as seems to be the plan, for the period through to mid-2022.
- 82) But this stance by NHDC does not seem to consider the strong likelihood that some sites in the Plan will need to be removed totally. For instance, we have presented clear evidence that the east of Luton sites need to be totally deleted from the Plan, saving 2,100 houses.

- 83) Furthermore, the alternative and lower OANs we offer also will result in much lower housing requirements as shown in Appendix B of Matter 21. These would range from 6,318, through 6,609 to 7,061 depending on which Market Signal is preferred (-15%, -10% and -5% respectively).
- 84) We have also in our calculations in this paper considered buffers ranging from 6%, to 13% and up to 20% - the latter figure recognising that NHDC has failed to meet its Housing Delivery Target. Together with the reduced housing need and the removal of the east of Luton sites this will result in a sufficient delivery of housing as well as give the hope that other Green Belt sites can be removed from the Plan.
- 85) Interestingly in its Para 42, NHDC is seemingly admitting that further modifications to the Plan are required in certain key areas – and specifically, in para 45 they indicate that the Inspector should provide a clear indication as to which (if any) of the proposed allocations in the Revised Trajectory he might be minded to find 'unsound' and remove from the Plan.
- 86) The Policies identified by NHDC that they indicate are likely to require further modification are SP8 (Housing) which includes all the strategic sites and proposed Green Belt allocations; SP14 (the north of Baldock site); SP15 (the North of Letchworth Garden City site), SP16 (the north of Stevenage site); and SP19 (the east of Luton sites).
- 87) As we have strongly stated in our various representations, and proven in many different ways, we believe that the proposed east of Luton sites should be removed entirely from the Local Plan. We would also welcome any moves the Inspector might be minded to make to also remove other Green Belt sites from the Local Plan.

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