

RAPLEYS

Hearing Statement for
Bellcross Homes /Gallagher Developments Ltd

EXAMINATION OF NORTH HERTFORDSHIRE LOCAL PLAN 2011-2031

MATTER 31

20 January 2021

Our Ref: CB/503/55/1

Contents

1 Introduction..... 1
2 Summary of Points 2
3 Matter 31 3

1 INTRODUCTION

1.1 This Hearing Statement has been prepared by Rapleys LLP on behalf of Bellcross Homes/Gallagher Developments Ltd, and covers the following matter subject to a further hearing session in respect of the examination of the North Hertfordshire Local Plan 2011-2031:

Matter 31 - the main modifications put forward by the Council relating to Policy SP9: Design and Sustainability and in relation to the strategic housing site policies (Policies SP14 to SP19 inclusive).

1.2 Specifically, this Hearing Statement is concerned with Questions 31.1 and 31.5 set out within the Inspector's Schedule of Further Matters, Issues and Questions (December 2020).

1.3 This Hearing Statement should be read in the context of our previous submissions to the following:

- March 2012/2013 - Written representations to SHLAA 'Call for Sites' consultations.
- January 2014 - Written representations to SHLAA 'Call for Sites' consultation.
- January 2015 - Written Representations to Local Plan Preferred Options Consultation.
- November 2016 - Written Representations to Local Plan Proposed Submission Consultation.
- November 2017 - Hearing Statement to Matter 7 (Countryside and Green Belt - The Green Belt Review and Approach to Safeguarded Land (Policy SP5)) and Matter 9 (The Basis for the Housing Allocations and Settlement Boundaries), and Statement of Common Ground between NHDC and Bellcross Homes (ID Ref: ED30) in respect of Strategic Allocation HT1.
- January 2018 - Hearing Statement to Matter 10: Hitchin (Site HT1).
- April 2018 - Supplementary Statement of Common Ground between NHDC and Bellcross Homes (ID Ref: ED131) in respect of Strategic Allocation HT1.
- February 2019 - Written Representations to Proposed Main Modifications Consultation.

1.4 Rapleys LLP has reserved the right to speak at the forthcoming further hearing session due to take place on 2nd February 2021.

BACKGROUND

1.5 Bellcross Homes as the single land owner of Land at Highover Farm (herein 'the site'), has since 2012 proactively engaged and participated in the preparation of North Hertfordshire's Local Plan which through detailed assessment, resulted in the site being identified as a strategic housing allocation under Policy SP17 (Site HT1) within the Council's 2016 Pre-Submission Local Plan.

1.6 In 2018, Bellcross Homes (as the Applicant) submitted an outline planning application (with all matters reserved aside from access) for approximately 700 new homes, on-site primary school, and neighbourhood-level facilities (LPA Ref: 18/01154/OP) to NHDC. The application was informed by extensive pre-application engagement which had been undertaken since 2016 with NHDC Officers, other statutory/utility bodies, and the local community.

1.7 In 2019, Gallagher Developments Ltd were brought in to assist Bellcross Homes in bringing the site to market as soon as possible, to allow new homes to be delivered in the early part of the Local Plan period, in turn assisting NHDC in meeting its local housing need.

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- 1.8 Following focussed re-consultation being undertaken up to 24th October 2020, the overwhelming majority of technical consultee responses received have raised no concerns or objections in principle relative to the proposed development, and discussions are ongoing with relevant consultees in respect of securing the appropriate and necessary planning conditions and obligations.
- 1.9 A post-submission engagement exercise with local stakeholders has been undertaken by Bellcross Homes/Gallagher in parallel to the application's Planning Case Officer holding a briefing session with local ward councillors. Most recently, a post-consultation letter was provided to local stakeholders setting out a comprehensive planning update.
- 1.10 In this context, it is therefore hoped that the following conclusion of the Further Hearing Sessions, NHDC Officers will be in a position to recommend the planning application for approval at Planning Committee.

2 SUMMARY OF POINTS

- 2.1 In order to ensure the soundness of the Plan and that it is justified, effective and consistent with national policy, the response to Matter 31 raised below are, in summary:

QUESTION 31.1

- 2.2 As a minimum, caveat wording should be inserted into Policy SP9 itself covering:
- Reference to site-specific circumstances, feasibility, and viability.
 - Flexible provisions that allow for masterplan departures through planning application approved documentation, conditions and/or legal agreements (as already set out in proposed modifications to supporting policy text under FM002/FM003), with any future requirements subject to meeting the necessary statutory tests set out within the Regulations and the National Planning Policy Framework.

QUESTION 31.5

- 2.3 The following wording should be inserted into Policy SP17 itself to confirm that:
- Where the whole (or part of) the site is already subject to an advanced planning application or planning permission, adherence to a strategic masterplan and any further masterplanning and/or design requirements will be secured through conditions, reserved matters, and/or legal agreements (where applicable).
 - The above shall be subject to meeting the statutory tests set out within the Regulations and the National Planning Policy Framework.
- 2.4 Discreet revisions to the wording of planning and masterplanning policy criteria a, b, c, and g under Policy SP17 are also suggested, which are largely rehearsed in our previous written representations to the Council's proposed Main Modifications (November 2018) but are not acknowledged within the last proposed modifications by the Council under FM007.

3 MATTER 31 - THE MAIN MODIFICATIONS PUT FORWARD BY THE COUNCIL RELATING TO POLICY SP9: DESIGN AND SUSTAINABILITY AND IN RELATION TO THE STRATEGIC HOUSING SITE POLICIES (POLICIES SP14 TO SP19 INCLUSIVE)

QUESTION 31.1 - ARE THE MAIN MODIFICATIONS PROPOSED IN RELATION TO POLICY SP9 AND ITS SUPPORTING PARAGRAPHS (FM001, FM002 AND FM003) NECESSARY FOR SOUNDNESS? ARE THEY JUSTIFIED, EFFECTIVE AND CONSISTENT WITH NATIONAL POLICY?

3.1 The sentiment of what Policy SP9 is trying to achieve is acknowledged in terms of seeking to speed up the planning process, ensure quality design, and delivery in line with NHDC's housing trajectory.

3.2 However, for the following reasons, the main modifications as put forward by the Council are unsound, not justified, effective or consistent with national policy for the following reasons.

3.3 In principle:

- **Reason 1 (Applicability of Policy SP9 to Strategic Allocation Sites)** - Policy SP9 is a non-strategic policy which under FM001 and combined with the criteria now set out within individual strategic allocation site policies (see response to Question 31.5 below), might result in disproportionate, onerous expectations and requirements that are likely to lead to further delays in determining planning applications and ultimately in turn, delivery of strategic sustainable development within the District.

Whilst a degree of flexibility allowing for a departure from an agreed masterplan is covered within the supporting text under FM002, we question how Policy SP9 itself could be retrofitted across the entirety of a site if there were subsequent changes to the development proposals, particularly where part of the site has already been built out. In our client's case, clearly there are impracticalities in applying this non-strategic policy given the stage at which our outline application is at, and the suite of supporting parameter and access plans produced at the request of NHDC Planning Officers which have now been agreed and are subject to outline approval.

On this basis, Policy SP9 should not be applicable to strategic allocation sites, particularly those which fall under single ownership like Bellcross Homes' site at Land at Highover Farm (allocated under Policy SP17) where a planning application is already at an advanced stage and the overall chances of a single developer building out the site greatly increased.

3.4 More generally:

- **Reason 2 (Provisions of Policy SP9)** : Under FM001, a previous general masterplan 'requirement' for significant development within Policy SP9 has been replaced with a list of criteria that masterplans and planning applications for significant development are now 'expected' to follow, with separate confirmation that strategic masterplans will need to be produced for Sites SP14-SP19, which should be agreed prior to lodging planning applications. In this context, these proposed modifications to Policy SP9 are inconsistent, not justified, or effective when reviewed against the proposed modifications to its supporting text under FM002, supporting text to the strategic housing sites chapter under FM003, and our site allocation policy (Policy SP17) under FM007:
 - Within the supporting text for Policy SP9 under FM002, a general threshold of 100 dwellings for 'significant development' is now applied. This quantum however can hardly be considered 'strategic' and it therefore seems wholly unjustified to 'expect' an overall masterplan for such sites given the context within which the

Council is now seeking to apply Policy SP9 to strategic masterplans for individual strategic allocation sites.

- New supporting text for Policy SP9 is now inserted, again under FM002, which states that “... the Council will now ***require*** masterplans to be produced for significant development. Significant development includes the strategic housing site SP14-SP19.” (bold/underline our emphasis).
- The proposed modifications to Policy SP9 and strategic housing site chapter under FM001 and FM003 respectively state that strategic masterplans will be produced by landowners/developers in collaboration with the Council and key stakeholders. However, proposed modifications to our site allocation policy (Policy SP17) under FM007 excludes reference to key stakeholders in terms of preparing and agreeing a strategic masterplan.

3.5 Notwithstanding the above, for soundness, justification, effectiveness, and consistency with national policy, as a minimum, caveat wording should be inserted into Policy SP9 itself covering:

- Reference to site-specific circumstances, feasibility, and viability.
- Flexible provisions where required, which allow masterplan departure through planning application approved documentation, conditions and/or legal agreements (as already set out in new supporting policy text under FM002/FM003), with any future requirements to be subject to meeting the statutory tests set out within the Regulations and the National Planning Policy Framework.

3.6 The above recommendations will allow for comprehensive design and place quality to be secured, whilst also supporting and ensuring that the planning process is not slowed down on strategic sites (including our client’s site) which NHDC is desperately relying upon to come forward in order to assist in addressing the District’s housing shortfall.

QUESTION 31.5 - ARE THE MAIN MODIFICATIONS PROPOSED IN RELATION TO POLICY SP17: SITE HT1 (FM007) NECESSARY FOR SOUNDNESS? ARE THEY JUSTIFIED, EFFECTIVE AND CONSISTENT WITH NATIONAL POLICY?

3.7 Under FM007, it is now indicated within Policy SP17 that the preparation and agreement of a strategic masterplan for the entire site allocation is sought prior to/or as far of an initial planning submission. In our client’s case, an outline planning application is well advanced and therefore the proposed scheme cannot be held accountable against the provisions set out within Policy SP17 (and Policy SP9) retrospectively. In short, policy should not pre-determine the decision-making process in respect of planning applications.

3.8 Within this context, the insertion of new flexible policy wording under FM007 which acknowledges where applications have already been submitted to the Council that a strategic masterplan should be agreed prior to or at the grant of planning permission is welcomed.

3.9 Noting however that the previous requirement under Policy SP17, referring to a strategic masterplan for the site being secured prior to approval any detailed reserved matters, has now been deleted, to ensure the policy remains justified, effective and consistent with national policy in supporting the comprehensive sustainable delivery of the allocation, the policy wording must make clear that that:

- Where the whole (or part of) the site is already subject to an advanced planning application or planning permission, adherence to a strategic masterplan and any further masterplanning and/or design requirements will be secured through conditions, reserved matters, and/or legal agreements (where applicable).

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- The above shall be subject to meeting the statutory tests set out within the Regulations and the National Planning Policy Framework.

3.10 As aforementioned, such provisions as suggested above are already outlined within the proposed modified supporting text under FM002 and FM003 and should also be covered within the revised wording of Policy SP9 itself.

3.11 Lastly, in terms of more discrete points relative to effectiveness and soundness of the planning and masterplanning requirements contained within Policy SP17:

- Criterion a (formerly b) - support is given to the proposed modifications to remove reference to “A class” within from the policy’s development proposals criteria, however instead of referring to “retail floorspace”, the modified text should refer to “Class E” to ensure legal compliance with the use class order.
- Criterion b (formerly c) - as raised within our previous representations to the Council’s proposed Main Modifications (November 2018), there remains a lack of an acknowledgement to land ownership restrictions that may exist which could hinder provision of comprehensive integration into existing pedestrian, cycle, public transport and road networks, as set out within the provisions of this criterion. As such, “where necessary and feasible” should be inserted into the policy text.
- Criterion c (formerly d) - reference to self-build development should be a consideration rather than a policy requirement, as set out within our previous representations to the Council’s proposed Main Modifications (November 2018).
- Criterion g (formerly h) - reference to “other” should be deleted from this criterion as it is unnecessary and excessive given aside from Highover Farm and the Threshing Barn, there are no other designated or non-designated assets on/within the vicinity of the allocated site that would be material consideration. This point was raised within our previous representations to the Council’s proposed Main Modifications (November 2018) and has since been affirmed in the associated consultation feedback received from NHDC Officers and Historic England relative to our client’s outline planning application.