

## **MATTER 3: KBEG HLA: Joint Note to Inspector**

### **KBEG Response to Wycombe District Council Assessment of the HLA**

1. This note accompanies the Wycombe District Council response to the Keep Bourne End Green (KBEG) HLA. It provides detailed KBEG comments to some of the Council's assessment which required further response.
2. The errors in the KBEG HLA Update are regrettable and a course of action has already been taken to correct these in an Errata. This is a standard approach when dealing with complex data. Though to put the KBEG HLA errors in some context, over 2,000 individual planning applications were individually assessed meaning these few site errors affect less than 0.5% of all applications considered.
3. KBEG recognises that despite best efforts errors may arise while working with such complex data. Some anomalies were encountered within the Council's data which include, inter alia: Ruskin Court Oakridge Road High Wycombe (07/06890/FUL) for 12 dwellings completed in 2014 but not accounted in the HELAA; or The Firefly Station Road Bourne End (14/08162/FUL) correctly recorded in the 2015 Monitoring Report as 10 dwellings Not Yet Started, though incorrectly accounted as 15 dwellings in the HELAA. Both these errors were corrected in the KBEG HLA.
4. KBEG found that some planning applications coming forward for 'developable' sites identified in the HELAA exceed the Council estimated supply from this land. The Abbey Barn South Reserve Site (referenced in KBEG's response to the Council) aims to deliver an additional 75 dwellings plus a windfall 120 apartment Extra Care and medical facility on land expected to deliver 7,600sqm B1c/B2 uses. The Former Bassetsbury Allotments forecast a supply of 30 units though the planning application submitted by the Council is for 40 units. The approved planning application for Westhorpe House Westhorpe Park Little Marlow is for 33 dwellings which is significantly different to the 12 units forecast. These three example sites account for over 100 extra dwellings and other examples exist. The additional supply above the forecast will be pick-up in time through the monitoring updates.
5. The purpose of the KBEG HLA was not to audit the HELAA. The anomalies mentioned here were encountered in the HELAA (or in recent planning applications) and were appropriate adjusted in the KBEG HLA baseline data. The latter additional supply found in the margins between the forecast site capacity and the unit numbers detailed in real planning applications are considered to provide further flexibility to the supply beyond that already anticipated from other sources such as residential garden intensification schemes.

## Comments on the Overview

6. The Council response gives the impression by its comments to have assessed the KBEG HLA in the context of an alternative HELAA, which is plainly not the case. The KBEG assessment was borne from a desire to quantify the additional housing supply that was observed to be coming forward in local building sites but was not evidenced in the HELAA.
7. There was a clear need to fill the void of information in up to date progress of the planning system after the 31<sup>st</sup> March 2016 base date and in lieu of the latest monitoring data being readily available and influenced by, *inter alia*:
  - i. the Council's proposals to release green belt land for housing;
  - ii. the growth in housing supply from office to residential developments;
  - iii. the aged base date of planning information available during the review phases of the Plan.
8. The objective for the KBEG HLA was therefore to consider whether alternative sources of land were generally available which could contribute to the housing supply (beyond those sites already identified in the HELAA). The assessment did not assert to re-do the HELAA but rather it set out to identify 'windfall' and other sources of supply capable of meeting the housing need.
9. Whilst KBEG's agenda is transparent, for the avoidance of doubt, KBEG does not deeply disagree with the HELAA or the housing supply identified by the Council at that time. This is noted in the KBEG response to the Council questions (Appendix 2 to this note, paragraph 25) which stated, "*For the main part, the KBEG HLA does not contest the HELAA but rather builds upon the site database to bring it up-to-date for the Examination by identifying all current sources of housing supply.*" However, for obvious reasons KBEG does not support BE2 Hollands Farm site included in the HELAA (or allocation of this green belt site for housing).
10. The context for the KBEG HLA assessment was established up-front in the original KBEG HLA (paragraph 1.1) and in that report's Introduction (paragraphs 2.6-2.9) and formed an overarching thread to both the original KBEG HLA and Update. The context and assessment objectives were also variously reiterated in the KBEG response to the Council questions (Appendix 2 to this note, paragraphs 12, 13, 18, 25, 39) which altogether provide an important differentiation between the HELAA and KBEG assessment which held a much narrower ambition than proposing an alternative HELAA review.
11. The KBEG HLA established a 'baseline' database of the planning applications determined since 1<sup>st</sup> April 2013 and already accounted in the HELAA. This baseline was the foundation of the KBEG HLA Appendices 1 – 3 which became the focus of the Council review rather than the windfall supply detailed in the KBEG HLA Appendix 5 which are

almost invariably recent applications with extant planning permission, or the analysis provided on the progress of office to residential schemes.

12. KBEG notes that it could have opted to take a more limited approach to simply list alternative sources beyond the HELAA in a single appendix (which would have saved a considerable amount of effort) but instead it was determined the assessment necessarily required a view on all planning applications to eliminate double-counting.
13. The Council summarily comments in its paragraph 5 of its response that “*should additional supply come forward*” it would assist in providing “*further flexibility*”. KBEG’s position on the windfall supply is clearly made in its assessment, however notes that future additional supply is substantially different from windfall that has already come forward in the planning system and holds extant permission since these sites can be considered ‘deliverable’.
14. Moreover, faced with the prospect of releasing green belt land (as the Council is), there should be very limited opportunity for significant amounts of additional supply as any reasonable sources should already have been soundly established. This is after all at the heart of the exceptional circumstances test.
15. The HELAA establishes future windfall is expected to be small scale and well related to the annual windfall allowance originally 43 dwellings per year, though updated in the 2017 Monitoring Report to 48 dwellings per year. This windfall allowance excludes any supply from garden intensification schemes even though this supply sector is forecast to deliver more than 5% of the 10,925 dwellings housing target. It is therefore striking that the amount of windfall identified in the KBEG HLA Errata (and mutually verified against the Council monitoring data) over the recent two-year period (2016-18) is not 96 dwellings as expected but exceeds 800 dwellings.
16. KBEG note the windfall supply identified after the 31<sup>st</sup> March 2018 base date from unexpected applications with extant permission increases the total identified windfall supply to over 1,100 dwellings. A distinction should therefore be made between what constitutes ‘flexibility’ in the supply and what is additional ‘over-supply’.
17. The KBEG assessment identifies the chief contributor to this amount of windfall comes from the ‘prior approval’ office to residential developments.
18. Housing delivery against the adopted Core Strategy housing target was 120% above the annualised target as at 31<sup>st</sup> March 2013, though was the delivery at 20% above target considered to provide ‘flexibility’ or an ‘over-supply’?

## **Wycliffe Centre**

19. The Council response (paragraph 15) notes the Wycliffe Centre is included in KBEG HLA Update Appendix 2 amongst sites with planning permission but not yet started.

20. The Wycliffe Centre site lies in Green Belt and AONB and was the subject of some debate in terms of its housing supply. KBEG believe the Council applied the correct approach when it included this retirement living site in the HELAA.
21. The original planning application (13/06772/FUL) proposed:
- “Demolition of all existing buildings and structures and comprehensive redevelopment of site to create a new Supported Living Community (Class C2). The Community will provide 169 units comprising 115 supported living units; 24 care suite units; and 30 units within the dementia care suite”*
22. The scheme was submitted as Class C2, but it was approved on the basis that the Council (correctly) determined the development constituted a mix of C2 and C3 residential uses. The Class C3 part was allocated in the HELAA as a deliverable site with a supply of 139 residential units and follows the Council’s consistent approach to such retirement living schemes. A site assessment of the Wycliffe Centre (HELAA Appendix 4, page 175) noted that “For the purposes of HELAA, the 30 dementia units are excluded from the study of HELAA as they are considered under the use class of C2 and not residential. WDC considered site is deliverable and delivery of sites and phasing forecasted by WDC officers as 45 units in 2018-19, 45 units in 2019-20 and 49 units in 2020-21. Delivery of site within 5 years.”
23. However, the C3 residential use meant the scheme became liable to CIL (£446,432) with the developer claiming the scheme would not be commercially viable. A legal case was subsequently made for C2 use and the commercial viability of the site that resulted in the approval of planning application (17/07241/FUL) which proposed:
- “Demolition of all existing buildings and structures and comprehensive redevelopment of site to create a new Supported Living Community (Class C2). The Community will provide 169 units comprising 115 supported living units; 24 care suite units; and 30 units within the dementia care suite”*
24. KBEG note this scheme was a facsimile of the original expired application, though was approved by the Council as Class C2 development. No changes had been made to the scheme other than the administrative re-classification of the site – the same residential units would result albeit the developer would avoid commercial obligations. It was considered the recent decision was made in a concession to the commercial viability.
25. The proposal was for 1 and 2-bed self-contained residential units including living space, kitchen, bedrooms, bathroom, toilet behind a single door which only that household can use. This proposed “front door” accommodation aligns with the general definition of a dwelling, including the Housing Flows Reconciliation (HFR) definition, rather than institutional accommodation within the Use C2 Class. Each unit would be liable for Council Tax. However, the ‘loophole’ for C2 use in marginal schemes requires a ‘minimum 2 hours care’ is provided to occupiers, though as this was established in Section 106 agreements in both the 2013 and 2017 applications it was not a new

consideration for the Council, and in any event is written in the S106 in such that the developer could all but withdraw providing this care at any time.

26. NPPG provides advice that *“Local planning authorities should count housing provided for older people, including residential institutions in Use Class C2, against their housing requirement.”* (NPPG Paragraph: 3-037-20150320). In this regard, the Central Bucks HELAA Methodology also confirms *“for the purposes of HELAA, ‘housing’ is defined as includes market housing, affordable housing, C2 uses for care homes and student accommodation ...”*.
27. The Use C2 Class has a broad scope and meaning which includes various degrees of use to meet the wide range of needs of older people, and the residential use proposed over all three developments provides independent “front door” living for over 55s which is distinctly different from the institutional accommodation excluded from HELAA supply. In this regard the HEDNA expressly identifies the population in the over 75 age group has a specific housing requirement that is reflected in the OAN which can be counted in the housing supply.
28. The supply of some older people residential schemes may be considered marginal between C2 and C3 use – though these margins are primarily the result of the commercial advantages associated with C2 rather than the resulting supply. KBEG looked at the approach over supply taken at similar ‘marginal’ developments for similar independent living dwellings (notably the continuing care retirement apartments Hughenden Quarter Main Development Site, Hughenden Avenue, High Wycombe) and in all cases these were found to be considered as residential dwellings and count to the older people housing needs reflected in the OAN.
29. The C2 sites excluded from the housing supply are observed in the HELAA (Appendix 9) to exclusive comprise care homes providing institutional bedspaces rather than independent living dwellings.
30. The ‘Notes and Definitions for the Housing Flows Reconciliation form’ states *“... housing for older people can be included in the assessment of supply in local plans”*. KBEG concluded that the decision reflected a commercial concession and the development would still deliver the same accommodation which the Council determined as C3 residential use in the original application.
31. The Council assessment of the 2013 application is consistent with its approach at other similar developments, notably the proposal for 260 continuing care retirement apartments (C3 use) Hughenden Quarter Main Development Site, Hughenden Avenue, High Wycombe.
32. The latest approved planning application (17/08285/FUL) proposed:  
*“Demolition of all existing buildings and structures and comprehensive redevelopment of the site to create a new Retirement Community (Class C2) providing a total of 167 independent living units, clubhouse, landscape improvements and parking.”*

33. This application changed the site layout, removed the dementia care units and increased the number of residential units. Given what had gone before, the application was also determined as Class C2 development which avoids a higher CIL charge (£1,034,344). It is interesting that the developer's website states the site cost £5m and when completed the scheme will have a £100m value .
34. The residential units are observed to follow the same broad design across all three applications which the developer's web site promotes as "167 residential units for senior living" while application documents refer to the development as a "retirement village". KBEG considered the Council applied the correct approach when determining the first application that the residential units are closer to Class C3 than they are C2. For all these reasons KBEG consider the site is justified to be included its HLA Appendix 2 since residential supply will result.

### **Sidney House**

35. The Council response (paragraph 26) notes KBEG did not count the loss of dwellings from the planning application approved at Sidney House. KBEG explains its position for this unique site as follows:
36. There is an inevitability that if a building is left to decay its eventual dereliction will result in a point when the building fails to no longer serve for the purpose it was intended. Sidney House is such an example that was a long-term vacant site which had deteriorated to the point that it no longer offered viable dwellings. It was various described as being "derelict" and a "vacant shell". The Council sold the whole Sidney House site in 2012 for £125,000 (just under £3,800 per unit) which below market valuation reflects the long-term decay and lost use of the dwellings.
37. The date of the transfer agreement might have been a reasonable point to declare the buildings lost since the site was clearly beyond use though the incentivised sale assures it will be developed during the new Plan. Declaring the loss earlier would have wiped the slate clean for the site to enable the future development to positively contribute to the housing supply. KBEG note that the housing delivery in 2012/13 at the time of the sale (being the last period before the new Plan) had accumulated a 20% excess supply over the Core Strategy housing target that amounted to an over-supply of 942 dwellings (as recorded in HFR returns) and it might have been advantageous to offset the site losses in 2012.