

Dear Councillors

We write to urge you to refuse to approve the Local Plan at your meeting tomorrow.

### **Flaws in the Plan**

The Plan (and the Inspector's recommendation on it) is flawed principally because:

1. it allocates land for 37% more housing over the whole plan period to 2034 than it concludes is required - it is legally and factually impossible for there to be the necessary *exceptional circumstances* to justify the release of green belt land to (dramatically) *over-* provide housing land. The Council (and the Inspector) have failed to ask themselves the correct question in the light of up to date information – they have simply pointed to the claimed advantages of over-provision rather than considered whether there is an exceptional *need* to over-provide in the Green Belt;
2. the inevitable effect of over-provision of green belt land is to subvert the normal planning approach of encouraging development in urban areas and only looking to the countryside and the green belt to meet needs which cannot be met there – simple economics nearly always dictates that given the choice, developers will bring forward countryside/green belt allocations in preference to urban allocation. Over-allocation will thus unnecessarily exacerbate all the problems with development in locations dependent on the car and undermine your own council's housing led regeneration aspirations for the town centre;
3. the Plan substantially understates urban potential – and is inconsistent with the Council's own up to date analysis of urban potential in its Town Centre Regeneration Plan. That plan identified a potential for at least 2800 units *after* the Plan was formulated – and the Plan has simply failed to catch up with it. You will be told that delivery of that number is aspirational and will require use of CPO powers. Our short retort is that the Executive is plainly wedded to its Plan and major green belt allocations and if it put similar effort into urban regeneration as it has put into pursuing these huge green belt releases, there could be a Council led urban renaissance. Rather than push those sites forward via allocations, the Plan bizarrely will result in them all being treated as windfalls (which do not count for housing supply purposes) with the result that those 2800 must be *also* provided on the green belt. If these urban sites are taken into account, the over-provision increases from 37% to 60 – 70%. Further by approving this plan, your council will be making delivery of its urban regeneration aspirations much more difficult – because developers' focus will move to the green belt allocations. The Inspector's conclusions at [81] and [82] are now, by virtue of the passage of time, wrong - the capacity has been further investigated and sites have been identified by the Council which can be relied upon (if necessary, by proactive use of your powers);
4. Since the re-opened Hearings in February, the Council has been firming up the plans for an additional 300-400 homes on North Street, and the reduction from the 41,000m<sup>2</sup> of retail on that same site. These numbers are not captured anywhere in the Local Plan despite the site being suitable and available (as recognised by its inclusion for retail led development as Policy A6 in the Local Plan);

5. because of the reliance on windfall in the urban area rather than proactively pursuing allocations, no provision is made for the social needs of the future residents. As you know, existing schools, GP practices and other social infrastructure are under intense pressure – and we fail to see how the current Plan has addressed the needs of the future residents of the windfalls in the town centre, or how it secures compliance with the public sector equalities duty
6. the strategic environmental assessment is flawed – because it does not consider *reasonable alternatives* to the green belt releases. It treats the (very low) historic urban capacity figure as a given which cannot be increased – when the Council’s own work shows the contrary. The Council cannot evade its legal obligation to consider the obvious alternative to green belt releases by sticking to an out of date mantra that there is no further capacity in Guildford when on its own work there plainly is. Given the choice is effectively green belt or urban here, the alternative of securing more delivery in urban areas (whether through additional sites or maximising potential of existing sites) is necessarily a “reasonable alternative” which has been, but cannot lawfully, be ducked – see the analysis in *R (Friends of the Earth) v. Welsh Ministers* [2015] EWHC 776 (Admin) @ [88]. The Council can hardly say that increased urban capacity is not a reasonable alternative when it has itself commissioned studies into it and demonstrated that there is such capacity. It goes without saying that the Council should focus on urban regeneration as being obviously less harmful than green belt releases. Just the changes to the proposals in North Street retail led scheme will deliver a further 400 units in the town;

We come back to these headline points below.

### **The Decision**

First, we consider the ultimatum which has been set by the Report namely that you have a binary choice - to accept or reject the Plan as it is. The Report further implies that you have no power to require the Council or Inspector to reconsider elements of it and make further modifications. It then relies on the consequences of not having an adopted Plan or of having to start the whole process again to try to scare you into voting for this fundamentally flawed document. The Council’s analysis is simply wrong and, on the contrary, adoption of this flawed plan will make a bad situation worse because if this Plan is adopted it will be challenged and will be likely to be quashed and the Council will then be forced back to the drawing board. You should bite the bullet now.

There is no obligation to adopt the Plan but a discretion. Adopting this Plan now will ensure that there are huge green belt releases and the Council will be fixed on a disastrous long-term strategy. You have a number of possible routes.

You can refuse to endorse the Executive’s approach – decline to adopt the Plan and either as individual councillors or corporately support our request to the Secretary of State to intervene to modify the Plan by requiring a town centre first approach. We note that the Secretary of State has declined WAG’s request to intervene in respect of Wisley but there has been no consideration is given in the Secretary of State’s letter to the general matters raised above.

Additionally, you can reject the Plan and require the Council to promote a modified plan. S.23(1) of the 2004 Act specifically empowers making of modifications – and does not limit the stage at which those modifications may be made. It is correct that the revised Plan as modified would then have to be submitted to the Secretary of State (s.20) and considered at a fresh Examination but the modifications would be limited to tightening up Policy S3, incorporating the area of the Town Centre Regeneration Strategy within Policy D1(13): Master Planning, and removing the green belt residential allocations, the issues would be focussed only on that and those are the same issues as have been the subject of debate to date. There is no legal impediment to adopting that course – and no reason why the process need take considerable time given that all the issues, the evidence and the competing position of the parties are well understood.

The central issue is now very short – given the huge over-provision and the potential town centre capacity, are there exceptional circumstances to justify the release of green belt land so as dramatically to over-provide housing land in the plan period?

The Executive says that that approach would be to lose the transitional protection and lead to an increase in housing numbers. You will note however that the Report contains no detailed figures of what that would mean. The reality is that, under NPPF 2018, there will have to be a review of the Local Plan in 5 years and at that stage the new figures will have to be used – there will be no transitional protection. We are therefore only considering the effect of the transitional protection in those five years – about 900 units.

The Report is urging you to forego a town centre first approach which on the Council's own figures could remove the need for 3200 green belt houses (Town Centre Regeneration Strategy plus the current thinking on North Street) and to massively over-allocate green belt land (by the tune of around 4000 units) to avoid having to use the new figures. That is incomprehensible. The 900 is a tiny proportion of the green belt allocations you could avoid if this Plan was rejected and a town centre first approach adopted. Even if one looks at the total difference in figures over the whole plan period (which we consider to be a misconceived exercise given the 5 year review) the difference is 4000 (the same as the current over-allocation) and around 3000 of these can be accommodated in the town centre. Thus, correcting the over-allocation and focusing on the town centre will reduce the green belt need by at least 3000.

### **Overallocation**

The Inspector proceeds on the basis that the potential supply under the Plan is 14,602 compared to a housing requirement of 10,678. The Plan thus allocates land for nearly 4000 more homes than required – a 37% over-provision. This is an unprecedented over-allocation in any LPA area never mind one so heavily constrained by GB land. The normal provision for non-delivery is 5% of just the five-year housing need - in some cases where there has been historic major under – delivery this increases to 20% of the five-year housing need - but we are not aware of any overprovision anywhere on this scale especially that it is over the whole plan period. It is not credible that the so called unexpected contingencies relied on by the Inspector (84) add up to anywhere near this level of overprovision so as to justify it and, contrary to (85) there is no warrant in policy or the facts for huge over-allocation

to “future proof” the Plan. Overprovision is anathema to a plan led system, will lead to a green belt first delivery and is thus the antithesis of GB protection policy which requires exactly the opposite approach.

The Inspector relies on three matters to conclude that the overallocation does not make the Plan unsound. But nowhere does he (or the Council) ask himself whether there are exceptional circumstances to justify huge green belt developments. That is the correct question under the Policy and the failure to address it renders his conclusions flawed in law and in fact.

### **Urban Potential**

The urban potential in the current local plan was “fixed” by the Council by the time of the Sustainability Scoping Report of 2013 – 6 years ago. Since then the Council has undertaken two major pieces of work – the Town Centre Vision 2014 and the Town Centre Masterplan 2015 – followed by a more detailed Town Centre Regeneration Strategy in 2017. The latter shows that around 3000 homes can be developed in the town centre and immediate environs. In the meantime the Council had a major projects team for around 3 years focussed on regeneration schemes for areas such as Bedford Wharf (not even mentioned in the Local Plan) including buying in the long lease of the cinema site on the river frontage, and working through the One-Public-Estate initiative - and the council has been jointly promoting the North Street site (A6) which remains allocated for 41,000 sq m of retail even though we all know that that is the least likely viable development and the Council is currently considering an increase from 200-300 over the existing allocation, in its discussions with developers there. The short point is that there is a straight disconnect between the up to date work of the Council and the Plan.

### **Conclusion**

The Executive has clearly taken a fundamental wrong turn here – continuing to push huge allocations in the green belt, huge over-provision and a diversion from focus on the town centre. You have a one-off opportunity to force the Council to change course now. We urge you to reject the Plan, to invite the Secretary of State to intervene and/or to require the Executive to pursue a modified plan which gets the basics right.

Yours Sincerely



J D Rigg FRICS

Chair - Guildford Vision Group