

Matter 8 – The Housing Strategy : affordable housing, housing mix and supported, sheltered and older persons housing		
Action	Date on which Action Completed	Examination Doc Reference No.
<p><b>NHDC to propose amendments to Policy HS2 as follows:</b></p> <ul style="list-style-type: none"> <li>• HS2(a) to be reconsidered, specifically so that it makes reference to viability considerations and makes targets clearer</li> <li>• HS2(b)(iii), in respect of reference to likely affordability of any affordable provision in real terms</li> <li>• HS2(b), in relation to “have regard to” and (i) the Council’s “starting point for negotiations”</li> <li>• Amendment to explanatory text to provide information as to prioritisation of affordable housing for those with local connection (to include reference to legal agreements as mechanism)</li> <li>• Amendment to paragraph 8.8 of explanatory text to include reference to community/co-operative housing models</li> <li>• Any consequential amendments to Policy HS3 in light of proposed changes to HS2</li> </ul>	<p>MM125</p> <p>MM125</p> <p>MM129 and MM130</p> <p>MM126</p> <p>MM131</p>	
<p><b>NHDC to liaise with Luton BC in respect of:</b></p> <ul style="list-style-type: none"> <li>• a main modification to Policy SP19 to make it clear that the 1,950 homes to be provided on site east of Luton to assist with meeting Luton’s unmet need will include access to affordable housing</li> <li>• self-build plots on site east of Luton</li> </ul>	<p>31.05.2018</p> <p>Note included in ED139 - Matter 3 : Appendix M3-2</p> <p>MM083</p>	ED139
<ul style="list-style-type: none"> <li>• NHDC to provide a note on self-build and the position taken in respect of self-build in legislation, the National Planning Policy Framework and Planning Practice Guidance</li> <li>• NHDC to consider position adopted by Stevenage BC and Luton BC on this issue</li> </ul>	<p>6/02/ 2018</p> <p>Enclosed as Appendix M8-1</p> <p>Note included in ED139 - Matter 3 :</p>	<p><a href="#">ED83</a></p> <p>ED139</p>

<b>Matter 8 – The Housing Strategy : affordable housing, housing mix and supported, sheltered and older persons housing</b>		
<ul style="list-style-type: none"> <li>NHDC to consider amendment to explanatory text of SP2 to include reference to self-build in villages</li> </ul>	Appendix M3-2 MM011	
<ul style="list-style-type: none"> <li>NHDC to consider clarification as to what is meant by the identification of 100 self-build plots as compared to self-build on windfall sites</li> </ul>	Enclosed as Appendix M8-1	<a href="#">ED83</a>
NHDC to consider the deletion of criterion (f) of Policy HS4 and to instead make reference to the requirement under policies for strategic site allocations	Note enclosed as Appendix M8-2 MM134	ED144
NHDC to consider amendments to Policy SP8(f)(ii) and Policy HS3(a)(i) in respect of taking into account up to date evidence base	MM035	
<p>NHDC to seek clarification from viability consultants as to:</p> <ul style="list-style-type: none"> <li>Whether 100 units or more threshold being applied in HS4(e) and (f) will have an impact on viability</li> <li>C2 uses on strategic sites and whether this will have viability implications</li> <li>Policy HS5 and the provision of greater evidential support for this policy</li> </ul>	January 2018, Enclosed as Appendix M8-3	<a href="#">ED72</a>
NHDC to delete 'exceptionally' from Policy HS6 and consider whether any other clarificatory text is appropriate in respect of HS6	MM138	

## **Appendix M8-1**

**ED83: Note on self-build**

## North Hertfordshire District Council Local Plan Examination Note to Inspector

### Self-build

1. The Inspector has requested that North Hertfordshire District Council (NHDC) provide further information to the Examination with regard to self-build development.
2. Following the hearing sessions for Matter 3 (the need for housing and the housing requirement) and Matter 8 (affordable housing, housing mix and supported, sheltered and older persons housing), the following actions have been specified:
  - provide clarification as to what is meant by self-build development in Policy SP8(f)(iii) either in policy text itself or supporting text
  - consider greater promotion of self-build in explanatory text (main modification)
  - consider basis for 1% figure for self-build on strategic sites (*these actions are set out in ED53, p.3*)
  - provide a note on self-build and the position taken in respect of self-build in legislation, the National Planning Policy Framework and Planning Practice Guidance
  - consider position adopted by Stevenage BC and Luton BC on this issue
  - consider amendment to explanatory text of SP2 to include reference to self-build in villages; and
  - consider clarification as to what is meant by the identification of 100 self-build plots as compared to self-build on windfall sites (*ED54, p.2*)
3. These issues are addressed in this note.

### Legislative provisions for self-build

4. The legislative provisions for self build are set out in the Self Build and Custom Housebuilding Act 2015 (the Act), the Self-build and Custom Housebuilding Regulations 2016/950 (the Regulations) and the Self-build and Custom Housebuilding (Time for Compliance and Fees) Regulations 2016/1027 (the Compliance and Fee Regulations)
5. The Act defines 'self-build and custom house building' as the building or completion by (a) individuals, (b) associations of individuals, or (c) persons working with or for individuals or associations of individuals, of houses to be occupied as homes by those individuals<sup>1</sup>. This does not include the building of a house on a plot acquired

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<sup>1</sup> S1(A1) of the Act

from a person who builds the house wholly or mainly to plans or specifications decided or offered by that person<sup>2</sup>.

6. The Act requires the Council to maintain a register of persons seeking to acquire land to build a home<sup>3</sup>. Applicants must meet basic eligibility criteria to be entered onto the register. The Regulations allow for the register to be divided into Part 1 and Part 2<sup>4</sup> with individuals having to meet an additional 'local eligibility test' to be entered onto the Part 1 register, and if they meet all the criteria except the local connection test, then they will be entered onto the Part 2 register.
7. Local eligibility criteria may include:
  - a local connection test whereby only individuals who meet such conditions as the authority reasonably considers demonstrate that the individual has sufficient connection with the authority's area, are eligible<sup>5</sup>; and
  - a test whereby only individuals who can demonstrate that they will have sufficient resources to purchase land for their own self-build and custom housebuilding, are eligible<sup>6</sup>
8. Section 2 of the Act places a duty on district councils to have regard to the self-build and custom housebuilding register when carrying out planning, housing, land disposal and regeneration functions.
9. S2A(2) of the Act requires the Council to give suitable development permission in respect of enough serviced plots of land to meet the demand for self-build and custom housebuilding in the authority's area arising in each base period. This duty does not apply to any person entered in Part 2 of the register<sup>7</sup>.
10. 'Development permission' means planning permission or permission in principle, and a permission is "suitable" if it is in respect of development that *could* include self-build and custom housebuilding<sup>8</sup> (emphasis added). A serviced plot is a plot of land which either has access to a public highway and connections for electricity, water and waste water; or where in the opinion of the Local Planning Authority highways access and utilities connections can be provided before the granted planning permission expires<sup>9</sup>.

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<sup>2</sup> S1(A2) of the Act

<sup>3</sup> S1(1) of the Act

<sup>4</sup> Regulation 4 and Regulation 5 of the Regulations

<sup>5</sup> Regulation 5(2) of the Regulations

<sup>6</sup> Regulation 5(4) of the Regulations

<sup>7</sup> Regulation 9 of the Regulations

<sup>8</sup> Section 2A(6(c)) of the Act

<sup>9</sup> Section 5 of the Act and Regulation 3 of the Regulations

11. Demand is evidenced by the number of entries added during the register under any relevant base period<sup>10</sup>. The first base period began on the day that the register was established and ended on 30 October 2016. Each subsequent base period is the period of 12 months beginning immediately after the end of the previous base period<sup>11</sup>.
12. The Compliance and Fee Regulations confirm that the time allowed to comply with the duty is 3 years beginning immediately after the end of the base period<sup>12</sup>.
13. A grant of permission in relation to a particular plot of land may not be taken into account in relation to more than one base period in determining whether the S2A duty is discharged<sup>13</sup>.
14. There is no requirement that the permission be implemented. Equally there is no requirement that the permission is granted to or for the benefit of an individual on the register. The Explanatory Memorandum to the Regulations confirms the thinking behind this is 'that a general increase in available land should make it easier for self build and custom build housebuilders to find suitable land'. Consequently for the purpose of the S2A duty, the register operates simply as a mechanism of identifying demand. Therefore any 'suitable development permission' can be taken into account when considering whether an authority has complied with its duty, even if it is for the benefit of an individual who is not on the register.

#### National planning provisions for self build

15. The regulatory provisions above are supported by further planning guidance in both the National Planning Policy Framework (NPPF) and Planning Practice Guidance (PPG)
16. Paragraph 50 of the NPPF states that local planning authorities should "plan for a mix of housing based on current and future demographic trends, market trends and the needs of different groups in the community (such as, but not limited to...people wishing to build their own homes)"
17. PPG was updated in July 2017 to provide further advice on self-build and custom-build housing<sup>14</sup>. Much of this advice refers back to the Act and Regulations identified above. However, the guidance does help to clarify the definition of self-build and custom build stating that:

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<sup>10</sup> Section 2A(6)(a) of the Act

<sup>11</sup> Section 2A(4) of the Act

<sup>12</sup> Regulation 2 of the Compliance and Fee Regulations

<sup>13</sup> Section 2A(7) of the Act

<sup>14</sup> <https://www.gov.uk/guidance/self-build-and-custom-housebuilding>, accessed 26 January 2018

*In considering whether a home is a self-build or custom build home, relevant authorities must be satisfied that the initial owner of the home will have primary input into its final design and layout.<sup>15</sup>*

18. The guidance also states that, to facilitate an increase in the number of planning permissions suitable for self-build and custom housebuilding:

*Relevant authorities should consider how they can best support self-build and custom housebuilding in their area. This could include:*

- *developing policies in their Local Plan for self-build and custom housebuilding;*
- *using their own land if available and suitable for self-build and custom housebuilding and marketing it to those on the register;*
- *engaging with landowners who own sites that are suitable for housing and encouraging them to consider self-build and custom housebuilding and facilitating access to those on the register where the landowner is interested; and*
- *working with custom build developers to maximise opportunities for self-build and custom housebuilding<sup>16</sup>.*

19. With regard to plan-making functions, the NPPG states that relevant authorities with plan-making functions should use their evidence on demand for this form of housing from the register in developing their Local Plan and associated documents<sup>17</sup>.

20. The guidance is clear that there is not a duty on a relevant authority to grant permission that specifically meets the requirements expressed by those on the register. Relevant authorities should use preferences expressed by those on the register to guide its decisions when looking at how to meet its duty to grant permissions. Relevant authorities should also consider informing those on the register when that have permissioned suitable land<sup>18</sup>.

#### Position in submitted plan

21. The submitted plan includes, at Policy SP8(f)(iii), a target for the provision of 100 plots for self-build development over the plan period (LP1, p.48). The supporting text, at paragraph 4.109 (LP1, p.51) states that:

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<sup>15</sup> Planning Practice Guidance, What is self-build and custom housebuilding?, Paragraph: 016 Reference ID: 57-016-20170728, Revision date: 28 07 2017

<sup>16</sup> Planning Practice Guidance, How can relevant authorities increase the number of planning permissions which are suitable for self-build and custom housebuilding?, Paragraph: 025 Reference ID: 57-025-201760728 Revision date: 28 07 2017

<sup>17</sup> Planning Practice Guidance, What does having 'a duty as regards registers' mean?, Paragraph: 014 Reference ID: 57-014-20170728. Revision date 28 07 2017

<sup>18</sup> Planning Practice Guidance, What can someone on a register expect for their membership?, Paragraph: 028 Reference ID: 57-028-201760728, Revision date: 28 07 2017

*Self-build provides another route to home ownership. On strategic sites, 1% of plots will be reserved for people with a local connection who wish to build their own home. No specific self-build targets have been set on Local Housing Allocation sites and local demand will be considered on a site-by-site basis having regards to the Council's self-build register. Self build may additionally be an issue that local communities wish to explore through Neighbourhood Plans.*

Position adopted by Stevenage and Luton councils on this issue

22. The Publication draft of Stevenage Borough Council's (SBC's) Local Plan includes, at Policy SP7(f)(iv) a requirement for at least 1% of new homes on the urban extensions [allocated in the Plan] to be self build (ORD6, p.42).

23. The supporting text of SBC's plan, at paragraph 5.88, states:

*The Government recognises the aspirations of many people to build their own homes. Although we are not aware of an identified need in the Borough currently, we want to ensure that these opportunities exist if things change in the future. The larger urban extensions provide a suitable location to meet this need, as putting aside plots for self-build use can be combined with the need to provide larger, aspirational homes, if necessary.*

24. The 1% requirement is then repeated in site-specific policies for Stevenage West (Policy HO2, p.107), North of Stevenage (Policy HO2, p.110) and South-East of Stevenage (Policy HO4, p.113).

25. The Inspector's Report into the Stevenage Plan concludes that these requirements are sound subject to a main modification to explain that if self-build plots are not taken up by the public after being marketed for at least 2 years, they can revert to conventional build plots (ED16, p.22, paragraph 117).

26. The Inspector's Report into the Luton Local Plan states:

*The Council has advised that there have been no registrations from anyone seeking land for self-build in Luton. However, there could be opportunities within the housing supply, particularly on windfall sites. These various potential needs have been adequately assessed and appropriately provided for. In addition, Policy LP15 requires development to achieve a mix of different housing types and tenures informed by the latest housing market assessment and local circumstances. This is in line with paragraph 50 of the Framework. (ED4, p.39, paragraph 194)*

27. Luton's Local Plan was adopted in November 2017. There is no specific policy on self-build. The supporting text of the adopted plan states:

*Paragraph 50 of the NPPF identifies that local planning authorities should plan for people wishing to build their own homes, and PPG (Paragraph 21)*



*states that the Government wants to enable more people to build their own home and wants to make this form of housing a mainstream housing option and that local planning authorities should, therefore, plan to meet the strong latent demand for such housing. However, based on the Self-Build Portal run by the National Custom and Self Build Association (NCaSBA) there are currently no registrations from groups and individuals looking for land in Luton (Source: 'Need-a-Plot' Portal NCaSBA, July 2015). The Council will continue to monitor the register and keep a register of eligible prospective custom and self-build individuals, community groups and developers<sup>19</sup>.*

#### North Hertfordshire's self-build register

28. The current demand identified in NHDC for the first two base periods is:

Base period	Demand
Inception – 31 October 2016	24 individuals
1 November 2016 – 31 October 2017	85 individuals

29. Under the provisions above, the Council must therefore grant 24 suitable development permissions by three years from the end of the first base period (i.e. 31 October 2019) and a further 85 suitable development permissions by 31 October 2020.

30. As well as collating basic registration information, the Council's self-build register allows applicants to identify locations in which they are interested in acquiring a self-build plot. Applicants can identify as many locations as they wish from a list of 38 towns and parishes in the District.

31. A review of the registers shows that, among applications from the first two base periods have, an average of 13 preferred locations are identified. The five most frequently selected locations in the period from inception to 31 October 2017 are:

- Hitchin – identified as a preference by 78 applicants
- Letchworth – 69
- St Ippolyts – 67
- Baldock – 64
- Ickleford - 54

32. A full list of recorded preferences is including in Appendix A of this note.

<sup>19</sup> Luton Local Plan 2011-2031, November 2017 (paragraph 6.27, p.57)

Windfall development in North Hertfordshire and relationship to Self-Build and Custom Build housing

33. As set out to the Examination, small windfall sites are considered to form a small, but consistent and important, component of housing supply in the District. The Council's Matter 4 statement identifies that an average of 64 completions per year have been achieved from sites of less than five units.
34. Neither the planning application forms used by the Council, nor the validation process on receipt of planning applications, provide a standard or easy means of identifying which planning applications meet either the legal definition of self-build, or the test set in the PPG. Similarly, there is no single test to ascertain which sites *could* include self-build and custom-build housing as per the statutory requirement outlined above.
35. There is therefore presently no robust monitoring data relating to the number of suitable development permissions granted by the Council, or the number of permissions where the initial owner of the home has had a primary input into final design and layout. The Council is in the process of reviewing how best this information might be captured.
36. Evidence has been presented to the examination detailing total house completions and small site completions (defined as schemes of 4 or less homes) in the period 1 April 2016 to 31 March 2017 (ED26a & ED26b). This states that, out of a total of 539 net completions in this period, 70 net completions (13%) were on small-scale / windfall sites. It is asserted that these are custom and self-build completions.
37. A review of the Council's own monitoring data confirms that this evidence includes all completions on sites of this size for the monitoring year.
38. It is not known what additional checks, if any, were undertaken to determine whether all of these 70 net completions (or the permissions on which they are based) would satisfy the definitions of either self-build or suitable development permission outlined above. As per paragraphs 34 and 35 above, NHDC presently has no simple means of ascertaining this.
39. It is considered unlikely that all small site completions would meet the definition of self build and custom build housing (i.e. where the initial owner had a primary input into its design) as these completions might include, for example:
- The conversion of an existing building into multiple flats; or
  - The granting of permission to an existing householder to construct an additional home within the curtilage of their property for subsequent sale.

40. Notwithstanding these points, it is accepted as likely that at least some of the small windfall permissions granted in North Hertfordshire since October 2016 would, on further scrutiny, be capable of contributing towards the Council's suitable development permissions.
41. As set out in oral evidence to the Matter 4 hearing, the Council considers it likely there is some confusion / conflation between, on one hand, the definitions and requirements relating to self build and custom build housing set out in statute and national guidance and, on the other, small-scale windfall developments brought forward by individuals and small and medium sized companies.
42. Although there is overlap between the two, they do not precisely correlate with one another.
43. A proportion of small windfall schemes are likely to be on sites identified, acquired and brought forward by private individuals and small companies outside of any formal definitions of, or processes associated with, self build and custom build housing.
44. The Council has no wish to stifle the ability of any such individuals or companies to bring forward appropriate plots for small-scale windfall development within the policy framework established by the plan. The Council has no intention of imposing, through the plan, an upper limit on the number of such homes that will be permitted.

#### Meeting registered demand for self-build

45. As set out above, it is considered likely that some small windfall completions within North Hertfordshire would, on further scrutiny, be capable of being classified as suitable development permissions contributing towards the Council's statutory obligations against the Act and Regulations. It is possible that the number of suitable development permissions being achieved by the Council through its normal consideration and granting of planning permissions may, in numerical terms, prove to be sufficient to discharge its statutory responsibilities.
46. However, this risks becoming something of an 'accountancy exercise' where demand as registered through one route (the self build register) is simply offset against suitable development permissions that are achieved entirely independently of any measures to address the demand on the register.
47. Indeed, it is entirely plausible that this (or any other) Council could satisfy its statutory obligations without ever facilitating the acquisition of a single plot by any individual on the self build register.
48. This approach would be statutorily compliant. However, the NPPF and PPG encourage a more pro-active approach that goes beyond the statutory requirements.

The PPG, in particular, explicitly encourages relevant authorities to consider how they might support self-build and custom build housing through developing policies in Local Plans, engaging with landowners of sites suitable for housing and facilitating access to those on the register where the landowner is interested.

49. In this context, the Council considers there is a justified role for the Local Plan to play in facilitating the provision of additional self build plots.

Justification for approach to plan

50. On review, the Council considers that (subject to the proposed modifications set out below), the broad principles of the approach set out in the plan are justified.
51. As set out above, there is a **statutory duty to have regard to the self-build register when carrying out planning functions**. Although the analysis above suggests that it might be possible to fulfil the Council's statutory duties without introducing any specific measures, the **NPPF and PPG encourage proactive facilitation of self-build**. This includes suggested measures which go beyond the statutory duties such as providing opportunities to those on the self build register and developing local plan policy.
52. The Council can demonstrate **clear evidence of local demand for self-build**. Through its Self Build Register, the Council has identified 109 individuals in the first two base periods. The Council is now under a statutory obligation to evidence 109 suitable development permissions by 31 October 2020.
53. In this respect, it is noted that Stevenage had identified only a low level of demand at the time of the plan's examination. Application of their 1% requirement would allow for at least 27 plots to be provided (i.e. 50% above the registered demand for 18 plots at the point of the examination).
54. It is accepted that not all applications to be added to the register are likely to translate into expressions of interest or acquisitions of plots for self build should opportunities arise. However, the Council's register is only 18 months old and it is not unreasonable to anticipate further applications over the plan period. Should the register continue to grow at its average rate of 6 entrants per month for the remainder of the plan period, there would be over 900 additional entries on the register by 2031.
55. In addition to the overall demand, the Council can, through analysis of its register, provide **evidence of locational demand**. Although the PPG is clear that authorities are not obliged to specifically meet the requirements of those on the register, the evidence to date shows that three of the main towns within the District are amongst the most popular choices. There is evidence of at least some demand within all of the areas where strategic sites are located. North Hertfordshire is relatively compact,

particularly around the central A1(M) core, and provision on strategic sites would be within reasonable distance of many of the locations identified on the list.

56. In this context, the 1% requirement on strategic sites is considered a **proportionate response that can be made acceptable and deliverable in planning terms**. The 1% requirement for strategic sites ensures a reasonable planning balance between:

- Achieving a ‘critical mass’ of plots that can be located together within a development without undermining its overall coherence; and
- Not providing a scale of proportion of plots such that they might have a disproportionate influence on the overall scheme in terms of its general design and / or appearance.

57. The Council’s viability evidence (TI2, p.23, paragraph 2.2.15) considers that the provision of plots for custom and self build should be at least neutral in viability terms. In this regard, the Council’s approach is considered **compliant with paragraph 173 of the NPPF** in that it will not threaten viability, either individually or cumulatively with other policy obligations.

58. In the above context, the Council considers that the 1% requirement on the strategic allocations proposed in the plan is justified in relation to sites BA1, LG1, NS1, HT1 and GA2 (Policies SP14 to SP18, pp.61-70).

59. However, it is now accepted that the Council cannot justify this approach in relation to the East of Luton site (LP1, Policy SP19, p.71). The majority of this allocation (1,950 out of the proposed 2,100 homes) is to help address unmet housing needs arising from Luton. As set out above, Luton have not identified a self-build need or self-build requirement through their own plan and it would therefore be inconsistent to require the provision of self-build plots for this element of the build.

60. Seeking 1% self-build on the 150 homes that are proposed East of Luton to meet the share of needs arising from within North Hertfordshire would be to apply a lower threshold on a ‘one-off’ basis and result in the provision of just 1 or 2 plots, contrary to the approach in paragraph 56 above.

### Practicalities

61. Some concerns have been raised through the examination relating to the practicalities of securing self-build provision and ensuring its coherence with the remainder of the development. It is considered that these concerns can be addressed through the Council’s decision making functions. This might include the use of (but not necessarily be limited to):

- The inclusion of 'reversion' clauses in any relevant s106 legal agreements identifying that self-build plots remaining unsold after a specified time period; and
- Design codes (or equivalent) setting out an agreed palette of materials, parameters etc. for self-build plots having regard to the proposals for the wider site.

62. The Council is considering the need for further guidance on Self-Build in North Hertfordshire outside of the Local Plan examination. These issues can be given further consideration through this process.

### Modifications to the plan

63. Following discussion at the examination and the submission of statements and additional information by participants, it is accepted that approach to Self Build and Custom Housebuilding in the plan should be clarified for effectiveness. In particular, the distinction between:

- Windfall development schemes that will arise over the course of the plan period which might contribute to the supply of 'suitable development permissions' and the statutory requirements of the Act and Regulations, but are generally self-identified/procured (windfall) schemes that are not open to third party interest or bids; and
- Proactive measures to more specifically address the requirements identified by those on the register and widen opportunities to access self-build in line with the policy and advice set out in the NPPF and PPG respectively.

64. Additional supporting text to Policy SP2 will highlight the possibility for windfall and / or self-build development to come forward in villages.

65. It is further proposed to amend the target for 100 self-build plots in Policy SP8(f)(iii) and relate it instead to the total number of plots to be achieved through the 1% requirement on strategic sites. The supporting text will make the distinction between small windfall development and proactive measures to facilitate self-build opportunities in line with the PPG.

66. As a consequence of the analysis above, it is proposed to delete criterion (f) from Policy SP19.

67. The detailed text of the proposed modifications will be set out in the published schedule of potential changes to the plan.

**Appendix A: Locational preferences identified by entrants on self-build register**

(Inception to 31 October 2017, total 109 entries)

HITCHIN	78
LETCHWORTH	69
ST IPPOLYTS	67
BALDOCK	64
ICKLEFORD	54
WYMONDLEY	51
ASHWELL	48
PIRTON	47
GRAVELEY	46
KNEBWORTH	46
WESTON	45
ROYSTON	44
CODICOTE	43
OFFLEY	43
PRESTON	38
HEXTON	35
HINXWORTH	35
KIMPTON	35
LILLEY	35
BYGRAVE	34
THERFIELD	34
RADWELL	33
ST PAULS WALDEN	33
LANGLEY	32
KINGS WALDEN	31
WALLINGTON	31
CALDECOTE	30
CLOTHALL	30
GT ASHBY	29
HOLWELL	28
SANDON	28
KELSHALL	27
BARKWAY	26
BARLEY	26
NEWNHAM	26
RUSHDEN	26
REED	23
NUTHAMPSTEAD	21

## **Appendix M8 – 2**

**ED144: Note on Policy HS4 and Use Class C2 provision**



## **North Hertfordshire District Council Local Plan Examination Note to Inspector**

### **Policy HS4 and use class C2 provision**

1. Following the Matter 8 hearings session, the Inspector has requested that the Council consider modifications to Policy HS4 of the submitted Plan (LP1, pp.95-96), which deals, among other matters, with the provision of supported, sheltered and older persons housing.
2. The following action has been specified:
  - NHDC to consider the deletion of criterion (f) of Policy HS4 and to instead make reference to the substance of the criterion under policies for strategic site allocations (ED54, p.2).
3. This note has been prepared to inform and justify these modifications.

### Context

4. The submitted plan, at Policy SP8(g) (LP1, p.48), identifies a requirement to:

*Provide up to 350 bed spaces in suitable, supported accommodation to meet the needs of those who cannot live in their own home.*

5. In planning terms, housing with greater levels of care, support and / or communal facilities as envisaged by Policy SP8(g) will tend to fall within use class C2<sup>1</sup>. This requirement for bed-spaces is in addition to the requirements for 'mainstream' housing in use class C3 identified in criteria (a) and (b) of Policy SP8.
6. The plan does not propose any site allocations exclusively for C2 use. However, in order to address the identified need, Policy HS4(f), as submitted, requires that:

*On Strategic Housing Sites, provision is made for some accommodation in Use Class C2 (LP1, p.96).*

7. The supporting text identifies that these requirements form part of the plan's strategy for meeting the housing requirements of older persons, in line with the requirements of paragraphs 50 and 159 of the National Planning Policy Framework.
8. The justification for these approaches was set out in the Council's statement and evidence to Matter 8 and, in particular, in the Council's response to Issue 8.10.
9. At the hearing session, the action at paragraph 2 of this note was identified. This action was identified as the policy requirement will only apply in a relatively small

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<sup>1</sup> As defined by the Town and Country Planning Act (Use Classes) Order 1987 (as amended)

number of instances; a total of six Strategic Housing Sites are proposed in the plan, each with their own policy (Policies SP14 to SP19, pp.61-72).

### Review of monitoring data

10. To justify any site-specific requirements, monitoring data for the period April 1 2011 to 31 March 2017 has been reviewed to identify completions and permissions for older persons care home provision in Use Class C2 to date. This is shown in Table A below.

**Table A: Completions and permissions for Use Class C2 2011-2017 (bed spaces)**

	Completions 2011-2017			Permissions at 1 April 2017			Total		
	Gains	Losses	Net	Gains	Losses	Net	Gains	Losses	Net
Baldock	55	14	41			0	55	14	41
Hitchin	245	29	216		48	-48	245	77	168
Letchworth	75		75		48	-48	75	48	27
Royston			0	19		19	19	0	19
Elsewhere	9	70	-61	15		15	24	70	-46
<b>Total</b>	<b>384</b>	<b>113</b>	<b>271</b>	<b>34</b>	<b>96</b>	<b>-62</b>	<b>418</b>	<b>209</b>	<b>209</b>

Source: NHDC monitoring

11. Since the start of the plan period, a total of 209 net additional care home bed spaces within use Class C2 have been completed or permitted. This leaves a residual requirement for 141 net additional bed spaces over the remainder of the plan period if the overall requirement in Policy SP8(g) is to be satisfied.
12. The provision of additional bed spaces has been predominantly focussed within Hitchin, with 168 net additional bed spaces (80% of the total). A smaller number of additional bed spaces have been delivered or permitted in each of the remaining main towns of the District. There is a net loss of completed or permitted bed spaces across the remainder of the District.
13. Since 1 April 2017, permission has been granted for a further 47 assisted living extra care apartments in Knebworth, as set out in the Council's Matter 11 statement for this settlement. This would provide a total of 71 bed spaces (23 one-bed and 24 two-bed units).
14. If these units are taken into account, a total of 280 care homes bed spaces within Use Class C2 can be identified, leaving a residual requirement for 70 additional bed spaces. Adding these units to the figures in Table A above, means there is a net gain of 35 bed spaces completed or permitted outside of the District's main towns.

### Viability and other considerations relating to care home provision

15. Paragraph 173 of the NPPF identifies that careful attention should be paid to viability and costs in plan-making and decision making. It sets out that the cumulative scale of

planning obligations and policy burdens should not threaten the ability of sites to be developed viably.

16. The issue of viability generally was considered at the resumed Matter 6 hearing session on 25 January 2018. The Viability Addendum paper (ED72) specifically considers the policy requirements set out in Policy HS4 as submitted. It concludes, at paragraphs 2.7 and 2.8 that:

*In respect of the HS4 criteria around including elements of housing for older persons and care provision, our view is that viability is unlikely to be an issue that unduly negatively impacts delivery of such schemes or elements of such schemes (sites of 100+ dwellings and strategic sites). We found the development of sheltered / retirement housing to be viable within our update assessment work and this bears out our experience both locally and in a wide range of other areas, whereby the demand for and value of such development supports its costs and schemes prove profitable.*

*We consider that, similarly, where a suitable demand level exists to support the business models, or affordable housing related needs and investment are in place, C2 and / or other forms of C3 provision for the elderly will be likely to come forward. Subject to these usual drivers of the need / demand side and the range of regular planning and practical criteria being in place, as we consider is envisaged by the HS54 approach, then we are of the view that development viability in itself should not present and unsurmountable obstacle here. Our experience of larger and particularly strategic scale developments is that they would very often include a wide range of housing and, on the latter, other uses and facilities. Whilst not directly or certainly not only viability related, this overview on these aspects also appears consistent with the changing population profiles and evolving Government policy on housing*

17. A second, and related issue, is that any C2 use needs to achieve a 'critical mass' in order to be considered viable in an operational sense. In simple terms, this means ensuring provision of sufficient bed spaces in order to support the provision of appropriate communal facilities and staffing.
18. There is no definitive guidance on the optimum (or minimum) size for such facilities. However, evidence produced by specialist providers to support planning applications or in response to plan-making consultations (including CIL) suggest that schemes need to deliver 50-60 bed spaces to be operationally viable. The upper end of this range is quoted in the Mayor of London's Housing SPG of March 2016<sup>2</sup>.

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<sup>2</sup> Paragraph 3.7.15, p.116, <https://www.london.gov.uk/what-we-do/planning/implementing-london-plan/supplementary-planning-guidance/housing-supplementary>

19. In response to a request by the District Council, Hertfordshire County Council have identified a minimum size of 65 beds and an optimum size of 70-80 beds to ensure viability, fee affordability where places are local authority funded and quality of care.
20. Based upon the residual of 70 bed spaces to be provided identified in paragraph 15 above, these figures suggest a requirement for between 0.9 and 1.4 additional care homes being required in North Hertfordshire over the remainder of the plan period to meet the plan target.
21. It is not considered that any requirements would lead to a change in the housing estimates for any of the sites. The dwelling estimates for all of the strategic sites have already been set having regard to the need to deliver mixed-use communities.

Justification for any site-specific policy requirements

22. On the one hand, a positive, plan-led approach suggests that the residual requirement identified above should, insofar as practicable and reasonable, be met through specific policy requirements in the Plan. This would accord with advice in Paragraph 50 of the NPPF which seeks to create sustainable, inclusive and mixed communities.
23. On the other, it can be seen from the monitoring information above that delivery of additional C2 bed spaces has been occurring as 'windfall' development through the normal operation of the market and without any particular planning policy requirement being imposed. There is also the possibility that some future need could be met through the extension of existing premises.
24. In light of the factors above, each strategic site has been considered to inform a qualitative planning judgement on the most appropriate approach in each instance.
25. **Policy SP14 / Site BA1 – North of Baldock (2,800 homes).** This is the largest strategic housing allocation in the plan, and the largest for North Hertfordshire's own needs by some considerable margin. The monitoring data above shows that, over the plan period to date, Baldock has received a relatively low share of Use Class C2 care home provision. In the interests of delivering a holistic development, it is considered that a requirement for provision of a care home for older persons in Use Class C2 would be justified. This is likely to be a minimum of 50-60 bed spaces to ensure viability.
26. **Policy SP15 / Site LG1 – North of Letchworth Garden City (900 homes).** This is a strategic site in a town with a relatively low share of provision to date. However, dependent on format and scale, any provision made North of Baldock could meet the identified need in its entirety or leave a residual requirement of just 10-20 bed spaces. This is well below the 'critical mass' identified above and would call into question the viability of provision. However, it is equally recognised that assessments of housing need will be updated over the plan period while policy thinking in relation

to older persons accommodation is an area of ongoing development and change. In this context, it is considered that a provisional requirement subject to up-to-date evidence would be justified.

27. **Policy SP16 / Site NS1 - North of Stevenage (900 homes)**. The above measures would be sufficient to meet the target identified in Policy SP8(g) (as submitted) over the plan period. A policy requirement on this strategic site could result in an overprovision. This site needs to be further considered in terms of its geographical location at the edge of the district. Stevenage's own plan already includes requirements for older persons provision, including a specific requirement on the adjoining land within their own administrative area (ORD6, Policy HO3, pp.109-111) and it is not considered as a matter of judgement that a further requirement on the land within North Hertfordshire could be justified.
28. **Policy SP17 / Site HT1 - Highover Farm, Hitchin (700 homes)** – The above measures would be sufficient to meet the target identified in Policy SP8(g) (as submitted) over the plan period. A policy requirement on this strategic site could result in an overprovision. The monitoring data shows a large number of existing completions and permissions have already taken place in Hitchin. No policy requirement to be included for this site.
29. **Policy SP18 / Site GA2 – Land off Mendip Way, Great Ashby** – The above measures would be sufficient to meet identified requirements over the plan period. A policy requirement on this strategic site could result in an overprovision. Similarly to the land north of Stevenage (Policy SP16), this site is located close to the administrative boundary with Stevenage where consideration has been given to older persons provision through the preparation of their own plan. This site is the smallest of the strategic sites proposed by the plan. It is not considered that a policy requirement for a care home would be appropriate for this site.
30. **Policy SP19 / Sites EL1, EL2 & EL3 - East of Luton**. This allocation is predominantly to address unmet housing needs from Luton. Luton's own plan does not include any specific allocations for specialist older persons housing. As set out in the Inspector's report into their plan (ED4, paragraph 192, p.38), Luton anticipates that the market will provide for this need and this is considered a "reasonable and flexible stance". There is no specific evidence that would justify a departure from this approach on this site in relation to Luton's needs. Only 150 homes on this site are to meet housing needs arising from within North Hertfordshire and a requirement for a care home to address the District's needs would be disproportionate and unjustified.

#### Consequential amendments to the plan

31. Following the considerations above, Main Modifications are proposed to the plan as follows:

- To delete the requirement for C2 provision on strategic sites from Policy HS4 in line with the Inspector's action;
- Addition of site-specific criteria to Policies SP14 and SP15 for the sites north of Baldock and Letchworth respectively addressing care-home provision; and
- Consequential amendments to supporting text.

32. For consistency with the approach to mainstream housing, it is additionally proposed that Policy SP8(g) should be expressed as "at least 350 bed spaces..." .

33. These proposed amendments will, subject to the agreement of the Inspector to the Council's proposed approach, be set out in the schedule of Main Modifications and subject to consultation in due course.

## **Appendix M8-3**

**ED72: Viability Study addendum**



**For:**  
**North Hertfordshire District Council**

**Re: Local Plan Examination  
Addendum (Viability)**

**(Proposed policies HS4 & HS5)**

January 2018  
(DSP17503A)



## Addendum contents

Background & Purpose - 1

Commentary & Further test results – 3

Appendix:

Table 1e (v2) (Additional M4(2) and M4(3) test results summary)



## 1. Background & Purpose

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- 1.1 This brief Addendum paper by Dixon Searle Partnership (DSP) has been prepared at the request of North Hertfordshire District Council (NHDC) and completed in January 2018 to further inform the Local Plan Examination process.
- 1.2 More specifically it responds to Examiner's questions that have arisen in relation to viability and how that may be impacted by the Council's proposed Local Plan policy HS5 'Accessible and adaptable housing'; and also provides our view in respect of proposed policy HS4 ('Supported, sheltered and older persons housing') as far as viability is considered to be relevant to that.
- 1.3 DSP conducted a wide range of sensitivity tests on the potential influences on viability of enhanced standards under Building Regulations Part M4(2) and (3) as a part of our August 2016 Update Local Plan Viability Assessment review and report for the Council. Those early stage tests were based on development typology of 100 dwellings, allowing an opportunity to consider the effects of a range of potential requirements and combinations of those, in respect of the enhanced M4 criteria. The effect of potential additional costs levels up to and beyond those now likely to be related to HS5 were considered, as part of the wide information presented to the Council and used to inform policy its development.
- 1.4 However, since then, the NHDC policy proposals have developed and been firmed-up – with HS5 now requiring 50% dwellings to be provided to optional enhanced standards under M4(2) on all major developments. Additionally, HS5 also requires 10% of affordable homes to be provided to meet relevant M4(3) standards where the number of AH dwellings on a site reaches 10 or more.
- 1.5 This means that, as proposed, both of the HS5 requirements will impact together on a scheme of 25 dwellings (the smallest scheme size at which 10 affordable homes are produced based on the Council's 40% affordable housing (AH) policy position under Policy HS2).
- 1.6 Representing, therefore, the smallest development scenario tested previously (base tests within the August 2016 assessment, as above) that also meets this "threshold" point for the combined elements of HS5, we have added further 25 dwellings tests.

These include the additional costs related to the HS5 requirements (both M4(2) and M4(3)) applied to the base scenario, otherwise using the same appraisal assumptions (inputs) for direct comparison purposes.

- 1.7 The additional residual land value (RLV) results (January 2018) are shown at Table 1 e (v2) which forms the Appendix to this Addendum paper. These new results may be compared with the base set at Table 1e within Appendix II of the 2016 report (which contained no M4(2) and / or M4(3) enhancement costs assumptions).
- 1.8 For ease of reference and enabling direct comparison side-by-side, the equivalent base (without M4(2) and (3)) results are also included beside the new test results (RLVs) in Appended Table 1e (v2).
- 1.9 As part of the ongoing review of information and considering responses related to the Examination Matters and Issues, NHDC also asked for DSP's views on any likely viability implications of policy HS4 which, as part of the overall promotion of mixed developments and housing for all, seeks to secure elements of housing for older persons within developments providing 100 or more dwellings and also care facilities as part of strategic scale developments.
- 1.10 DSP's view is that viability is likely to be a low-level or at the most a secondary influence in such scenarios coming forward, with the normal range of requirements and factors informing or underpinning developments most likely being more significant in determining delivery in our view - such as demand / need / operation of the market and usual planning criteria (as per HS4 and linked also to proposed policy HS3).
- 1.11 Section 2 below, outlines the findings from results of the additional M4 related (as above and see Appendix Table 1e (v2)) and briefly revisits the above noted points on policy HS4, limited to viability considerations.
- 1.12 This adds to the earlier assessment and reporting, using the same principles. The full Update report (August 2016) should be referred to for any background, the detailed methodology and assumptions etc.
- 1.13 DSP will be happy to assist with any further information required by the Council in respect of this paper or related matters – potential viability influences.

## 2. Findings and commentary

- 2.1 The Appended Table 1e (v2) results show the RLVs after allowing for the HS5 additional costs, indicatively, falling between by approximately 3.4% (at VL8) and approximately 15% (at VL1).
- 2.2 This overview is illustrated by the following table:

VL	Value £/m <sup>2</sup>	Base Result	M4(2) 50% of dwellings plus M4(3) 10% of AH dwellings (Policy HS5)	% Analysis between Base Result and Policy HS5 Compliant result	Base Result	M4 (2) 50% of dwellings plus M4(3) 10% of AH dwellings (Policy HS5)	% Analysis between Base Result and Policy HS5 Compliant result
		Residual Land Value (Lower Density)	Residual Land Value (Lower Density)		Residual Land Value (Higher Density)	Residual Land Value (Higher Density)	
1	£3,000	£621,036	£525,994	-15.30%	£621,036	£525,994	-15.30%
2	£3,300	£907,620	£818,614	-9.81%	£907,620	£818,614	-9.81%
3	£3,600	£1,187,814	£1,099,818	-7.41%	£1,187,814	£1,099,818	-7.41%
4	£3,900	£1,461,170	£1,374,578	-5.93%	£1,461,170	£1,374,578	-5.93%
5	£4,200	£1,734,526	£1,647,934	-4.99%	£1,734,526	£1,647,934	-4.99%
6	£4,500	£2,007,882	£1,921,290	-4.31%	£2,007,882	£1,921,290	-4.31%
7	£4,800	£2,281,238	£2,194,646	-3.80%	£2,281,238	£2,194,646	-3.80%
8	£5,100	£2,554,594	£2,468,002	-3.39%	£2,554,594	£2,468,002	-3.39%

- 2.3 This range of outcomes is to be expected, because the additional appraisal costs are fixed, but with reducing sales values assumptions (as represented by the value levels (VLs) moving towards VL1) there becomes increasingly less development revenue and a lower level of base viability available to support the development costs that remain broadly the same.
- 2.4 However, at appended Table 1e(v2) we can see that only in the case of VL1 and VL2 values do the RLVs with the added M4(2) and (3) related costs at the HS5 levels (2018 tests) meet a lower viability test than they did without those costs (latter referring to the 2016 base tests).
- 2.5 From the base assessment work, VL1 and 2 values are considered very much lower-end values for new-builds in the local context. With our overview of values mainly within the mid-range beyond these, we can see that none of the new test RLVs switch to meeting a lower from a higher viability test, and the scale of reduction in RLVs from the influence of these additional costs, as noted above, is not considered

sufficiently significant on the whole to cause schemes to move from viability into non-viability.

- 2.6 Therefore, at the Local Plan policy level, the HS5 criteria on M4 related enhancements appear to have been appropriately judged from a viability point of view and of course bearing in mind also the balance with the need for a wide range of accommodation to be provided. We consider that they will have the potential to be deliverable from a viability point of view, when viewed alongside the other costs and policies also tested through the assessment approach.
- 2.7 In respect of the HS4 criteria around including elements of housing for older persons and care provision, our view is that viability is unlikely to be an issue that unduly negatively impacts delivery of such schemes or elements of such schemes (sites of 100+ dwellings and strategic sites). We found the development of sheltered / retirement housing to be viable within our update assessment work and this bears out our experience both locally and in a wide range of other areas, whereby the demand for and value of such development supports its costs and schemes prove profitable.
- 2.8 We consider that, similarly, where a suitable demand level exists to support the business models, or affordable housing related needs and investment are in place, C2 and / or other forms of C3 provision for the elderly will be likely to come forward. Subject to these usual drivers of the need / demand side and the range of regular planning and practical criteria being in place, as we consider is envisaged by the HS54 approach, then we are of the view that development viability in itself should not present and unsurmountable obstacle here. Our experience of larger and particularly strategic scale developments is that they would very often include a wide range of housing and, on the latter, other uses and facilities. Whilst not directly or certainly not only viability related, this overview on these aspects also appears consistent with the changing population profiles and evolving Government policy on housing provision and mixes.

Addendum (Viability) Ends

DSP January 2018

Appendix (including Table 1e (v2) follows.



# **Addendum (Viability)**

**Appendix:**

**Additional Residential Results Summary  
– Further M4(2) and M4(3) Sensitivity Tests  
(Policy HS5 Accessible & Adaptable Housing)**

**For: North Hertfordshire DC  
(DSP17503A)**



Addendum: Table 1e (v2) - Residual Land Value Results by 40% AH & Value Level  
- 25 Unit Scheme - Mixed with M4(2) and M4(3) sensitivity tests (Policy HS5 Accessible and Adaptable Housing)

						Base Result (No Policy HS5 Allowance)		M4 (2) 50% of dwellings plus M4(3) 10% of AH dwellings (Policy HS5)		
Development Scenario	Typical Site Type	Market Floor Area	Site Density (dph)		Value Level	Value £/m²	Residual Land Value (Lower Density)	Residual Land Value (Higher Density)	Residual Land Value (Lower Density)	Residual Land Value (Higher Density)
Mixed 25 40% AH	Greenfield / PDL	1415	25.3	40.9	1	£3,000	£621,036	£621,036	£525,994	£525,994
					2	£3,300	£907,620	£907,620	£818,614	£818,614
					3	£3,600	£1,187,814	£1,187,814	£1,099,818	£1,099,818
					4	£3,900	£1,461,170	£1,461,170	£1,374,578	£1,374,578
					5	£4,200	£1,734,526	£1,734,526	£1,647,934	£1,647,934
					6	£4,500	£2,007,882	£2,007,882	£1,921,290	£1,921,290
					7	£4,800	£2,281,238	£2,281,238	£2,194,646	£2,194,646
					8	£5,100	£2,554,594	£2,554,594	£2,468,002	£2,468,002
							Residual Land Value (£/Ha) (Lower Density)	Residual Land Value (£/Ha) (Higher Density)	Residual Land Value (£/Ha) (Lower Density)	Residual Land Value (£/Ha) (Higher Density)
					1	£3,000	£628,488	£1,016,014	£532,306	£860,527
					2	£3,300	£918,511	£1,484,866	£828,437	£1,339,252
					3	£3,600	£1,202,068	£1,943,264	£1,113,016	£1,799,303
					4	£3,900	£1,478,704	£2,390,474	£1,391,073	£2,248,810
					5	£4,200	£1,755,340	£2,837,685	£1,667,709	£2,696,020
					6	£4,500	£2,031,977	£3,284,895	£1,944,346	£3,143,231
					7	£4,800	£2,308,613	£3,732,105	£2,220,982	£3,590,441
					8	£5,100	£2,585,249	£4,179,316	£2,497,618	£4,037,652

Key:

	RLV beneath Viability Test 1 (RLV <£370,000/ha)
	RLV exceeding Viability Test 1 (RLV £370,000/ha)
	RLV exceeding Viability Test 2 (RLV £500,000/ha)
	RLV exceeding Viability Test 3 (RLV >£900,000/ha)
	RLV exceeding Viability Test 4 (RLV >£1,800,000/ha)
	RLV exceeding Viability Test 5 (RLV >£2,400,000/ha)

Source: Dixon Searle Partnership (2018)