



Tendring Local Plan

Examination Hearing Statement

Matter 3 – Policies and Allocations for Housing Development
(Delivering Places)
SAMU2 – Hartley Gardens
Comment ID LPPuD297 and LPPuD298

Prepared by Strutt & Parker on behalf of Greenwich Hospital

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1.0 Introduction and Background

- 1.1 Strutt and Parker made representations on the Tendring District Local Plan Publication (Regulation 19) Draft ('the eLP') on behalf of Greenwich Hospital in 2017. These representations (Comment ID LPPuD297 and LPPuD298) were duly made.
- 1.2 The focus of representations was Policy SAMU2 (Hartley Gardens).
- 1.3 This Hearing Statement addresses questions 3.1 – 3.5 of Matter 3 and in relation to SAMU2.
- 1.4 This Hearing Statement seeks to avoid repeating matters already addressed within representations on the eLP, as requested; and should be read in conjunction with these representations.
- 1.5 Considerable time has elapsed since the most recent opportunity to make formal representation on the eLP (the Regulation 19 consultation ended on 28 July 2017).
- 1.6 At the time of the Regulation 19 consultation, proposals for Hartley Gardens were being driven by a third party with the support of Greenwich Hospital as owner of a significant area of land that falls within the proposed allocation.
- 1.7 We note Tendring District Council's ('the Council') view (as set out in Topic Paper 6 (TP6)) that work to progress the site has not materialised as rapidly as might have been expected for a draft allocation. However, it should be noted that in response to concerns regarding progress, Greenwich Hospital resolved to take more of a proactive role in the formation and delivery of Hartley Gardens and instructed Strutt & Parker to assist in this respect in October 2020.
- 1.8 Technical work to support the deliverability of Hartley Gardens has been undertaken, and further work is planned (including preparation of a masterplan) to follow. Completed work to date which is appended to this Hearing Statement includes Overview of Landscape and Visual Matters (**Appendix A**) and Transport Appraisal (**Appendix B**). In addition a Viability Review has been undertaken and the conclusions provided at **Appendix C**.
- 1.9 Greenwich Hospital controls the majority of land within the proposed SAMU2 study area¹, totalling c.76ha. This represents a significant proportion of land identified within TP6² to accommodate development. Land under Greenwich Hospital's control adjoins development

¹ As proposed in TP6

² TP6, Figure 18 – Indicative Land-Use Budget

that has already been consented and is being implemented to the east; and existing residential areas to the south. Greenwich Hospital's land is well placed to be able to achieve a significant proportion of development proposed through SAMU2, as well as SAMU2's objectives. Greenwich Hospital is committed to taking a proactive role in preparing a masterplan for Hartley Gardens, working with other landowners, the Council, and other stakeholders to do so. Furthermore, Greenwich Hospital is committed to realising the delivery of development on land within its control, and has experience in delivery strategic scale development, including recently at Throckley, Newcastle-upon-Tyne.

- 1.10 We note proposed modifications to SAMU2³. We are broadly supportive of these, and consider them to be in principal both sound and necessary to ensure soundness. However, we consider further modifications to address detailed matters are required to ensure the policy is sound, as set out within this Hearing Statement.
- 1.11 As per the NPPF 2019 transitional arrangements, the eLP is being examined in relation to the NPPF 2012. As such, unless stated otherwise, where reference is made to the NPPF, this refers to the NPPF 2012. Similarly, reference to PPG is to that which accompanied the NPPF 2012 unless otherwise stated.

2.0 Site Description

- 2.1 SAMU2 as per the submitted eLP measures approximately 130ha, approximately c.52 of which is land owned by Greenwich Hospital.
- 2.2 The proposed modifications include a study area site boundary of approximately 125ha, the majority of which is owned by Greenwich Hospital.
- 2.3 Land relevant to SAMU2 is in several ownerships. A plan showing land ownership is provided as **Appendix D**.
- 2.4 SAMU2 is described in TP6, and we do not seek to repeat the description here. However in addition to this site description it is pertinent to note to that Greenwich Hospital's land stretches from that which borders the existing settlement boundary and residential development to the south, accessed by Little Clacton Road; to St Osyth's Road and the Centenary Way / A133 roundabout to the north, at the northern boundary of the study area.

³ As per TP6 and repeated in SM1

- 2.5 Little Clacton Road run north-south through the proposed study area, connecting the existing residential area to the south with St Osyth's Road to the north, and forming the western boundary to Greenwich Hospital's land.
- 2.6 The A133 runs north-south, demarcating the eastern boundary of the proposed study area. Greenwich Hospital land abuts this road in the northern part of the study area.

3.0 Response to Matter 3

Question 3.1: Are the above allocations for new development soundly-based; are the criteria set out in the relevant policies justified and effective; is there appropriate evidence that the development of the allocations is viable and developable during the plan period?

Justification for SAMU2

- 3.1 The eLP is supported by an evidence base which provides clear and detailed justification for identifying Hartley Gardens as a broad location for development.
- 3.2 Clacton is the largest settlement in the District, and benefits from a range of services, facilities and employment opportunities that render it a sustainable location to accommodate growth.
- 3.3 The direction of growth to this location will also support the Council's objective of seeking to realise social and economic benefits for Clacton.
- 3.4 As set out within our Regulation 19 representations, and in the Council's evidence base⁴ Hartley Gardens is subject to few constraints to development.
- 3.5 Furthermore, it is relevant to note the limited opportunities to facilitate the scale of growth proposed at Hartley Gardens in alternative locations. TP6 recognises that there are limited opportunities for growth in Clacton given its coastal location and physical constraints. Where other areas have been identified as suitable to accommodate a proportion of Clacton's growth, these are already proposed to be allocated, such as Oakwood Park (SAMU3), i.e. it is not the case that there are potentially more / as suitable sites that have been rejected in favour of SAMU2 that could deliver comparable benefits.

⁴ As summarised in TP5 and TP6

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- 3.6 In addition to the lack of environmental constraints and lack of harm to the objectives of the Local Green Gap, a further advantage of the north and westward expansion of Clacton is that this directs to growth to areas from which the strategic highway can be accessed whilst minimising impact on the local highway network.
- 3.7 The NPPF confirms the importance of Sustainability Appraisal (SA) in the plan-making process, and justifying the strategy proposed⁵. The eLP is supported by SA⁶ which provides a robust appraisal of SAMU2 against the SA framework. It concludes SAMU2 will have significant positive impacts in relation to a number of sustainability objectives. Where it does identify potential negative impacts⁷, these are either factors applicable to all reasonable alternatives (e.g. the loss of greenfield land) or matters that can be readily addressed through the detailed design of future development, and indeed the detailed policy requirements of SAMU2 will ensure this.
- 3.8 The suitability of this location for development has been further reaffirmed through the grant of planning permission and delivery of a retail-led, mixed-use development at Brook Park West⁸ within SAMU2 as per the submitted eLP.
- 3.9 It is acknowledged that Hartley Gardens is located within a Local Green Gap, as per the current Development Plan. This is an existing policy constraint to development. The key objective of the Local Green Gap, and the proposed Strategic Green Gaps – the eLP proposed equivalent – is to avoid coalescence of neighbouring settlements.
- 3.10 As established through S78 appeal decisions⁹, simply because a site is located within a Local Green Gap does not render it intrinsically unsuitable for development. A key issue is whether development would offend the purposes of this policy.
- 3.11 The eLP evidence base (as noted in TP5) has provided justification as to why certain land is proposed to be removed from the Local Green Gap. We consider the Council has taken a very thorough approach to this issue, particular given that Local Green Gap is not afforded any particular status in national policy – it is very different, for example, from Green Belt, where exceptional circumstances are required to be demonstrated to justify loss.
- 3.12 In the case of Hartley Gardens, as recognised in TP6, the existing gap between Little Clacton and Clacton is extremely generous. It is evident that some development can take

⁵ NPPF paragraph 165

⁶ Examination Document Reference SDTDC/019

⁷ Listed Buildings, potential impact on Conservation Area, loss of greenfield land, fluvial flooding, surface water flooding.

⁸ Approved June 2017 (16/01250/OUT)).

⁹ See for example, APP/P1560/W/17/3169220 Land north west of Sladbury's Lane, Clacton

place within this area whilst still retaining the separation of the settlements. Measures will be incorporated into the development to ensure potential coalescence is avoided.

3.13 We note the Council's view that delivery of Hartley Gardens is not required in order to meet the District's housing requirements as per Section 1 of the eLP. We consider there are several points of importance to note in this regard:

- Notwithstanding that it is entirely consistent with the NPPF 2019 for the eLP to be examined in relation to the NPPF 2012, it would be irrational to have total disregard for current national policy. It is considered material that current national policy sets out a fundamentally different approach to identifying minimum housing numbers which is less concerned with seeking to determine the 'correct' housing figure, and more focussed on boosting housing land supply¹⁰. The current local housing need¹¹ in Tendring District is 880 dpa.
- Further to the above, the eLP Section 1 policy setting a housing requirement of 550 dpa has been found subject to a modification requiring that figure to be reviewed in accordance with national policy.
- The housing requirement of 550 dpa is a *minimum*.
- Local Plans are required to be imbued with sufficient flexibility to be capable of meeting development needs in the event of changing circumstances¹².

3.14 As such, it is entirely appropriate (indeed, necessary) that the eLP should seek to promote development of Hartley Gardens irrespective of whether minimum development needs can potentially be met through other allocations / existing commitments.

Detailed SAMU2 policy requirements

3.15 We consider that, broadly, the specific policy requirements within SAMU2 of the submitted eLP were justified, consistent with national policy and effective. However, there were aspects that were not and require modifications to ensure the eLP is sound. We note that the Council proposes modifications to address this, and our response these is discussed in detail in relation to Question 3.5.

¹⁰ See for example APP/P1560/W/18/3194826 Lifehouse Spa and Hotel, Frinton Road, Thorpe-le-Soken, paragraphs 35 and 36 of appeal decision.

¹¹ As calculated in accordance with the NPPF 2019 and accompanying PPG, average annual household increase 2021-2031 as per 2014 SNHP with latest (2019) published affordability ratio applied

¹² NPPF paragraph 14

Viability and Deliverability

- 3.16 We note the Council's view that SAMU2 has not progressed as rapidly as they had expected for a draft allocation. However, it should be noted that Greenwich Hospital has now resolved to take a more proactive role in the formation and delivery of Hartley Gardens.
- 3.17 Greenwich Hospital is committed to working collaboratively with the Council, other landowners and stakeholders to progress plans for Hartley Gardens. Discussions with other landowners have confirmed their willingness to realise development.
- 3.18 Technical work being coordinated by Greenwich Hospital to inform a masterplan for Hartley Gardens is underway.
- 3.19 The eLP identifies the infrastructure required to support Hartley Gardens, how this will be delivered, and confirms its viability. As a development that is not anticipated to come forward within the first five years of the plan period, the eLP has gone far beyond the requirements as set out in the PPG in this regard¹³. The eLP is clearly sound in this respect.
- 3.20 The June 2019 Economic Viability Study clearly evidences Hartley Gardens' viability. It considers the site specifically and, again, in doing so we consider it to have gone beyond the minimum requirements for considering the issue – the PPG¹⁴ makes clear that it is unnecessary to test every individual site. An independent viability review confirms the robustness of the Council's conclusions in respect of Hartley Gardens (Appendix C). Furthermore, the removal of the requirement for provision of a new link road will only improve Hartley Garden's viability.
- 3.21 In addition, as a broad location for growth (as per proposed main modifications) the eLP is only required to demonstrate there is a *reasonable prospect* that the site is available and could be viably developed at the point envisaged.¹⁵ The eLP evidence base manifestly demonstrates there is a more than reasonable prospect of delivery in the case of SAMU2.
- 3.22 In respect of projected delivery, we consider the Council has taken a very cautious approach to estimating SAMU2's contribution towards housing delivery in the plan period. Whilst we appreciate this is based on concerns the Council had with the lack of progress

¹³ PPG paragraph: 019 Reference ID: 12-019-20140306: "*The Local Plan should make clear, for at least the first five years, what infrastructure is required, who is going to fund and provide it, and how it relates to the anticipated rate and phasing of development. This may help in reviewing the plan and in development management decisions. For the later stages of the plan period less detail may be provided as the position regarding the provision of infrastructure is likely to be less certain.*"

¹⁴ PPG Paragraph: 007 Reference ID: 10-007-20140306

¹⁵ NPPF paragraph 47, footnote 12

being made post Regulation 19 consultation, the position is now materially different as explained within this statement.

Question 3.2: Are the detailed requirements for each of the allocations clear and justified? Have site constraints, development mix and viability considerations been adequately addressed?

- 3.23 We consider that the specific policy requirements within SAMU2 of the submitted eLP were broadly sound, but with aspects that were not and which require modifications. We note that the Council proposes modifications to address this, and our position on these is set out in response to Question 3.5.
- 3.24 Hartley Gardens is subject to limited constraints and these have been appropriately considered, as explained within TP6. In addition, and as discussed further in our response to Question 3.5, we consider the eLP has taken a very cautious approach to considering constraints.
- 3.25 In respect of viability, please see our response to Question 3.1.

Question 3.3: Is the approach taken to identify the capacity of these sites appropriate?

- 3.26 The Council has undertaken detailed capacity work which demonstrates the ability of the site to accommodate approximately 1,700 dwellings, as set out in TP6. Detailed land use budget work undertaken by TDC (TP6) shows capacity for 1,667 dwellings.
- 3.27 It is important to note that the quantum of dwellings is expressed as an approximate. We consider this is entirely appropriate.
- 3.28 Landscape assessment work we have undertaken has found that, in order to respond more favourably to the site and context, it may be appropriate to increase the densities closer to the existing settlement above those the Council has estimated. This would enable an increase in the 1,667 dwellings calculated through the Council's land use budget work.
- 3.29 The Council has assessed impact on infrastructure and found there is sufficient infrastructure capacity / ability to mitigate where additional infrastructure is required.

Question 3.4: Are the assumptions made in relation to the timescale for delivery justified?

- 3.30 We consider timescales for first completions set out in TP6 (60 completions for 2025-2030) are very conservative estimates, and there is potential for a greater quantum to come forward within this period.
- 3.31 We consider it is important for SAMU2 to be imbued with sufficient flexibility to enable site to come forward earlier, particular when one considers the position in respect of the District's housing need as discussed in response to Question 3.1.
- 3.32 We consider the contribution from the SAMU2 to meeting development needs within the plan period is likely to be significantly greater than the LP estimates, but this does not render the LP unsound. Rather, it helps ensure flexibility to meet development needs, as required by the NPPF.

Question 3.5: Are the Council's proposed modifications to these policies and supporting text necessary for soundness?

- 3.33 We consider the various elements of proposed modifications to SAMU2 in turn:

Hartley Gardens to be designated a broad location for growth

- 3.34 We consider this modification *is* necessary to ensure soundness and *is* sound.
- 3.35 The NPPF¹⁶ and PPG¹⁷ make clear Local Plans may identify broad locations for growth.
- 3.36 We acknowledge that detailed development proposals for development have not progressed as the Council had envisaged. Whilst we anticipate such progress will now be greatly accelerated; as per NPPF, it is appropriate for the Council to identify broad locations for growth if it has some uncertainty regarding deliverability within five years.
- 3.37 In addition, this modification provides sufficient flexibility to be able to respond to changing circumstances and account for a situation in which an element of the location may not be available for development.

¹⁶ NPPF paragraph 157

¹⁷ PPG paragraph: 006 Reference ID: 12-006-20150320

Removal of requirement for a new link road to be provided

- 3.38 We consider this modification *is* necessary to ensure soundness and *is* sound.
- 3.39 There is no evidence to justify requirement for a new link road, as TP6 acknowledges.
- 3.40 The requirement to provide a new link road, and the prescriptive requirements of the submitted eLP relating to its location and form, could preclude exploration of alternative transport improvements available. As per the Transport Appraisal undertaken (Appendix B), there are alternative options available that could achieve the same objectives.
- 3.41 The landscape work we have undertaken (Appendix A) identifies that a new link road on the western edge of Hartley Gardens could result in landscape harm. Harm which is avoidable through alternative transport proposals.

No planning application will be approved until a site-specific Hartley Gardens DPD has been prepared and adopted by the Council

- 3.42 We consider this is neither necessary to ensure soundness, nor is it sound in its own right.
- 3.43 Modification should only be made at this stage (post submission) where required to make the LP sound¹⁸. There is no evidence this element of the policy is necessary.
- 3.44 The NPPF states:
- “Any additional development plan documents should only be used where clearly justified”.*
- 3.45 In particular, we are concerned that the requirement for a DPD will result in an additional, unnecessary tier of plan-making and resultant delay. The PPG makes clear that the preference is to avoid additional DPDs¹⁹.
- 3.46 We consider an SPD may be more appropriate, mindful that the NPPF²⁰ states:

“Supplementary planning documents should be used where they can help applicants make successful applications or aid infrastructure delivery”.

¹⁸ Section 20 (7C) of the Planning and Compulsory Purchase 2004

¹⁹ Paragraph: 013 Reference ID: 12-013-20140306

²⁰ NPPF paragraph 153

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- 3.47 Alternatively, we note other Local Plans²¹ elsewhere have sought to address similar issues by requiring the preparation of a masterplan prior to an application, and this has been found sound.
- 3.48 If requirement for a DPD is to remain, it is important that the policy is positively worded to enable development to come forward ahead of the DPD where these would not undermine the objectives of a coordinated approach. As currently proposed, we consider the policy wording takes an overly negative stance towards such proposals.

²¹ For example, Chelmsford Local Plan May 2020. Found sound 25 February 2020. Inspector's Report available via: <https://www.chelmsford.gov.uk/resources/assets/inline/full/0/3951296.pdf> . It confirmed it would be appropriate for detailed elements of strategic development proposals to be determined through subsequent masterplans.