

By email only: strategic.planning@ Crawley.gov.uk

Strategic Planning
Town Hall
The Boulevard
Crawley
RH10 1UZ

Our ref: AH/RB

17 March 2021

Dear Sir/Madam

CRAWLEY LOCAL PLAN REVIEW – REGULATION 19 CONSULTATION - REPRESENTATIONS

On behalf of our client, Southern Gas Networks (SGN), we enclose representations to the Crawley Borough Council (‘the Council’) Regulation 19 consultation on its emerging Local Plan Review. Our client is the freehold owner of the land at the disused gasholder, Forge Wood, RH10 3SX (hereafter known as ‘the Site’). The exact land ownership is indicated on the Site Location Plan appended to this letter.

At the request of the Council, we have also appended two Representation Forms that should be read in conjunction with this cover letter.

Background

SGN are one of four gas distribution companies which operate eight networks across the UK. The company’s primary responsibility is to ensure that gas is delivered safely, reliably and efficiently to almost six million homes in the south of England and Scotland, making SGN one of the country’s most important utility providers.

SGN originally owned and managed 110 gasholders across the UK (mainly located in Scotland and the South East of England). However, the gasholders themselves are no longer required for gas storage purposes as advances in technology allow gas pressure to be controlled and stored within the underground pipeline.

SGN have an obligation to dismantle all their gasholders by 2029. In tandem with this exercise, SGN are exploring the development potential of all their sites and recognise that their Forge Wood site offers an opportunity for redevelopment during the Local Plan Review plan period.

From the outset of our representations, we make the Council aware that SGN are currently in the process of preparing a Prior Approval application for the demolition of the gasholder. We therefore consider that the Site is deliverable within years one to five of the plan period.

As a result of activity taking place on the Site, we make comment on several aspects of the Local Plan Review (including the supporting evidence base) to ensure its development potential is realised through this iteration.

Draft Strategic Policy H1 (Housing Provision)

Draft Strategic Policy H1 confirms that the identified housing need over the Plan period (2021-2037) is 12,000 dwellings. However, the Local Plan Review is only proposing to make provision for the development of 5,320 dwellings, This would result in a significant unmet need of 6,680 dwellings, equivalent to 56%.

In recognition of this unmet need, the Council include the following statement in draft Strategic Policy H1:

'The Council will continue to work closely with its neighbouring authorities, particularly those which form the Northern West Sussex Housing Market Area, in exploring opportunities and resolving infrastructure and environmental constraints in order to meet this need in sustainable locations. This will include continued assessment of potential urban expansions to Crawley.'

NPPF Paragraph 35 is clear that Plans are 'sound' if they are (inter alia) positively prepared – providing a strategy which, as a minimum, seeks to meet the area's objectively assessed needs and is informed by agreements with other authorities, so that unmet need from neighbouring areas is accommodated where it is practical to do so and is consistent with achieving development.

To determine whether this soundness test has been met, we have reviewed the *Unmet Needs and Duty to Cooperate Topic Paper*. Following this review, we are not satisfied that the Council are certain whether their unmet need can in fact be delivered elsewhere within the Housing Market Area (HMA). For example, paragraph 3.1.6 states, *'it is acknowledged that the Standard Method has increased the objectively assessed housing need for the other authority areas within the HMA and so the final outcomes of meeting the full housing need of the HMA will need to be established through the reviews of each of the Local Plans independently'*.

Similarly, reference is made to the importance of urban extensions to meet unmet housing need. Paragraph 3.1.7 notes that *'further development is being explored through the Horsham District Local Plan review process, through the promotion by Homes England of strategic scale development to the West of Crawley for up to 10,000 new dwellings...The draft submission is due to be published for Regulation 19 consultation in February 2021'*. This confirms that the allocation is not guaranteed and could significantly hinder the Council's ability to meet its unmet need if it is not included within the Horsham Local Plan Review.

We also note that the HMA are failing to meet their adopted overall housing need, giving further reason to doubt whether the Council's increased housing need can truly be delivered elsewhere.

We conclude that the Council remain uncertain at an advanced stage of the plan making process as to whether their unmet need can be met elsewhere within the HMA. Instead, they should be exploring every possible opportunity to meet it as far as possible within its own boundary by undertaking further call for sites consultations and reviewing sites previously deemed unsuitable in the SHLAA, as well as providing a degree of certainty that any outstanding need can be met elsewhere.

The Council are at serious of failing to meet this soundness test if further work is not carried out before the Local Plan Review is submitted for examination.

SHLAA – North East Sector, Gas Holder Site

The Strategic Housing Land Availability Assessment (SHLAA) forms part of the evidence base for the Local Plan Review. The latest iteration was published in September 2020.

The Site is assessed in part under the name 'North East Sector, Gas Holder site' (Site Ref: 73). SGN's land ownership forms the middle portion of the assessed area and does not include the adjacent land to the north and south.

The Council conclude that Site 73 is considered unsuitable for housing development due to significant flood risks and a high likelihood of contaminated land.

We challenge this assessment for the reasons set out below and consider it could be one of many sites that the Council have overlooked that have resulted in its failure to exercise all land options within its own boundary. Accordingly, there is potential that the amount of land required to meet the Council's objectively assessed need elsewhere within the HMA could be reduced.

In justifying their methodology, the Council state at Paragraph 2.2 of the September 2020 SHLAA:

'Sites which have been refused permission for 10 or more dwellings and where residential development is considered unacceptable in principle have been identified as being unsuitable' (our emphasis).'

We consider that flood risk and contamination presence are not sufficient reasons to render the principle of residential development as unsuitable. In the context of a constrained borough such as Crawley, the Council – in their own words – state that more can be done to overcome the constraints to deliver development. We agree with this statement.

Flood Risk

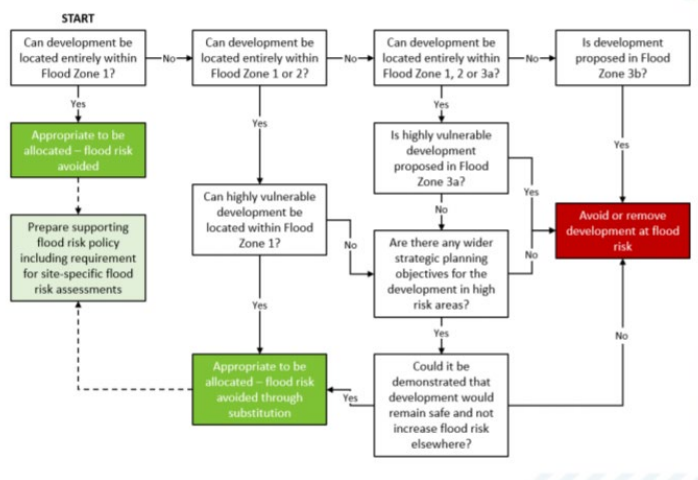
In reaching a conclusion that Site 73 is unsuitable for housing development, the SHLAA states that the site *'falls within a functional floodplain (Zones 2 and 3) and is likely to be significantly constrained in terms of flooding'*.

It is acknowledged that this assessment was likely undertaken using the Environment Agency's adopted flood maps for the area, which indicate that Site 73 is predominantly covered by Flood Zone 2, with areas around the banks of Gatwick Stream covered by Flood Zone 3. We note this consultation also publishes the Crawley Borough and Upper Mole Catchment Level 1 Strategic Flood Risk Assessment (SFRA) (September 2020). The SFRA reflects new modelling that has been completed for the Upper Mole Catchment. At Appendix C, Site 73 is deemed to be predominantly within Flood Zone 3a, with areas around the Gatwick Stream contained within Flood Zone 3b. We reserve comment on this information, pending consultation with the Environment Agency.

Nevertheless, in both scenarios, it is incorrect to consider the entirety of Site 73 as falling within *functional floodplain*, when in fact (on the latest modelling) only a small proportion adjacent to the banks of the Gatwick Stream appear to be so. The area is predominantly covered by Flood Zone 3a which is not sufficient grounds to render the principle of residential development unsuitable.

A lack of further consideration for Site 73 undermines the Local Plan Review's own sequential approach to site allocation on sites with potential flood risk, as set out in Figure 3-2 of the SFRA below.

Figure 3-2: Local Plan sequential approach to site allocation



Through appropriate design we consider that Site 73 could enable the delivery of residential development entirely located within Flood Zone 3a. At Table 2 of PPG on ‘Flood Risk and Coastal Change’ (Paragraph: 066, Reference ID: 7-066-20140306), residential development is considered a ‘more vulnerable’ use and can therefore be considered acceptable subject to the completion of a Sequential and Exception Test.

As per the requirements of NPPF Paragraph 158, local planning authorities (LPAs) should perform the Sequential Test to steer development to areas with the lowest risk of flooding. Development should not be allocated if there are reasonably available sites appropriate for the proposed development in areas with lower risk of flooding. The Council have highlighted the need to direct development to areas with the lowest flood risk (see Objective 2 of the draft Sustainability Appraisal), but we consider this should be balanced against a significant unmet need of over 6,500 dwellings.

In recognition of limited space left for development, and the uncertainty associated with delivering unmet need outside of the Borough’s boundary, the location of Site 73 within Flood Zone 3a should not preclude its inclusion as part of the Sequential Test.

Given that an allocation would concern residential development (a ‘more vulnerable’ use), the application of the Exception Test would be required as per the requirements of NPPF Paragraphs 159 & 160. For it to be passed, it should be demonstrated that development would provide wider sustainability benefits to the community that outweigh the flood risk; and the development will be safe for its lifetime taking account of the vulnerability of its users, without increasing flood risk elsewhere, and, where possible, will reduce flood risk overall. We consider redevelopment would provide wider sustainability benefits to the community through the remediation of contaminated land, reuse of a brownfield land, and the delivery of much needed housing in one of the last remaining areas in the Borough deemed suitable for such development (the Forge Wood neighbourhood). We acknowledge that further strategic investigatory work by the Council and its flood risk consultants would be required to determine whether the second part of the Exceptions Test could be passed.

We have made clear above that the Site and wider area forming Site 73 could be designed to avoid development on Flood Zone 3b. Its redevelopment could also present an opportunity to reduce flood risk overall, subject to further investigation. The Council also reserve the right to include conditions as part of a site allocation to ensure constraints are addressed through the development management process.

Land Contamination

The SHLAA site assessment also deems Site 73 unsuitable due to the high likelihood of contaminated land. However, we consider that this should not be a reason to render a site unsuitable in any case.

A significant proportion of development found in urban areas is the result of the redevelopment of previously developed land, often industrial in nature. As a landowner of many such sites, this matter is something that SGN are both well equipped to address and have sufficient experience of success delivering. Former gasholders are a reliable source of vacant brownfield land and there are many examples across the country that have been allocated and/or redeveloped for residential development following successful remediation. Redevelopment also presents the added benefit of sites being cleaned up.

Nevertheless, Draft Policy EP3 requires development that has the potential to cause land contamination to demonstrate that:

- a) Adequate measures will be put in place to protect land quality and any receiving water; [and]
- b) There will be no adverse impacts to occupiers of neighbouring land or the wider environment as a result of the development.

Therefore, if the Site and wider assessed area were allocated for residential development, a proposal would still be required to demonstrate that such processes had been completed before planning permission could be granted. This requirement could also be included as a condition of any site allocation to provide further reassurance to the Council.

Summary

Despite the Site and wider area assessed (Site 73) in the SHLAA offering a deliverable option to increase housing land supply, the Council have precluded it for reasons that could be mitigated and improved as a result of redevelopment through both the plan-making and development management processes. The Council have also failed to acknowledge their own commentary in the Local Plan Review at paragraph 12.37 which states, "*Forge Wood [...] is the last remaining large area of relatively unconstrained land in the borough*".

Instead, the Council continue to move forward with a Local Plan Review with a significant unmet housing need and not knowing the full extent of their ability to meet its need elsewhere within the HMA. In this sense, we consider that the Local Plan Review fails to meet all soundness criteria under NPPF Paragraph 35.

It is not considered to:

- provide a strategy which seeks to meet the Council's objectively assessed need;
- take account of reasonable alternatives (e.g. SHLAA sites);
- be based on effective joint working on cross-boundary strategic matters than have been adequately dealt with (instead the Statement of Common Ground states, "*authorities agree to continue to work positively together to seek to address the future housing needs of the HMA as far as possible*"); or
- enable the delivery of sustainable development in accordance with the policies in the NPPF (e.g. flood mitigation).

Draft Strategic Policy H2 (Key Housing Sites)

Draft Policy H2 identifies sites proposed to be allocated for residential development in the Local Plan Review. The sites proposed are considered critical to the delivery of future housing in Crawley and are identified as being 'deliverable' within the first five years of the Plan or 'developable' in years 6-16.

Of relevance to our representations, we note that the Forge Wood Masterplan Area, Pound Hill is proposed to be carried forward to deliver the remaining 1,083 dwellings of its planning permission, along with Land at Steers Lane (185 dwellings) and land to the south east of Heathy Farm (150 dwellings). These latter two proposed allocations are currently earmarked as 'broad locations' for housing development in the adopted Local Plan.

We also note that the draft Proposals Map has been amended to no longer illustrate a blanket allocation of the entire Forge Wood area as a 'Key Housing Site'. However, we do note that it has been replaced

by a newly proposed allocation titled the 'Forge Wood Neighbourhood', which covers SGN's site and the wider assessed area in the SHLAA (Site 73). The draft Proposals Map links this newly proposed allocation to Draft Strategic Policy H2 but there is no specific mention of it in the draft policy wording. We therefore seek clarification from the Council to confirm its purpose and what it means for land that is proposed to be included in it.

We believe the proposed allocation should link to commentary noted on several occasions in the Local Plan Review in which Forge Wood is the last full neighbourhood which can be built on within the borough boundary. Similarly, it should link to the commentary in paragraph 12.50 which states:

"Beyond this [proposed allocations in Forge Wood], there may be opportunities within the masterplan area to consider further small-scale housing development, as infill opportunities, subject to considerations of infrastructure capacity, open space and amenity requirements, biodiversity and ancient woodland, and the requirements of Policy EP4 relating to noise-affected areas. Development of residential uses in land affected by the noise contours above 60dB would not be in accordance with Policy EP4 and would be refused".

To ensure that the Forge Wood Neighbourhood is fully utilised, it should be specifically highlighted in Draft Policy H2 that any remaining brownfield land in Forge Wood is deemed residual land in which the Council support the principle of development. Therefore, if the Council conclude that the Site and wider assessed area (Site 73) remain unsuitable for allocation in the Local Plan Review (following the application of the Sequential and Exceptions Test), the principle of development of the land will at least be secured in advance of a planning application and supporting technical work.

We also wish to add two further comments relating to paragraph 12.50. Firstly, reference should be made to the Forge Wood Neighbourhood rather than the masterplan area (as the masterplan area refers to the Pound Wood allocation for 1,083 dwellings) and secondly, SGN's site falls outside of the area affected by the noise contours exceeding 60dB (as per Figure 1 of the Noise Annexe at page 295).

Conclusions

In summary, we consider the Local Plan Review as it is currently drafted and evidenced is unsound.

The Council can only demonstrate enough housing land supply to deliver just 44% of its objectively assessed housing need. Not enough has been done to demonstrate that every possible land opportunity within its own boundaries has been exhausted; nor can they provide certainty that the unmet need can be provided elsewhere within the HMA.

We have reviewed the SHLAA to determine the Council's conclusions regarding the Site and wider assessed area ('North East Sector, Gas Holder site' - Site 73) and note that the area has been precluded for reasons concerning flood risk and land contamination. These are matters that can be addressed through further investigatory work (the application of the Sequential and Exceptions Test), appropriate design and remediation.

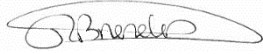
As a result, we would urge the Council to work positively and proactively to overcome constraints in the pursuit of delivering their objectively assessed need.

In addition, whilst we welcome the Site's recognition as forming part of the proposed Forge Wood Neighbourhood allocation, we recommend that the brownfield land within it is defined and classified as residual land in which the principle of development is supported. This would at least demonstrate the Council's commitment to utilising all available land within the last full neighbourhood which can be built within.

We trust that the information enclosed clearly sets out the work that is required to ensure the Local Plan Review can be found sound. We ask the Council to undertake further assessment of the Site and wider area forming Site 73 to determine its development potential and make the appropriate changes to Draft Policy H2 prior to submitting it to the Secretary of State for examination. We also ask to be notified about future EIP hearing sessions.

Should you have any queries, please do not hesitate to contact me, or my colleague, Alister Henderson (alister.henderson@carterjonas.co.uk).

Yours Faithfully



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Crawley Local Plan

<p>Ref No:</p> <p><i>Office use only</i></p>
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Crawley Submission draft Local Plan Representation

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This form has two parts:

PART A – Personal details

By law, representations cannot be made anonymously. All representations will be published alongside your name, company name (if applicable), and your client’s name/company (if applicable). The Council will use the information you submit to assist with formulating planning policy.

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PART B – Your representation

Please fill in a separate sheet for each representation you wish to make. You may submit multiple “PART B” sections with a single “PART A” completed.

PART A – Personal details

Please ensure that you complete all fields in 1. If a planning agent is appointed, please enter the Title, Name and Organisation in 1, and complete the full contact details of the agent in 2.

	1. Personal details	2. Agent’s details
Title:	<input type="text"/>	<input type="text" value="Mr"/>
First name:	<input type="text"/>	<input type="text" value="Ross"/>
Surname:	<input type="text"/>	<input type="text" value="Brereton"/>
Organisation:	<input type="text" value="SGN (C/O Agent)"/>	<input type="text" value="Carter Jonas LLP"/>
Address line 1:	<input type="text"/>	<input type="text" value="One Chapel Place"/>

Address line 2:	<input type="text"/>	<input type="text"/>
Town/city:	<input type="text"/>	London
Postcode:	<input type="text"/>	W1G 0BG
Telephone:	<input type="text"/>	020 7529 1505
Email:	<input type="text"/>	ross.brereton@carterjonas.co.uk

PART B – Your representation

3. Please tick the document that you would like to make a representation on:

- Crawley submission Local Plan
- Crawley submission Local Plan Map
- Crawley submission Sustainability Appraisal
- Habitats Regulation Assessment Screening Report

4. Which part of the Local Plan does this representation relate to?

Paragraph: Policy: Other:

5. Do you consider the Local Plan to be: *(Please tick)*

- | | | |
|---|---|--|
| 5.1. Legally compliant? | Yes <input checked="" type="checkbox"/> | No <input type="checkbox"/> |
| 5.2. Sound? | Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> |
| 5.3. Compliant with the duty to co-operate? | Yes <input checked="" type="checkbox"/> | No <input type="checkbox"/> |

6. Please give details explaining your response to 5.1, 5.2, or 5.3 below. Please be as clear as possible.

Please refer to corresponding section in Cover Letter

If required, please continue your response on an additional piece of paper and securely attach it to this response

- 7. Please set out what modification(s) you consider necessary to resolve the issues you have identified above. You need to state why this modification will make the Local Plan legally compliant or sound. It would be helpful if you are able to suggest how the wording of any policy or text should be revised. Please be as clear as possible. Any non-compliance with the duty to co-operate is incapable of modification at examination.**

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8. **If your representation is seeking a modification, do you consider it necessary to participate in the public examination hearings? (Please tick)**

No, I do not wish to participate in the examination hearings

Yes, I wish to participate in the examination hearings

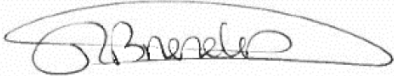
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Signature



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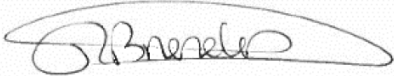
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