



SURREY HEATH BOROUGH COUNCIL

Post-Submission Surrey Heath Local Plan (2019 – 2038)

STATEMENT of COMMON GROUND SCG013

with Homes England



July 2025

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I. Introduction

- I.1. This Statement of Common Ground (SCG) has been prepared jointly between **Surrey Heath Borough Council (SHBC)** and **Homes England (HE)**. It sets out the agreed position as at April 2025 in relation to representations made by HE on the Pre-Submission Surrey Heath Local Plan, and on the delivery timescales for development on land at Sturt Road, Frimley Green.
- I.2. The SCG has been prepared to support the Surrey Heath Local Plan (2019 – 2038) (Local Plan) Examination and has been agreed by both SHBC and Homes England.
- I.3. Under Section 33A of the Planning and Compulsory Purchase Act 2004 (as amended by Section 110 of the Localism Act 2011) and in accordance with paras. 24-27 of the National Planning Policy Framework (NPPF 2023, against which the Local Plan will be examined), it is a requirement under the duty to cooperate for a local planning authority to engage constructively, actively and on an ongoing basis in the preparation of development plan documents and other documents. This is a test that local authorities need to satisfy prior to the local plan examination stage and is an additional requirement to the test of soundness.
- I.4. The duty to cooperate applies to strategic cross boundary matters (those that might apply are set out in para. 20 of the NPPF). The statutory requirements of the duty to co-operate are a legal obligation although it is not a duty to agree. Co-operation should produce effective and deliverable policies on strategic cross boundary matters in accordance with national planning policy, as further explained in National Planning Practice Guidance (NPPG).
- I.5. In 2020 the Council produced a [Duty to Cooperate Scoping Framework](#) which identified 10 strategic cross boundary planning matters. HE was identified as being a relevant duty to cooperate body in relation to matters of Housing and Transport.



2. Background

- 2.1. Homes England is an executive non-departmental public body, sponsored by the Ministry of Housing, Communities and Local Government. As the Government's housing and regeneration agency, Homes England supports the building and acceleration of new homes including affordable homes. Further information can be found in the [Homes England Strategic Plan 2023 – 2028](#).
- 2.2. In August – September 2024, SHBC published the Pre-Submission Local Plan for comments. As set out in the next section, Homes England made [comments](#) on Policy SSI - Spatial Strategy and the approach taken in the Local Plan to sites which already have planning permission.
- 2.3. Part of the evidence to show that the Local Plan is deliverable is an understanding of, and evidence on the delivery of specific sites, particularly those that make up the 5 Year Housing Land Supply. In April 2024 Homes England acquired land and buildings at 22 – 30 Sturt Road, Frimley Green which was granted planning permission for 160 new homes in April 2022 (Ref 20/1048/FFU subject to amendment by 22/0629/NMA). Further information on the delivery of this site is set out in Section 4.
- 2.4. Alongside the Pre-Submission Local Plan, the Council published a [Duty to Cooperate Statement of Compliance](#), July 2024. Table 6 sets out a summary of the engagement taken to that point with each duty to cooperate body including Homes England. This noted that HE was consulted in 2018 on the Regulation 18 Issues and Options and in 2022 on the Regulation 18 Draft Local Plan consultations (in March - May 2022 and August - September 2022). No response was received from HE to these consultations as this was prior to HE's land ownership position.



3. Pre-Submission Representations

- 3.1. HE welcomed the emerging plan proposals however, had made representations on the Pre-Submission Local Plan in relation to the way that the Local Plan considers sites which already have planning permission. These comments are made with specific reference to their interest in the site at Sturt Road referenced previously. This site had been included as an allocated site (Policy reference HA1/10) in the Regulation 18 Draft Local Plan, March 2022 but was removed in the Regulation 19 Local Plan recognising that it had been granted planning permission (20/1048/FFU). The representations raised concerns that the Plan could later be considered unsound and made the following points (summarised):
- Delivery of the Local Plan housing requirement relies to a significant degree on housing supply drawn from commitments with a significant part of the housing supply forecast in years 1-5 met by existing permissions.
 - The Regulation 18 Plan allocated strategic site commitments (including the site at Sturt Road) which provided certainty for the delivery of these sites. Removing these sites from allocation in the Regulation 19 Plan raised uncertainty for their delivery in the plan period, particularly in constrained areas of the district.
 - While a lapse rate has been assessed, as the plan fails to provide certainty or the delivery of strategic commitments through appropriate policy support for these consented sites moving forwards, it is not robust.
 - The NPPF is clear at paragraphs 11b, 16d, 35, 60 that plans should aim to meet all of an areas local housing needs (LHN), and contain unambiguous and clearly written policies that make it clear to the decision maker how to react to development proposals.
 - There needs to be additional policy support for strategic site commitments in constrained areas of the district. Should existing consents lapse there is a risk of key strategic sites not being delivered and the overall housing requirement not being met with the principle of development needing to be re-established. This poses a significant issue for the soundness of the Plan.
 - Large commitment sites like Sturt Road are particularly important to the supply position and the current policies fail to identify this and support them.
- 3.2. As a result of these concerns, HE sought changes to the Local Plan through one of the following:

Either Policy SSI is modified:



- To make clear how the Council will treat the principle of development on sites with existing planning permission.
- To confirm that should further applications be required and/or the existing consent lapses the Council will support the principle of residential use – subject to the detailed consideration of other material considerations and compliance with other policies in the plan.
- Under part 2 of SSI, after criteria ‘c. Other sources to meet the housing requirement will include windfalls’ add criteria ‘d. The Council will consider further applications for residential development on existing sites with planning permission (that make up the supply set out in Table 3 above) favourably in principle’.

OR – Modify Policy HAI instead to allocate these large sites (suggest a threshold of 50+ dwellings), including “Land West of Sturt Road” as was proposed previously at the Regulation 18 stage.

OR - Revise the existing proposed extents of settlement boundaries, as and where relevant, to include these respective sites to clarify the plan’s position of the principle of development of these sites via the expressed spatial strategy.

SHBC Response

- 3.3. In response to these representations the Council agrees that it would be helpful to make some reference to support for large commitments that form part of the Local Plan housing supply. A Main Modification is proposed to the supporting text to Policy HAI: Housing Allocations as set out below. This is set out in the Examination Document Library, in the [Proposed Main Modifications](#), December 2024, Document CD13. Modification reference MM4.1.

Insert new Paragraph after Paragraph 3.8:

Whilst not allocated in the Plan, the principle and scale of development is accepted for sites benefiting from planning permission for 50 or more net dwellings identified in the SLAA 2023, such as 22-30 Sturt Road, Frimley Green that has permission for 160 net dwellings.

- 3.4. The Proposed Main Modifications do not form part of the submitted Local Plan but will be discussed and considered through the Local Plan Examination process.



Homes England follow up Response 15/07/2025

- 3.5. In response to this proposed modification Homes England has the following further comments.
- 3.6. Firstly, significant progress has been made with the site at Sturt Road, Frimley Green (LPA ref: 20/1048/FFU). The Council will be aware that not only has the development lawfully commenced, and this has also been confirmed by way of LDC. We therefore appreciate the purpose of our representations, insofar as Sturt Road was concerned, now hold less significance.
- 3.7. However, secondly, while we welcome Main Modification MM4.I which helpfully clarifies the Council's position, there is a concern that the change is being added via supplemental supporting text. Our recommendation was that such a change should be achieved (among other options) by amending policy HA1 itself and with reference to commitments within constrained areas of the district as set out in paragraph 2.12 and table 3 of the draft. While MM4.I is not unhelpful, SHBC should consider whether this goes far enough noting the following;

- Case law has held that the supporting text to policy is not the same as policy¹ and that:

“When determining the conformity of a proposed development with a local plan the correct focus is on the plan's detailed policies. The supporting text consists of descriptive and explanatory matter in respect of the policies and/or a reasoned justification of the policies. That text is plainly relevant to the interpretation of a policy to which it relates but it is not itself a policy or part of a policy, it does not have the force of policy and it cannot trump the policy.”

- Policy SS1 in the pre-submission draft plan confirms that on the one hand (criteria 2) the housing requirement will be met, inter alia, via the existing planning permissions, but also that (criteria 8) there will be locations where development will of course be strictly limited, or limited, depending on the designation.
- The supporting text proposed by MM4.I may not be sufficient to support the principle of development for current sites should those current commitment sites' consents lapse (or if a new permission is sought) conflict with policy SS1 (8, 9). This

¹ Gill, R (On the Application Of) v London Borough of Brent [2021] EWHC 67 (Admin) (18 January 2021)



could lead to ambiguity and unintended outcomes through the application of the plan policies.

- 3.8 The Council should consider further whether there is a need to ensure that policy itself encapsulates this support for commitment sits to protect their delivery by the plan.

Surrey Heath Response follow up response 18/07/2025

- 3.9 The Council notes Homes England's concerns, but maintains its position that the Main Modification MM4.1 remains appropriate and proportionate on the basis that the site has now commenced.



4. Delivery of Land at Sturt Road, Frimley Green

- 4.1. As set out previously land at 22 - 30 Sturt Road, Frimley Green was granted planning permission for 160 new homes in April 2022 (Ref 20/1048/FFU) and in April 2024 the site was acquired by HE. SHBC has included delivery of new homes on this site within the 5 Year Housing Land Supply period within the [Strategic Land Availability Assessment](#) (SLAA), 2024 (Examination Documents SHBC4 – 4K) identifying completion of 53 homes in 2026/27, 53 homes in 2027/28 and 54 homes in 2028/29.
- 4.2. Homes England acquired the site in April 2024 and have been working towards bringing a development partner on board to bring forward the site. Whilst marketing the site, Homes England ensured all pre-commencement conditions were satisfactorily discharged and the permission implemented before the expiration of the consent in 2025. Thereafter, Homes England has obtained a Lawful Development Certificate (LDC) to confirm that lawful commencement has occurred. The LDC was issued by SHBC on 25th April 2025 (25/0312/CEU).
- 4.3. Homes England are close to selling their freehold interest in the Sturt Road site; a revised programme indicates the following delivery trajectory: demolition August/September 2025, 21 homes in 2026/27, 37 homes in 2027/28, 44 homes in 2028/29 and remaining 58 homes across 2029/30 and 2030/31.
- 4.4. The most up to date position will be reflected in the SLAA 2025, with all dwellings indicated to be realistically deliverable within the 5 year period at the April 1st 2025 base date.



5. Conclusions

- 5.1. This SCG sets out the respective positions in relation to the approach to large sites with commitments in the Local Plan and includes evidence from HE of deliverability of 160 new homes at 22 – 30 Sturt Road Frimley Green.





Signatories

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Date Agreed	21 July 2025
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Date Agreed	22 July 2025
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