



Strategic Planning & Research Unit

For and on behalf of
Bedfordia Developments Ltd

Huntingdonshire Local Plan 2018
Response to Inspectors Questions

MATTER 1 – PROCEDURAL / LEGAL REQUIREMENTS

Prepared by
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0.0 INTRODUCTION

- 0.1 This representation has been prepared by the Strategic Planning and Research Unit (SPRU) of DLP Planning Ltd (DLP) on behalf of Bedfordia Developments Ltd in response to the Inspector's Matters Issues and Questions. Our client has interests at Land East of Eaton Socon, West of River Ouse, St Neots.
- 0.2 Sustainability Appraisal Questions 4 & 5 relate to whether the SA results impact the preparation and policy choices of the Local Plan and whether an appropriate methodology was used. The main concern raised within our original representation was that, our client's site represented a reasonable alternative which was not fully considered.
- 0.3 The original representation also highlights the merits of the site under the control of Bedfordia Developments Ltd which is Land East of Eaton Socon, West of River Ouse, St Neots.
- 0.4 In the context of Matter 1 we are extremely concerned by the inadequacies of the SA and its failure to properly identify and assess reasonable alternatives in terms of delivering the housing requirement identified in the submitted plan.

1.0 MATTER 1 – PROCEDURAL/LEGAL REQUIREMENTS

Sustainability Appraisal

4) How has the Sustainability Appraisal (SA) informed the preparation of the Local Plan at each stage and how were options considered?

- 1.1 The SA is referenced just twice in the local plan in Paragraphs 1.22 and 1.23.
- 1.2 Paragraph 1.22 the LP states that the SA has been undertaken alongside plan preparation, but no explanation has been given as to how the SA has influenced policy or site selection.

5) How has the SA been reported?

- 1.3 We cannot any committee report in which the results of the SA were reported in the context which clearly sets out the reasonable alternatives in a way to allow members to identify, appraise and deliberate on the reasonable alternatives

6) Has the methodology for the SA been appropriate? What concerns have been raised and what is the Council's response to these? Have the requirements for Strategic Environmental Assessment been met?

- 1.4 Local Plans must be prepared with the objective of contributing to the achievement of sustainable development. Whilst the Framework describes what sustainable development means in this planning context, it is the Planning and Compulsory Purchase Act 2004, section 39(2) which sets the legal framework for this to be achieved; that those with the authority of preparing a Local Plan must “*exercise the function with the objective of contributing to the achievement of sustainable development.*”
- 1.5 Furthermore section 19 (5) (a) & (b) of the Act requires local planning authorities to carry out a Sustainability Appraisal of each of the proposals in a Local Plan and prepare a report on the findings of that appraisal.
- 1.6 The preparation of a Sustainability Appraisal is set out within SEA Directive 2001/42/EC along with the Environmental Assessment of Plans and Programmes regulations 2004 and the supporting guidance issues by Government over the past 12 years, in addition to the relevant subsequent High Court and Appeal judgements.
- 1.7 It is a requirement of section 19 of the 2004 Planning and Compulsory Purchase Act that a local planning authority must carry out an SA of each of the proposals in a Local Plan. Furthermore, section 39 requires the authority prepare a Local Plan to do so with the objective of achieving sustainable development.
- 1.8 Guidance set out by Government in 2015 on SEA and SA (which now forms part of the PPG) clearly summarises what SA is.

*“A sustainability appraisal is a systematic process that must be carried out **during the preparation** of a Local Plan. Its role is to promote sustainable development by assessing the extent to which the emerging plan, when judged against reasonable alternatives, will help to achieve relevant environmental, economic and social objectives. [SPRU emphasis]*

This process is an opportunity to consider ways by which the plan can contribute to improvements in environmental, social and economic conditions, as well as a means of identifying and mitigating any potential adverse effects that the plan might otherwise

have. By doing so, it can help make sure that the proposals in the plan are the most appropriate given the reasonable alternatives. It can be used to test the evidence underpinning the plan and help to demonstrate how the tests of soundness have been met. Sustainability appraisal should be applied as an iterative process informing the development of the Local Plan. By the end of the Sustainability Appraisal process the local authority will have considered a range of suitable and reasonable options to meet the requirements to deliver the objectives of the Framework to meet the identified needs within the local authority area.”

- 1.9 The Regulation 19 submission on behalf of Bedfordia highlighted the shortcoming in the SA, in summary the review has identified legal non-compliance.
- 1.10 Huntingdonshire's Local Plan to 2036: Sustainability Appraisal Report (SAR) (2017) assessed strategic principles for growth to provide the necessary land supply to meet the Council's OAN.
- 1.11 The approach in terms of developing options, Stage B is summarised in a table on page xi of the non-technical summary and this does not explicitly deal with the issue of reasonable alternative in respect of developing options. Section 4 of the SAR confusingly states that the process of selecting plan options, predicting and evaluating the effects of the plan and alternatives is all to be undertaken together using the approach in the table to assess the plans proposed policies.
- 1.12 The evaluation process on page xii appears to evaluate policies and allocations and does not undertake an assessment of reasonable alternatives. The term “reasonable alternatives” only appears twice in the main body of the SAR in paragraphs 1.1 and 1.4. Paragraph 1.1 correctly states that:

“A sustainability appraisal (SA) is a systematic process that assesses the extent to which the emerging plan, when judged against reasonable alternatives, will help to achieve relevant environmental, economic and social objectives and minimise adverse impacts and maximise beneficial effects”

- 1.13 The SAR does not undertake such an approach.
- 1.14 The SAR in ‘Table 4.5 Strategic Options for Distribution of Growth’ assesses three growth options. These are: high concentration, proposed distribution and dispersed growth.
- 1.15 What these options refer to in spatial terms, in relation to the geographic context of HDC, is absent. Densities beyond what is acceptable in national planning policy would not be a reasonable alternative. ‘High concentration’ should therefore mean maximising the development potential within the Council’s defined urban areas. Robust justification for discounting this option is not given. It is also noted that it is almost impossible to assess these options without considering the spatial element that achieving the level of development would take.
- 1.16 ‘The proposed distribution option’ relates to the focus on strategic expansion locations. A further ‘hybrid’ development option – namely the option of development within existing settlement boundaries as well as strategic expansion locations should have been assessed for this exercise to have been carried out robustly. The assessment of strategic alternatives is what informs how the LP meets its OAN in the most sustainable way. This assessment is not considered sufficiently informed or

detailed to justify the chosen spatial approach as it does not robustly assess all available alternatives for growth.

- 1.17 It is difficult to see how (when taking into account connectivity to public transport, amenities and facilities) suitable sites within the settlement boundary of the defined Spatial Planning Areas, such as St Neots, could not be more sustainable. A hybrid strategic alternative that looked at both options: i.e. maximising the development potential within existing settlements; and strategic expansion locations should have been assessed as a reasonable alternative. This approach is in line with The Framework in Paragraph 17 which outlines that planning should “actively manage patterns of growth to make the fullest possible use of public transport, walking and cycling, and focus significant development in locations which are or can be made sustainable.”
- 1.18 The assessment of options in the identified areas of growth at Huntingdon; St Neots; St Ives; and Ramsey should consider more alternatives for the delivery of that growth alongside strategic expansion locations.
- 1.19 The findings of the SAR on the strategic options assessment for growth at St Neots are set out at Figure 4.2 ‘St Neots Spatial Planning Area: Peripheral Areas’ of the SAR. The only options/alternatives that are considered are Area A: West of Little Paxton and North of St Neots, Area B: North and east of Little Paxton, Area C: North of Priory Hill Road and Area D: East of St Neots. These are all large areas outside the settlement boundary.
- 1.20 Section 4 of the SAR sets out ‘St Neots Spatial Planning Area’ at para 4.206. This lists the site allocations and reasonable alternatives in St Neots which are considered to be: Loves Farm Reserved Site; Former Youth Centre Priory Road; Huntingdon Street; St Neots Fire Station and Vacant Land; Former Swimming Pool (Regional College and Adjoining Land); St Mary’s Urban Village; Cromwell Road Car Park; TC Harrison Ford; Potton Road; Peppercorns Lane and Crosshall Road.
- 1.21 The SAR has failed to undertake an assessment of our client’s site East of Brook Road, Land East of Eaton Socon. Given the planning history of this site (which has established that it is considered suitable to accommodate future housing growth by an Independent Inspector), and submission of the site via the Call for Sites and HELAA process, there appears to be no explanation for the exclusion of what is clearly a reasonable alternative.
- 1.22 The approach to deliver the housing growth through one urban extension at St Neots therefore appears to have been pre-determined in advance of the SA rather than a decision based on the assessment of a balanced mix of sites.
- 1.23 It is not considered that the scope of this strategic analysis (which is wholly focused on the impacts of strategic expansion locations) is a satisfactory basis to discount other locations as a focus for growth, such as concentrating more sites within the built-up area.
- 1.24 If the SA Report in its current form were to be challenged in the Courts, it is our view that a challenge may succeed, with potential ramifications for the Local Plan itself. Ultimately, this could strike out all or specific policies of an adopted Plan from use in decision-making and determination of planning applications.

- 1.25 The most significant areas of non-compliance are the lack of reasons for selecting the preferred land use allocations, the identification of reasonable alternatives and the rejection of alternatives is not given.
- 1.26 In addition, the objection identifies that there are several aspects, that whilst not an issue of legal compliance, do not follow standard good practice on SA. The robustness of the SA as an evidence base for the Local Plan is therefore questioned. As a result the plan is not justified and is consequently unsound.
- 1.27 As such, the robustness of the SA as an evidence base for the Local Plan is questionable, particularly given the inconsistency of the assessment and the failure to publish key evidence for the selection and allocation of different sites or any evidence of consideration by the SA of reasonable alternative sites. As a result, the plan is not justified as it is not based upon a credible or robust evidence base. The Council's selection of sites is flawed because the evidence based used to justify their selection is not robust.
- 1.28 In simple terms it is not possible to understand from the SAR why the allocated sites have been selected and why others that appear to be equally sustainable and deliverable sites have not been selected, or in some cases, not assessed at all.

Habitats Regulations Assessment

7) How was the Habitats Regulations Assessment (HRA) carried out and was the methodology appropriate?

- 1.29 There are elements of the screening methodology that are be considered to be non-compliant.
- 1.30 For example, Natural England (NE) have criticised the screening methodology as being too simple and not sufficiently based on evidence in their letter to the Council on 01 December 2017. The screening of allocations uses a metric which 'is a simplistic method based on size of proposed allocation and distance to European site, used to predict visitor numbers to the site. Whilst these factors are relevant, a whole range of additional criteria needed to inform an objective assessment have been omitted'. (NE Letter to HDC, 01,12/17).
- 1.31 The screening report ruled out likely significant effects on many site allocations as a result of recreation/ visitors. NE's view put forward was that there is likely to be a considerable increase in visitors and thus this conclusion is misleading. Furthermore, NE have stated that the combined effects of developments also be considered in more depth.

8) Was the approach in accordance with the recent judgement of the Court of Justice of the European Union (12 April 2018 - Case C-323/17) which ruled that it is not appropriate to take account of measures intended to avoid or reduce the harmful effects of a plan or project on a European site at the screening stage as part of the Habitats Regulations Assessment (HRA)?

- 1.32 There are elements of the Huntingdonshire Local Plan (LP) HRA screening report that are not compliant when considered against the judgement (Case C-323/17).
- 1.33 This ruling requires that 'mitigation' is clearly defined and is excluded when considering the screening of the alternatives.

- 1.34 The Council's HRA outlines that mitigation is 'a measure that reduces the impact of the site integrity to the point where it no longer has adverse effects'.
- 1.35 Policies were 'screened out' on the basis that a "no dog walking rule will make number of extra visitors small." (See HRA, Appendix 5. Screening Allocations for Recreational Threats). The 'no dog walking rule' mitigation measure reduces the scope of the resultant AA.
- 1.36 The Council's HRA consultants, Bodsey Ecology, have produced a response 25 May 2018 which states mitigation did not screen out policies for the AA, however, by their own definition, it appears that they have.

9) What are the relevant designated sites considered?

- 1.37 European sites within 15km are included in the AA. In addition the Wash SPA/Ramsar site and the Upper Nene Valley Gravel Pits (SPA/Ramsar) have been added in. The scope of the AA has not in our opinion been sufficiently broad.
- 1.38 Bodsey Ecology's rationale for the designated sites considered in the AA emanates from the Landscape Partnership Screening Report 2013. This is now some 5 years old, it is not a submission document and is not available online. If the 2013 study is an important/influential document, within the evidence base it should be made available to the public.
- 1.39 NE has put forward the view that the AA should assess the effects of **all** proposed development within the 'zone of influence' for the European site. This has not been done. NE also state that the Berry Fen SSSI should also be considered in the AA which it is not.

10) What potential impacts of the Local Plan were considered? What were the conclusions of the HRA and how has it informed the preparation of the Local Plan?

- 1.40 No comment.

11) What concerns have been raised and what is the Council's response to these? Specifically what is Natural England's position and the Council's response?

- 1.41 No comment.

12) Is additional work required to address any of the above matters? Have there been further discussions with Natural England and if so what has been the outcome?

- 1.42 No comment.

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