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Mr Jeremy Johnson,
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Your Ref: S&PDPD Sub
Our Ref:
Date: 03 June 2014

Dear Mr Johnson,

Doncaster LDF Sites and Policies Development Plan Document

Introduction

1. I have been appointed by the Secretary of State under Section 20 of the Planning & Compulsory Purchase Act 2004 to undertake the independent Examination of the Doncaster Metropolitan Borough Sites and Policies Development Plan Document (the DPD). The preparation of the DPD follows the adoption of the Council's Core Strategy in May 2012. It is the Council's intention that, together, these documents will form the Local Plan for the Borough.

Format of Examination

2. The purpose of the Examination is to enable me to assess the DPD against the statutory requirements to ensure that it is legally compliant, justified, effective, positively planned and consistent with national guidance and that any requirements in terms of the duty to co-operate have been satisfied.
3. Having read all of the Representations made to the DPD and the other documents which have been provided to me I have decided to hold the Hearing sessions of the DPD Examination in 2 parts. I will first examine the methodologies, processes and contextual background provided by the adopted Core Strategy and national guidance which the Council employed to arrive at its choice of allocated sites and policy directions. These sessions I refer to as the Stage 1 Hearings. These will be followed by the Stage 2 Hearings which will examine individual sites. Should the methodologies, processes and contextual background examined in the Stage 1 Hearings be found to be unsound and/or not legally compliant, the resources required to undertake the further examination of individual sites could be wasted.
4. In these circumstances I have agreed to provide the Council with a letter

setting out my conclusions on the matters examined at the Stage 1 Hearings. After considering this the Council would then be in a position to decide the way in which the Examination should proceed. The Stage 1 Hearings were held between 29 April and 2 May 2014 and this letter sets out my conclusions on the matters examined. As I made clear at the beginning of the Stage 1 Hearing sessions, I do not intend that the matters which have been explored through the Hearing sessions which have already taken place will be subject of further debate. My further consideration of the matters raised by Representors will be strictly limited to consideration of any Main Modifications upon which the Council has re-consulted, the merits of individual sites and whether the Council's methodologies, processes and contextual background have been applied to individual sites and policies in a consistent manner.

Main Modifications

5. The legislation contains a clear dispensation that a DPD can be changed after Submission. Where these changes are significant and have a bearing on the soundness or legal compliance of the DPD they are referred to as Main Modifications. The Council is required to formally request me to make Main Modifications before I can recommend such changes. However, on my advice, the Council has not yet made such a request. Where proposed Main Modifications are very extensive they can amount to what is fundamentally a new plan. It would not be appropriate to make Main Modifications which have this effect at this late stage in the process. Until I have heard the evidence and I know the extent of any proposed Main Modifications, I am not in a position to know whether they would amount to a new plan. Some potential Main Modifications were discussed during the Hearing sessions. However, any Main Modifications which the Council proposes will need to be the subject of re-consultation and Sustainability Appraisal (SA). I will take into account any duly-made Representations which are submitted in regard of the proposed changes in a later stage of the Examination.

The adopted Core Strategy and the DPD

6. The Core Strategy Objectives seek, amongst other things, the regeneration of Doncaster and the surrounding former mining settlements. To achieve this, Core Strategy Policy CS2 closely specifies the quanta of housing development which would be directed to each group of settlements – the Sub-Regional Centre (Doncaster), the Principal Towns, the Potential Growth Towns, etc. A similar – albeit less closely confined - approach is adopted in respect of employment development. The overall effect is that the Core Strategy is a complex document which seeks, in a settlement-selective framework, to deliver the sustainable regeneration of Doncaster and surrounding settlements. However, this detailed approach significantly constrains the freedom of choice available in any subsequent Site Allocations DPD.
7. Given that it is designed to take forward what is already a complex Core Strategy, it is almost inevitable that the DPD will itself be complex. At the Hearings a number of representors expressed the view that the DPD was difficult to use. I have to agree. I found that the DPD was extremely difficult to understand and, in my view, dealt with issues in a overly-complicated way.
8. Partly in an effort to resolve its own difficulties in producing the DPD, the Council has adopted an 'interactive map' approach. This electronic document

gives ready access to relevant policies from a series of map-based documents. By identifying the site in question, the tool allows access to the relevant policies. For those who are familiar with this tool, it appears to work very well. However, not all users will employ the DPD in this way. When produced as a 'paper' document, the DPD appears somewhat muddled and difficult to follow with matters relevant to individual sites being scattered in policies throughout the document. In my view the 'interactive map' approach deserves praise. It is clearly an innovative approach to a difficult problem. It presents a wide range of information in an accessible form – but only provided that the user is aware of which site he or she is concerned with. In my view the Council needs to assess the way in which the DPD is perceived as a 'paper' document and should seek to rationalise and simplify the structure of the 'paper' document to make it more 'accessible' to users. I also consider that the Council should reappraise the way in which it organises the subject matter of the DPD to exclude unnecessary complexities and to bring related matters into one place.

Duty to co-operate

9. Section 110 of the Localism Act 2011 amends section 33 of the Planning and Compulsory Purchase Act 2004 and imposes a 'duty to co-operate' on Councils who submit plans for Examination after 15 November 2011. The National Planning Policy Framework (NPPF) was published in March 2012. Paragraph 178 states that public bodies have a 'duty to co-operate' on planning issues that involve strategic priorities which cross administrative boundaries.
10. In circumstances where a Local Plan is coming forward as a Core Strategy with subsidiary DPDs (as is the case here), one would expect that the bulk of the strategic issues would have been resolved at the Core Strategy stage. However, this need not always be the case. The Council's Core Strategy was submitted before 15 November 2011 and the Inspector's Report was provided to the Council before the former Regional Strategy (RS) was revoked and before the NPPF was formally published. The Core Strategy was not therefore required to satisfy the 'duty to co-operate'. However, that is not to say it was prepared outside of any strategic context. The Core Strategy was found sound and therefore was in general compliance with the, at that time extant, RS. The RS was prepared on a collaborative basis which itself demonstrates a foundation of co-operative working.
11. Since the revocation of the RS, co-operative working has moved forward. The creation of the Sheffield City Region (SCR) Combined Authority is clearly a significant step. Its shared decision making powers are currently limited to economic development, regeneration and transport issues. An *Economic Growth Plan* has been produced which aims to structurally transform the City Region's economy and, through officer working groups, a variety of joint studies and reports have been produced. Work is proceeding on developing consistent databases. Co-operative working with neighbouring authorities who are not part of the SCR is less formalised. Nonetheless, there has been regular contact through the plan preparation processes. The private sector and other bodies have been included in the Council's processes as appropriate.
12. I note concerns raised by some Representors that the new decision making processes at strategic level are sometimes less than transparent. The Council may wish to address these concerns. Nonetheless, I am satisfied that the Core Strategy was produced on the basis of the clear strategic context provided by

the RS and that collaborative working has progressed since the time that the RS was revoked. No adjacent local authority raises any concerns that the 'duty to co-operate' has not been satisfied. Whilst the 'duty to co-operate' goes beyond simply consulting neighbouring authorities and other bodies on proposals, I note that a number of adjacent authorities refer to on-going liaison with the Council or state that there are no strategic issues which need to be addressed at this stage. The Council argues that the consultation responses represent only the 'tip of an iceberg' in respect of the amount of background liaison which has taken place.

13. I can understand that some Representors foresee that a number of strategic issues are likely to be identified in the future which could only be resolved between local authorities working at a strategic level. For instance, the *Forecasts of Population and Households for the Sheffield City Region - Final Report March 2013* document raises significant issues around the balance of jobs and houses which will need careful consideration. Where these are issues which have a bearing on this DPD, I deal with them below. However, co-operation is an on-going process which needs constant re-appraisal. It cannot be expected that the Council will, at every stage, have achieved a co-operative solution to every matter as it arises. I am satisfied that, up to this point, this DPD has been prepared within a context of proportionate ongoing engagement with the relevant bodies, that the engagement has been constructive and that the 'duty to co-operate' has been satisfied. However, co-operation clearly needs to continue and an early review of the DPD may be necessitated if this work demonstrates that the assumptions on which the DPD is based have changed.

Objectively assessed need for housing

14. Paragraph 47 of the NPPF states that Councils should ensure that their local Plan meets the full, objectively assessed needs for market and affordable housing in the Housing Market Area (HMA) so far as is consistent with the policies set out elsewhere in the NPPF. Paragraph 159 indicates that Councils should prepare a Strategic Housing Market Assessment (SHMA) to assess their full housing needs working with neighbouring authorities where HMAs cross administrative boundaries. Paragraph 218 of the NPPF makes clear that, in appropriate circumstances, RS policies can be reflected in emerging Local Plans by undertaking a partial review which focuses on the specific issues involved and that, in drawing up DPDs, authorities may draw on the evidence which supported RSs supplemented as necessary by up-to-date, robust local evidence.
15. As I have noted above, preparation and Examination of the Council's adopted Core Strategy pre-dates the publication of the NPPF. The housing requirement set out in Core Strategy Policy CS10 drew on the evidence base used to prepare the RS and the requirement is the same as that which was specified by the RS. The Council claims that it did not simply adopt the RS target and argues that the housing requirement of the Core Strategy was independently arrived at. However, no reassessment exercise took place. Rather, the process appears to have amounted to consulting interested parties on the appropriateness of the RS requirement after RS revocation was announced. No major objections to the employment of the RS requirement were received. The RS requirement was not simply an assessment of housing need. It was based on an apportionment of housing which reflected constraints on provision in other local authority areas.

16. Neither the Core Strategy nor this DPD is supported by an up-to-date SHMA which independently assesses the whole housing need. Although the Core Strategy was adopted only 2 years ago, the evidence which informed the RS housing requirement was collected in 2004 and the national housing market has changed significantly during this period of recession. The Council is currently working on a new SHMA but I was informed that this was primarily aimed at assessing the need for affordable housing and was not intended to provide a full picture of objectively assessed housing need in the Borough. It is the Council's intention that, at some point in the future, a fully comprehensive SHMA would be produced covering the whole of the SCR which would inform the next round of plan-making.
17. I accept that there is some evidence to suggest that Doncaster operates as a single HMA. There is also evidence to the contrary, including evidence of in-and out-commuting. HMAs can change over time. A SCR-wide SHMA may involve a re-assessment of the Council's current position. However, in the light of available evidence, I am not persuaded that the Council is necessarily wrong in its conclusions on this point.
18. I heard evidence that recent proposals for significant growth in jobs as set out in the *SCR Growth Plan* could not be accommodated by the housing requirements used in the DPD. There are clear indications from the *Forecasts of Population and Households for the Sheffield City Region - Final Report March 2013* document that the balance of jobs and housing relied on by the Council may be unreliable. The evidence tends to suggest that the Council's housing requirement would support only a fraction of the jobs sought by the Council's regeneration strategy. I note the Council's view that changes in economic activity and commuting rates may deliver the necessary uplift in jobs provision. However, I have seen no evidence to show that these assessments are accurate or that the changes in economic activity and commuting are capable of being achieved. In these circumstances I am not satisfied that reliance on the RS/Core Strategy housing requirements in the preparation of this DPD is a sound approach.
19. In my view neither the adopted Core Strategy nor this DPD is NPPF-compliant. Contrary to paragraph 159 of the NPPF, neither document is supported by an objective assessment of the need for housing. The evidence base which supports the Council's housing requirement is out-dated and has not been systematically re-appraised. No review focusing on the specific issues involved has taken place nor has the evidence been supplemented by up-to-date, robust local evidence as is required by NPPF paragraph 218. No review is imminent to address these deficiencies. Whilst a SCR-wide SHMA would produce definitive answers to the housing market area/housing needs issues, no such assessment is in prospect in the near future.
20. The Council considers that the DPD should be prepared in-line with the adopted Core Strategy requirements, the 2 documents together forming the Local Plan for the borough. However, in 2 recent similar cases - *Gladman Homes v Wokingham Borough Council* and *Gallagher Homes Ltd and Lioncourt Homes Ltd v Solihull Metropolitan Borough Council* - a Council's decision to adopt a Local Plan has been challenged in the Courts partly on the basis that the documents failed to comply with the NPPF in that they were not based on an up-to-date objective assessment of housing need. The former case is yet to be heard and I understand that the Council in the latter case is submitting an

application to appeal to the Court of Appeal following a refusal of permission to appeal in the High Court. Nonetheless, in these circumstances it may be that, even if I considered that the Council's approach was sound, this may not be accepted by the Courts.

Site assessment and Sustainability Appraisal (SA).

Commitment sites

21. Policy SP16 of the DPD sets out the proposed housing allocations. A large proportion of these are sites which already have planning permission – they are effectively 'commitments'. The Council has automatically included them as allocations in order to provide a comprehensive picture of its strategy and to provide a solid basis for taking the sites forward should the existing planning permissions expire. These 'commitment' sites have not been subject to the same comparative assessment as other allocated sites. However, by including these sites in the list of allocations there is an inference that they are more sustainable than those sites which have not been allocated. That may not be the case as the sites have not been compared alongside those other sites. Should the planning permissions on these sites expire without development coming forward, their inclusion as allocations would enable a further planning application to come forward without there being the need to question whether the sites are the most sustainable option when compared to other potential sites.
22. I accept that these commitment sites have been through the planning application process and have been found to be acceptable. However, this is a different process to the comparative process which should inform site selection in a Local Plan. As was pointed out at the Hearings, there are many reasons why the owner of a site may seek planning permission. It does not guarantee that development will come forward. In my view there should be the ability to review the sustainability credentials of these sites against other sites if development has not come forward during the lifetime of the planning permission. While I can understand the Council's reasons for including the sites as allocations, I do not consider that these 'committed' sites should be included in the policy as such.

Phasing of development

23. The council's overall strategy is directed at the regeneration of settlements and this involves the development of a number of key brownfield sites. In these circumstances I consider that, in principle, a policy which encourages the early delivery of these sites is acceptable and would accord with the thrust of NPPF advice. However, this is provided that there is a reasonable prospect that the brownfield sites will come forward. A strategy which held back all development in the hope that sites which were unattractive to the market would be forced to come forward for development could ultimately be sufficient to inhibit development to the extent that the strategy would be derailed.
24. I have been informed that 61% of the Council's housing allocations (12,994 dwellings) are phased in a way which would allow them to come forward in the first 5 years of the plan period. Of these, 34% would be on greenfield sites. On the face of it, this pattern of phasing appears essentially sound. However, examination of the housing allocation sites in Table H1 of Policy SP16 indicates

that a large proportion of the sites in this early phase of development are sites which already have planning permission – the ‘commitment’ sites referred to above. I accept that development of some of these sites is underway but I have no clear overall understanding of how many of the remainder are realistic contributors to the housing requirement.

25. In these circumstances, I do not consider that, at this stage, I am in a position to decide whether the phasing of the sites is pragmatic. I would need to examine the matter further through examination of individual sites.

Sustainability appraisal and assessment of individual sites

26. A Council's site-selection processes and methodologies are at the heart of any site allocations plan. If a sound site selection process is applied consistently then it follows that the sites which are selected for allocation will be sound. A recent Court decision - *Save Historic Newmarket Ltd v Forest Heath DC* - made clear that the background information supporting a Council's plan needed to be of sufficient quality in terms of information, expertise and perceived effects to ensure that those members of the public affected by the plan were able to understand why the proposals were said to be environmentally sound and why alternatives had been discounted. In the case of a site allocations plan this principle should be applied to individual sites.

27. A key part of the Council's evidence base is the Sustainability Appraisal (SA). The document should assess the alternatives considered by the Council and, whilst this document does not make the Council's choices, it should enable users of the document to understand why the Council made its decisions. The Council has prepared a SA to support the DPD. However, whilst it assesses policies of the DPD, it contains no assessment of individual sites. The Council argues that this more detailed assessment information is provided elsewhere in the documentation – notably in the *Housing Site Appraisal Summaries*. The criteria against which the sites are assessed in these documents are different to those employed in the main SA document. Some apparently important characteristics of sites such as effect on landscape are assessed but evidence which is available in terms of surveys and assessments has not been employed. In the case of flooding, the tests applied to the policies in the SA are different to those which are applied to individual sites.

28. The Council has made some efforts to display the results of its site assessment process in table form to allow the comparison of one site against another. However, it remains unclear to me how individual sites were judged against the criteria applied. In many cases there appears to be no objective test applied which would allow the merits of one site to be weighed against another. When these matters were explored more deeply in the Hearings, it did appear that, at least in some cases, objective tests had been employed but these had not been revealed in the documentation. I appreciate that it will not always be possible to apply objective tests. However, my overall impression of the process of site assessment is that it is muddled, difficult to decipher and may not have been applied in a consistent manner. It may be that the Council has a great deal of the necessary information which would justify its assessment of sites against individual criteria. If this was properly revealed, explained and drawn together, the assessment of individual sites could become more understandable and may provide a SA which would meet the legal requirements. However, on the basis

of the evidence before me, I am not persuaded that a proper SA has been carried out.

The process of comparing and selecting sites

29. Having undertaken the assessment of individual sites described above, the Council then adopted a 4 stage process by which the merits of individual sites could be compared. I deal with this process below.

Stage 1

30. Stage 1 involved an initial assessment of the Council's Strategic Housing Land Availability Assessment (SHLAA) sites. The SHLAA was produced in 2011. It has not been updated but additional sites which were put forward through the DPD consultation process have been assessed using the same process. I am satisfied that the identification of sites has been reasonably comprehensive.

31. At Stage 1 sites which were too small to allocate, which did not comply with the locational requirements of Core Strategy Policy CS2, which were undevelopable for various reasons or which were subject to insurmountable policy restrictions were discounted. The decision-making process included non-Council bodies including the Environment Agency (EA) and the development industry in the form of the Home Builders Federation (HBF). It is not entirely clear how this process worked or what objective tests were applied to ensure that sites were dealt with on a consistent basis. Clearly this is easier in some cases than in others – for instance, sites which were too small or in active flood plains could be discounted on an objective basis. Assessment against the local requirements of Policy CS2 should, on the face of it, be relatively straightforward. However, in other cases the factors on which a decision was made to discount a site are less clear.

32. Deliverability was assessed in Stage 1. Availability, suitability and achievability were appraised. A large number of Representors raised concerns about the deliverability of the sites which the Council had allocated - some of which, it was claimed, had been allocated since 1992. Clearly assessing whether or not a particular site will come forward for development is not an exact science and will involve at least a degree of subjective judgement. The inclusion of the HBF and other parties in the process adds credibility. However, I note that no exercise has been undertaken with landowners to confirm that land which was available in 2011 is still available for development

33. I note that it has been assumed that sites allocated in the Unitary Development Plan dated 1998 and sites with planning permission are generally suitable for allocation – although a small number have been discounted as being undevelopable during the plan period. Within this process I can see no evidence to show that an assessment of sites was made to determine why, if they had been available for development for long periods, they remained undeveloped. Reasons could have been revealed which would exclude these sites from consideration – this is particularly the case where sites have been allocated for development for many years. I have seen no clear evidence to support an assumption that they will come forward.

34. With regard to sites which are subject to a high probability of flooding, I can see no clear evidence to show whether this would affect their deliverability.

Difficulties surrounding insurance costs and fear of flooding may be sufficient to hold back development. The Council argued that some sites which are subject to a high probability of flooding are currently being developed and I agree that this may demonstrate that flooding may not be sufficient to hold back development in all cases. However, I have seen no evidence to show that this is generally the case in times when the issue of flooding is becoming of greater public concern.

35. The Council may have the background information which explains the rationale behind its decisions on deliverability. However, on the basis of the evidence before me, the process is unclear. I am not therefore persuaded that the wider issue of deliverability of all sites has been properly assessed.

Stage 2 - general

36. Stage 2 is referred to by the Council as the 'strategic sieve'. Sites are assessed against Core Strategy Policies CS2, CS3 and CS4 from which are derived 4 strategic principles; prioritising the use of brownfield sites over greenfield sites, minimising development in the countryside, prioritising urban sites before urban extensions and, where possible, directing development to areas at lowest risk of flooding. Each site is ranked in accordance with how it performed collectively against these tests.

Stage 2 – brownfield/greenfield land

37. Given that the NPPF does not require the use of brownfield sites before greenfield sites, some Representors argued that the Council's approach gave undue emphasis to the brownfield/greenfield qualities of the sites. Paragraph 111 of the NPPF still encourages the effective use of land that has been previously-developed. I am satisfied, therefore, that the Council is justified in seeking to prefer the development of brownfield sites. The way in which the brownfield/greenfield characteristics of a site have been employed in the 'strategic sieve' ensures that it only affects the ranking of a site where the other strategic circumstances are equal. I am satisfied that this is a proper approach.

Stage 2 – Green Belt and countryside

38. Within the borough 'countryside' falls into 2 parts; Green Belt land to the west of Doncaster and 'Countryside Policy Protection Area' to the east of Doncaster. I was informed at the Hearings that there is no other 'countryside' which falls outside of these 2 designations. The use of the term 'Countryside Policy Protection Area' is misleading. The area so designated has not been assessed for its special qualities and there is no policy either in the Core Strategy or the DPD which gives it any special status. The land is simply countryside. Referring to it as anything else implies a status which it does not possess.
39. The importance of the Green Belt is clearly set out in the NPPF and has been re-affirmed in recent Government statements. The Core Strategy makes clear that no general review of Green Belt boundaries is envisaged as being necessary to meet the housing requirement although some 'very limited' changes to the Green Belt may be necessary. However, the Core Strategy Inspector also commented that the Council may wish to consider whether the Green Belt should be comprehensively reviewed as part of a Site Allocations

DPD. The Council has chosen not to do this at this stage but will undertake such a review as part of the next plan round.

40. In the Council's 'strategic sieve', countryside does not carry the same weight as Green Belt. This is proper in my view. However, it does carry the same weight as a Flood Zone 2 designation. Green Belt designation carries the same weight as land being Flood Zone 3a. I deal with the treatment of flood risk below.

Stage 2 - Flooding

41. The NPPF needs to be read as a whole. However, it is quite specific in the way in which development of land which is at risk of flooding should be treated. In my view this reflects the importance which the Government attaches to the matter. Paragraphs 99-102 of the NPPF set out the way in which allocations in a Local Plan should be handled. The principle is to seek to avoid 'where possible' flood risk to people and property and to manage residual risk. To achieve this Local Plans should adopt a sequential, risk-based approach to the location of development. This would involve applying a Sequential Test designed to steer new development to areas with the lowest probability of flooding. If, following application of the Sequential Test, it is 'not possible' consistent with wider sustainability objectives to locate development in zones with a lower probability of flooding, the Exception Test may be applied. To pass the Exception Test it must be demonstrated that there are wider sustainability benefits to the community which outweigh the flood risk and a site-specific flood risk assessment must demonstrate that the development will be safe for its lifetime without increasing flood risk elsewhere.
42. I am not persuaded that the Council has applied these tests as stringently as the NPPF requires. I do not consider that the Council's starting point has been to seek to steer development away from areas with the highest probability of flood risk. I have seen no evidence that this objective has been properly weighed against wider sustainability objectives or that such an exercise has demonstrated that it is 'not possible' to locate development in areas of lower probability of flooding. It is only when these matters have been fully assessed that the Exceptions Test should be applied. As its name suggests the test should involve only exceptional cases. Again I have seen no clear evidence that the Council has weighed the risk from flooding against the wider sustainability benefits to the community which would accrue. Site-specific flood risk assessments have not been carried out in all cases.
43. The Environment Agency (EA) has been consulted on the Council's approach and appeared at the Hearings. While the EA has expressed itself as being satisfied with the Council's methodology, it made clear that the weighing of flood risk against wider sustainability objectives and benefits was a matter for the Council. In my view this is a proper position for the EA to take. Perhaps more surprisingly, the EA considered that, in the application of the Exceptions Test, the absence of a site-specific flood risk assessment in each case as is required by the NPPF was acceptable. It foresaw no major issues arising from development of the sites in flood risk zones 3a and 2 and therefore considered that it would be more appropriate to undertake a site specific flood risk assessment at a later stage. This is contrary to the NPPF guidance. The EA confirmed at the Hearings that, even where flood defences were in place, this

did not affect whether or not a site fell within an area with a higher probability of flooding.

44. From the evidence before me, it is difficult to avoid the conclusion that the Council has chosen for allocation a number of sites to which it has a long-term commitment for the delivery of its regeneration efforts and has simply decided that these sites are so important to its efforts that this, by itself, is sufficient to provide the wider sustainability objectives and benefits required by the NPPF tests. I do not consider that this can be assumed. The NPPF tests 'set a high bar'. It is only where it is 'not possible' to direct development to areas of lower flood risk that the Council can move on to apply the Exceptions Test. The test is not that it would be preferable to locate development in the areas of highest risk of flooding but that it should be impossible to do otherwise.
45. There may be circumstances where it is genuinely 'not possible' to avoid allocating land which is subject to a high probability of flood risk if the settlement-specific strategy of the Core Strategy is to be followed. However, even in the rare instances where this may be the case, I would suggest that this could be an indicator that the strategy could need some re-assessment rather than that sites at risk of flooding should be selected.
46. In my opinion the Council's approach to the selection of sites in areas of higher probability of flooding has been too inflexible. It has not given due consideration to the alternatives of developing in the countryside or even in the Green Belt in order to avoid making allocations in areas of flood risk. Overall, I do not consider that the Council has made a proper and thorough examination of the issue of flooding before deciding that the risks involved are outweighed. In any event, the Exceptions Test has not been applied in that a site-specific flood risk assessment has not been undertaken as is required by the NPPF.

Stage 2 - Conclusions

47. Stage 2 of the Council's site selection methodology deals with important matters which should have a clear and substantial bearing on which sites are selected for allocation. However, I find it very confused. Putting to one side the way in which flooding issues have been assessed, the methodology confuses a physical constraint – flooding - with policy matters – Green Belt, countryside and brownfield/greenfield land. The Council could revise its position on the policy matters but the physical constraint cannot be changed and can only be assessed through the NPPF process. The methodology seeks to weigh these matters alongside one another – giving Zone 3a flood risk the same weight as Green Belt land and giving countryside the same weight as Zone 2 flood risk. I do not consider that the matters can be weighed together in this way and I do not consider that this process reflects the importance placed on flood risk by the NPPF or the balancing exercise which it requires.

Stage 3 – Part 1

48. Stage 3 falls into 2 parts. The first part involves a detailed assessment in which sites were assessed against a range of sustainability criteria. However, these are not the same as the criteria employed in the SA – I refer to this in paragraph 27 above. I accept the Council's argument that some of the SA objectives cannot be usefully employed in a site selection process as matters such as design can only be assessed at a detailed planning stage and that the

criteria applied in its *Housing Site Appraisal Summaries* covers similar issues to those addressed in the SA. However, again it is not clear how sites have been judged against the specified criteria. In the Hearing sessions the Council explained that, in some cases, objective testing had been applied but this was not obvious from the submitted documentation. In some of these cases the objective tests which were applied appeared to be quite crude. For instance, more sophisticated analysis of access to public transport may have revealed different results. In the case of agricultural land quality, the Council 'erred on the side of caution' in its analysis which could have over-emphasised a site's score in this regard. How the Council assessed the relative characteristics of sites and made a distinction between them remains unclear.

49. The way in which the detailed sustainability assessment relates to Stage 2 of the process – the strategic sieve – is confusing. Sites which score quite poorly on the strategic sieve can be allocated for development if they score well on the detailed sustainability assessment. Given the importance of the issues assessed by the strategic sieve this is somewhat surprising and I would suggest that it may be symptomatic of what I consider to be a muddled approach.
50. It is at Stage 3 that flood protection measures appear to have been taken into account. The Council argues that many of the sites which it has allocated for development are, or can be, protected from flooding. However, as the EA made clear at the Hearings, this does not alter the land's status in terms of the probability of flood risk. The NPPF is clear that Councils applying the NPPF tests should seek to avoid allocations in areas of higher risk. It makes no distinction between that land in zones with a high probability of flooding which are, or can be, protected from flooding and land which is not so protected. I accept that in cases which are balanced, protection from flood risk may be sufficient to determine which site should be chosen. However, in the first instance the Council should have sought to avoid land with a higher flood risk where possible.

Stage 3 – Part 2

51. This involved taking the views of local communities into account. It would appear that it was based on consultation responses made during plan preparation stages. It is not clear how much weight was attributed to these comments and what part they played in the assessment process.

Stage 4

52. Stage 4 involved the weighing of the findings from the 3 earlier stages to reach a final decision on allocation. Again there is no clear explanation of how this process was managed, how determining factors were assessed and weighed or how the decisions were reached.

Conclusions on the site assessment, site selection and Sustainability Appraisal processes.

53. In my opinion the Council's site assessment, site selection and SA processes and methodologies are unsound and, in some cases, are not legally compliant. The Council may have information available which demonstrates that the characteristics of sites have been objectively assessed in a systematic manner and which allows a clear understanding of why one site was selected for

allocation over another. However, this needs to be drawn together and presented in a way which allows those affected by the plan to understand why the proposals are said to be environmentally sound and why alternatives have been discounted. The Council should be able to demonstrate by, where possible, objective testing, that there is a clear, rational basis for the decisions which have been made. At present the evidence base and the SA in particular do not do this.

54. In my view the site selection process needs to be re-evaluated. The tests applied in the Stage 2 'strategic sieve' are clearly very important to any assessment of sites and need to be given proper weight. However at present their influence on the process is entirely unclear. Despite their clear importance – an impression reinforced by the Council's assessment of them in a separate stage – they can be outweighed by other sustainability criteria. The way in which the 'strategic sieve' issues have been weighed alongside one another also needs to be re-assessed. I am not persuaded that, given the guidance in the NPPF, that this weighing together of policy-led matters and physical constraints is a proper approach.
55. The Core Strategy makes clear that the Sequential and Exceptions Tests in respect of flood risk need to be applied and they should be applied as intended by the NPPF. I do not consider that the necessary weighing of the risk of flooding against identified wider sustainability objectives and benefits has been demonstrated and there is no clear case made which shows that the risk of flooding is outweighed by these matters. The lack of a site specific flood risk assessment for all sites being considered under the Exceptions Test is clearly contrary to NPPF guidance.
56. The Core Strategy envisages that, in order to meet the plan objectives, it may be necessary to allocate land in areas subject to flood risk, in parts of the Green Belt and in the countryside. This is made clear in paragraph 4.8 of the Council's *Housing Site Assessment Report (Including Methodology)* document. I am not persuaded that the Council has given proper consideration to the alternatives of developing in the countryside and Green Belt before it chose to allocate sites in areas of flood risk. In my opinion the protection of Green Belt and countryside may have been put ahead of flood risk in the weighing process and this does not give the issue of flood risk due weight. The Council's process demonstrates a lack of flexibility in its decision-making which may have favoured particular sites. The choice of these sites, both in terms of their size and attractiveness to the market, could have a significant impact on the deliverability of development and ultimately on the Council's overall strategy.

Other policies

General matters

57. During the course of the Stage 1 Hearings a number of other policies were discussed. In many cases the Council proposed Main Modifications to address the various matters raised by Representors. I deal with these policies below. Not all of the changes which were discussed at the Hearings are shown on the *Note of working amendments discussed during hearings* document and the *Proposed Main Modifications* document (ref G28) which the Council has supplied to me. The Council will need to re-consult on any proposed Main Modifications

and should ensure that its list of proposed Main Modifications is complete before embarking on any such exercise.

Policies SP44 and SP22: Viability

58. There is no clear indication that the viability of sites has been assessed as part of the site selection processes. I have read the Council's document entitled *Viability Testing Report* (ref A8.1) but this deals almost exclusively with the Council's affordable housing aspirations. I have seen no evidence that a wider assessment of viability has informed the site selection process.

59. Policy SP44 deals with developer contributions. In general terms I am satisfied that the policy and its supporting text take a flexible approach to the negotiation of developer contributions which enables viability to be properly addressed. In my view the approach adopted is generally sound. I understand that the Council is proposing Main Modifications to the policy to ensure that it is clearly understood alongside Core Strategy Policy CS12.

60. Policy SP22 deals with residential design. I understand that the Council is proposing Main Modifications to make the policy more flexible in order that viability is not compromised by a requirement for over-exacting standards.

Policies SP1 and SP3: Buildings and conversions in rural areas

61. Core Strategy Policy CS3 seeks the protection and enhancement of both Green Belt and countryside. Policies SP1, SP2 and SP3 of the DPD follow this lead and treat both designated areas as having the same protection. The degree of protection provided does not in all cases comply with the NPPF advice. I consider that the approach adopted by the Council does not, therefore, comply with national guidance. The Council is proposing to make Main Modifications which will ensure that Policy SP1 complies with the up-to-date guidance in the NPPF and that a proper distinction is made between the approaches to development in Green Belt and other countryside.

62. The Council is also proposing to make Main Modifications to Policy SP3 to bring its provisions in line with the NPPF guidance.

Policy SP21: Meeting the requirements for gypsies and travellers

63. The provision of sites to accommodate the needs of the gypsy and traveller communities is dealt with by Core Strategy Policy CS13 and Policy SP21 of this DPD. At planning appeals in the past the Council's Gypsy and Traveller Accommodation Needs Assessment (GTANA) has been criticised. However, the earlier GTANAs which gave rise to this criticism have now been superseded by a 2013 version. This deals with the 2014-2019 period, has been independently reviewed and appears to be more robust. Policy SP21 identifies sites which would, after removing any double-counting, satisfy the identified requirement. The Council claims that it has actively worked with the gypsy and traveller communities to help identify sites and I have seen no evidence to disprove this claim.

64. Both Policies CS13 and SP21 appear to be consistent with the *Planning Policy for Traveller Sites* guidance. I am satisfied that the policies are sufficient to

enable a flexible choice of accommodation to be provided. Where there is a clear, identifiable need the Council has made provision to meet it.

65. The Council proposes Main Modifications to Policy SP21 to clarify the relationship with Policy CS13 and to address issues in criterion H) which deals with enforcement action. It would also appear that the text supporting the policy will need modification to bring the background details up-to-date.

Policies SP9, SP13 and SP14: Retail and town centre issues

66. The Council proposes a range of Main Modifications to address a number of anomalies in the wording of the policies and their supporting text and to bring the DPD up-to-date with planning permissions which have been granted on sites around the town centre. I am satisfied that the proposed changes which were discussed at the Hearings would be sufficient to make the Council's approach to these matters sound.

Policies SP8, SP15 and SP21: Robin Hood Airport

67. Part A of Policy SP8 supports a range of uses at the business park adjacent to the airport. My reading of the policy is that it supports any uses within Classes B1 b/c, B2 and B8 without restriction but also allows any other use which relates to the airport or which is ancillary to the business park. However, I note that in paragraph 3 (iv) of the *Note on Distribution Warehousing Phasing* the Council implies that the Class B8 uses at the airport will be 'related to the operation of the airport'. If my understanding of the meaning of Part A of the policy is wrong then its wording needs to be improved to clarify its meaning. However, given the need to protect town centres and other Council policies, I consider that the range of uses (as I understand it) is sufficiently wide to accommodate most uses which would be likely to wish to locate within the business park and would not unduly hold back investment. In my view the inclusion of the suggested wording from the Growth Plan would allow a potential range of uses which is too wide. Proposed Main Modifications which bring the supporting text up-to-date are acceptable.

68. The Council proposes a number of Main Modifications to address various issues of aircraft safety. The proposed change to Part D of Policy SP8 appears to be generally sound. However, Part C of the policy deals with Public Safety Zones (PSZs). Current traffic levels do not warrant the designation by the Civil Aviation Authority (CAA) of PSZs. However, the Council has employed risk assessments undertaken as part of earlier planning applications to define its own PSZs which it proposes to protect until these are replaced by formal CAA designations. The 'informal' nature of the PSZs is referred to in the text supporting the policy. However, I am not persuaded that the Council is justified in applying these restrictions on development when they are not supported by the CAA. The matter should be considered further.

69. I have seen no evidence which supports suggested changes to Part D bullet 3 in respect to windfarm developments.

70. A proposed Main Modification to provide a reference from Policy SP41 to the clause in Policy SP8 regarding birdstrike hazards would be acceptable in order to make the DPD effective.

71. Part C of Policy SP15 which deals with Airport Surface Access Strategy is, in my opinion, incongruously placed and could be easily overlooked by anyone dealing with proposals in and around the airport. I consider that it should be re-positioned. I do not consider that the Council's choice of words in the last sentence makes the DPD unsound.
72. Some Representors raised concerns that developments at the airport could affect their access to their own site. As I made clear in the Hearings, the fact that a development plan allocation is made or a planning permission is granted does not affect an individual's property rights. Any effect on rights of access would need to be resolved separately through negotiations between the affected parties.

Policy SP6: Inland Port

73. Core Strategy Policies CS2 and CS5 and the text supporting Policy CS5 set out proposals for the delivery of employment land including distribution warehousing. 'Distribution warehousing' is not defined in the Core Strategy. Core Strategy paragraph 4.10 sets out the priority which will be given to the Strategic Rail Freight Interchange at Rossington – now referred to as the Inland Port. It states that a maximum of 62 hectares of the distribution warehousing land (over and above the 166 hectares forming the Inland Port site) will be released in the 5 years from the adoption of the Core Strategy. This text was drawn up by the Core Strategy Inspector and is specific. Whilst 'broad locations' in the M18/M180 corridor and at the Inland Port are identified in Table 2 of Core Strategy Policy CS2 I do not consider that the policy or text can be taken as referring exclusively to distribution warehousing allocations in these locations. The text in paragraph 4.10 specifically does not say that the phasing provisions relate only to sites in the 'broad locations' specified. Development at the airport is dealt with as a separate entry in the Table. It appears to me, therefore, that, putting the airport aside, the Core Strategy (as written) makes no distinction between distribution warehousing allocations in the broad location of the M18/M180 corridor and sites elsewhere. In my view the 62 hectares mentioned in the text could reasonably be taken to refer to all allocated 'distribution warehousing' sites. Representors argued that the Council's application of this element of the Core Strategy was being blurred by making distinctions between the types of warehouses to which it applies. I do not consider that the approach of the Core Strategy sanctions the making of any such distinction by the Council.
74. The DPD allocates 324 hectares of land which could provide warehouse space. What, on the face of it, appears to be an 'over-allocation' has no effect on the commitment made in paragraph 4.10. However much land is allocated, only the Inland Port land and an additional 62 hectares can come forward in the first 5 years of the Core Strategy plan period. The priority given to the Inland Port remains unaltered. Whether the warehouse space is provided for local firms or as part of mixed use sites has no effect on that commitment.
75. I can see little reason for the Council seeking to over-allocate employment land at this stage. The employment land would be developed over the whole of the plan period and over-allocation at this stage to provide flexibility in the event of some sites failing to come forward seems to me to be unnecessary. If proper monitoring showed that employment land was running short at some point in the plan period the Council could review provision. Nonetheless, while I can

understand concerns that the Council's approach may deter investors in the Inland Port, I am not persuaded that the approach is inherently unsound. In these circumstances, I do not consider that any Main Modification is needed to make the DPD sound.

Policy SP39: Minerals

76. The Council is only one of 6 of the 17 Mineral Planning Authorities in the area to have submitted a Local Aggregates Assessment (LAA) to the Aggregates Working Party for consideration. Assessments need to be made on a sub-regional or regional basis and the Council can only do this through the AWP when other authorities produce their own data. The Council argue that the LAA was produced in-line with national guidance – especially that in the first bullet point of paragraph 145 of the NPPF. It also takes into account projections of future building. Areas of search for new deposits have been identified. Working together with adjacent authorities who are outside the AWP area but have traditionally exported materials to Doncaster, the Council has produced a joint position statement and has concluded that it can meet its requirements.
77. From the evidence which I have read and heard at the Hearings I consider that the Council has made considerable efforts to comply with the guidance contained in the NPPF and has done as much as it can to address the question of mineral supply. Assessments are on-going and I am satisfied that the Council is striving to come to an agreed AWP-wide position. In these circumstances I am satisfied that the DPD is sound in this regard.

Summary

78. As I stated at the beginning of this letter, the purpose of the Examination is to ensure that the submitted DPD is legally compliant, justified, effective, positively planned and consistent with national guidance and that any requirements in terms of the duty to co-operate have been satisfied. I have a number of concerns about the DPD which I set out above. However, the most fundamental concerns can be summarised as:
- The DPD is not based on an objective assessment of the need for housing as is required by the NPPF. The adopted Core Strategy is based on RS housing requirements which do not in themselves assess need and, in any event, could not be considered to be up-to-date. The requirement figures have not been reviewed since the Core Strategy was examined in the pre-NPPF era and no review is imminent. Recent evidence tends to suggest that the Core Strategy housing requirement will not support the Council's objectives in terms of job creation. In these circumstances I consider that the DPD provisions are not justified by the evidence base, would be ineffective in delivering the Core Strategy objectives and would be inconsistent with national guidance. It is also possible that, by basing the housing requirement on the Core Strategy requirement, the DPD could be found to be not lawful.
 - The SA and site selection methodologies employed by the Council are flawed. The SA does not, in itself, assess individual sites although I accept that assessments are provided elsewhere in the documentation. However, the information provided does not give any clear picture of why one site was chosen for allocation before another. The DPD is, therefore,

based on evidence which is not legally compliant. The selection process itself is muddled. In particular the way in which the NPPF tests for land at risk of flooding have been applied is unacceptable and flood risk should not have been considered collectively with Green Belt, countryside and brownfield/greenfield issues. Throughout the whole of the SA/site selection process there is a lack of clarity about how decisions were reached. In this regard I consider that the DPD is not legally compliant, justified or consistent with national guidance.

- The DPD should be re-drafted to make it simpler. All policies should be re-assessed to bring them in-line with national guidance and misleading designations such as Countryside Policy Protection Area and Public Safety Zones which imply a degree of protection which does not exist should be removed.

Conclusions

79. It is for the Council to decide how to take the DPD forward from this point. However, the issues which I summarise above would, I suggest, make moving forward to the second stage of Hearings abortive. In my opinion it would be a waste of resources to examine the issues surrounding the proposed allocation/non-allocation of individual sites when matters which go to the heart of the plan methodology are in my opinion unsound, not legally compliant or both.
80. Taking matters forward, I could prepare a formal Report on the DPD Examination which has taken place so far although such a Report is likely to say little more than this letter. In the light of the evidence before me my finding is likely to be that the DPD is both unsound and not legally compliant.
81. Alternatively the Council could consider making Main Modifications to the DPD to address the matters I have raised. However, some of my concerns stem from the fact that the Core Strategy housing requirement needs review. There would seem to be little point in seeking to modify the DPD without reviewing this part of the Core Strategy. The Council is currently undertaking a SHMA. Although this is aimed at addressing affordable housing issues it could be extended to provide an overall assessment of housing need and could form the basis for a review of the housing requirement in what the Council considers to be a discrete HMA until such time as a SCR-wide SHMA is produced.
82. However, progressing by way of main Modifications could present difficulties:
 - A review of the housing requirement could have significant effects on the content of the DPD. It could affect policies throughout the DPD. There would be little point, in these circumstances, seeking to examine other policies at this stage.
 - The Council's SA/site selection processes need to be reconsidered. While background information may be available to show that objective testing of sites has taken place, this information needs to be brought together in an intelligible form which is capable of being properly assessed. The testing of sites at risk of flooding should be properly built into the process in line with the NPPF guidance. In my view reconsideration of the SA/site selection

processes is likely to have a very significant effect on the DPD provisions. Coupled with the changes that could derive from a review of the housing requirement, I consider that it is likely that the DPD which emerges will be very different to that which is currently before me. In these circumstances it may be inappropriate to deal with changes of this magnitude as Main Modifications.

83. I can appreciate that this letter will leave the Council in a difficult position where its options for moving forward are limited. However, all of the work which has led the Council to this point is not necessarily wasted. As I hope I have made clear, much of the evidence background which supports the DPD may be capable of being employed in its current form or could be built upon by additional work and up-dating to provide a more robust evidence base on which to progress a Sites and Policies DPD. I am not suggesting that the Council needs to go back to the beginning of the process. Other alternatives may be available.

84. As I have said it is for the Council to decide how to proceed from this point. However, my own view is that one potential course of action could be for the Council to:

- withdraw this DPD;
- prepare a SHMA which addresses the need for market housing as well as for affordable housing in the HMA;
- bring forward a partial review of the Core Strategy which takes account of any changes in the housing requirement and of up-to-date evidence on the balance of jobs and housing and which brings the Core Strategy policies into line with the NPPF; and,
- bring forward a revised and simplified version of this DPD (either as a separate document or jointly with the reviewed Core Strategy as a Local Plan) based on the reviewed Core Strategy housing requirement, revised SA/site selection processes and NPPF compliant policies.

85. I can understand that the Council will need some time to consider the contents of this letter and how it wishes to proceed. I await the Council's response.

Yours Sincerely,

R Punshon

INSPECTOR