

BATH AND NORTH EAST SOMERSET CORE STRATEGY EXAMINATION

INSPECTOR'S FURTHER PRELIMINARY COMMENTS AND QUESTIONS (2)

1. Introduction

1.1 As I indicated when agreeing to the Council's request to delay the hearings (my note 22 July 2011), I intended to complete my preliminary overview of the submitted material before suspending the Examination. I therefore set out below some further points on which it would be useful if the Council could provide further clarification or consider possible changes during the suspension, thereby helping to focus the Examination when it resumes. The fact that some matters have not been mentioned here or in my first note does not mean that I consider them sound, nor are the points raised the only matters for subsequent discussion. They are simply matters where I have been most readily able to identify a need for clarification or to suggest that further thought is required. Apart from the implications of the draft National Planning Policy Framework (NPPF), the matters raised in this note are detailed points, not fundamental to the overall strategy.

2. Draft National Planning Policy Framework

2.1 I have already highlighted the publication of this draft, its possible implications and the need to allow for consultation on the implications of the draft during the forthcoming consultation on possible changes.

2.2 I understand that the Government hopes to publish the final version of the NPPF by the end of the year. It is highly likely that when the hearings are underway and, certainly, when I am completing my report and making my recommendations, the NPPF will have been published and have replaced most, if not all, existing planning policy. The Council should consider carefully the implications for the soundness of the Core Strategy if what is set out in the draft NPPF becomes national policy before the Examination is completed.

2.3 If the Council consider that the implications of the possible NPPF would require further changes (even if they would not be necessary under existing policy) the Council should consider including such possible changes in the proposed consultation so that they can inform discussion at the hearings. If, however, the combination of changes already contemplated and further changes arising from the implications of the NPPF were to substantially alter the strategy then the Council should give serious consideration to withdrawing the document to avoid potentially abortive work. My previous Preliminary Comments and Concerns predated the publication of the draft NPPF. I have not sought to test the plan against the draft given all the changes in circumstances/evidence likely to occur between now and when the Examination resumes/hearings.

3. Somer Valley

3.1 The overall issue here for the Examination when it resumes is likely to be: *Is the overall strategy for the Somer Valley, particularly in relation to the scale of, and balance between, jobs and housing, justified and is it deliverable?* In the meantime, there is only one specific matter I would want to raise. Policy SV1 4b) restricts new housing above existing commitments to housing within the Housing Development Boundary and which has either employment benefit or contributes to the Town Park. This is relatively tight constraint which will need to be examined carefully. How would the requirement for an *employment benefit* work in practice? Is a Town Park required to make additional housing development acceptable (it is described as desirable infrastructure in 4.25)? If not, how would such contributions meet the CIL Regulations?

4. Rural Areas

4.1 The clarity of, and justification for, the rural settlement hierarchy is likely to be an issue I will need to explore further when the Examination resumes. The following questions seek clarification of the Council's position.

4.2 Appendix 1 indicates that Local Plan policy HG4 will be superseded by the Core Strategy, but Appendix 2 indicates that SC.1 (which lists the R.1, R.2 and R.3 villages) will continue to be saved. Core Strategy RA1 lists criteria to assess whether a village is an RA1 village and 5.18 lists those villages which appear to meet the criteria (only some of the existing R.1 villages). If SC.1 continues to be saved there will be confusion as to which villages are suitable for more than infilling.

4.3 What does 5.18 mean by: *This indicative list will be included in the review of the Core Strategy?* Is this some redundant text from an earlier draft or referring to some future review of the CS?

4.4 Are the criteria in new RA1 meant to be applied at the time that an application is determined or is it the Council's intention for the Core Strategy to fix the RA.1 list now? If the latter, might not the circumstances of villages be likely to change over the lifetime of the plan? (The existence of a Post Office or a small convenience store are reliant on facilities run by small businesses which are susceptible to changing circumstances and possible closure).

4.5 How is local community support to be demonstrated? Is the reference in 5.17 to *Community Support is demonstrated by the views of Parish Councils...* a statement of the current position with some villages or how criterion RA1 c) is to be judged in the future? Why is community support a criterion for the acceptability of the status of a village, but not a criterion for development in any other location?

4.6 How does paragraph 6.64, which refers to villages already inset from the Green Belt as the most sustainable rural locations for accommodating limited new development (these being the 12 settlements listed under R1

in Local Plan policy SC.1) relate to the villages which meet the criteria in new RA1 (for which the Core Strategy suggests only 6 villages)?

4.7 What is the purpose of the review of Housing Development Boundaries (HDB) referred to in 5.21? Clarifying the purpose would give a focus for future work and the testing of any changes made by a subsequent DPD. Is this review of HDBs intended to apply to all HDBs or only those of RA1 villages? If only the latter, there are implications for when these villages will be identified. Does it include villages in or surrounded by the Green Belt and if so would any review effect the Green Belt boundary?

4.8 Policy RA4 (Rural Exception sites) allows for a small proportion of market housing to cross subsidise affordable housing where essential for viability. Is this consistent with current national policy in PPS3?

4.9 Is the requirement in 5.36 that conversion or replacement of underutilised buildings shall only take place if it can be demonstrated that the building is not required for local food production purposes justified and consistent with current national policy?

5. Responding to Climate change

5.1 Key evidence studies in support of CP1, CP2, CP3 and CP4 appear to be: CD4/S1-5, CD4/S6, CD4/S7, CD4/S8 and CD6/S4. The supporting evidence is substantial and complex, but despite the background in Topic Paper 3, I have found it difficult to understand how the Council has used that evidence to justify policies CP1 - CP4 other than in very general terms. It would be helpful for the Council to explain further (but succinctly) specifically how the proposed policies relate to the specific evidence/recommendations of these studies.

5.2 The Supplement to PPS1 *Planning and Climate Change* sets out clear criteria against which any local requirements for sustainable buildings should be justified (especially paragraph 29-33). It is difficult to relate the Council's evidence to all the tests in the PPS Supplement, especially the *local circumstances that warrant and allow* the imposition of the local standards and the justification for adopting a district-wide policy rather than focussing on development areas or site-specific opportunities. It would also be relevant to justify the Council's approach in the light of the draft NPPF if the current content became national policy whilst the Examination is still in progress.

5.3 I note that CD4/S8 (7.4 p72) does not support bringing forward tighter carbon standards in advance of national requirements. The table in CP2 setting out Code for Sustainable Home levels to 2016 mirrors what is currently expected to be the step change in Building Regulations in relation to energy and water use of those Code levels. However, embedding Code levels in a development plan policy in this way amounts to a local construction standard and needs to be justified as such. Adherence to a specified Code level is more wide-ranging than the corresponding Building Regs and imposes additional work/costs on the

applicant/developer. The changes to the Buildings Regs are not yet fixed. The further information requested above should make clear why this local policy is justified, including the district-wide approach, in the light of the tests in the PPS1 Supplement.

5.4 I can understand the broad justification for encouraging the retrofitting of existing buildings in CP1. It is not clear how the policy is intended to bite in the context of development proposals. Does the requirement in relation to *masterplanning/major development* apply only to any existing buildings to be retained within the applicant's site/scheme? Is the Council intending to use this policy in development management to seek retrofitting for existing buildings unconnected with an applicant's site? If so, further clarification and justification is required for subsequent Examination.

5.5 Why does policy CP4 District Heating apply the policy requirements to 15 areas (as identified in the Core Strategy) when the most direct supporting evidence (CD4/S1-S5) identifies only 3 *most promising opportunities* (p4) and identifies viability or other technical difficulties elsewhere.

5.6 In CP4 what does *infrastructure for district heating* mean in practice? The additional cost of this infrastructure may, in the short/medium term, serve no purpose, but be an additional cost. How does the Council intend to prioritise requiring such investment with the requirements of CP2?

5.7 In CP2 and CP4 I see no reference to development viability as a consideration in relation to the application of the requirements. Such explicit recognition in the policy is likely to be necessary for soundness.

6. Affordable Housing (CP9)

6.1 In my Preliminary Note of 3rd June (Annex 1, A14- and A15) I set out some questions about the overall delivery of affordable housing which remain relevant.

6.2 There are likely to be a number of questions to explore when the Examination resumes. One such question is whether the policy provides sufficient clarity for what will be sought, or whether it should specify different rates for different areas.

6.3 Based on the representations made, the conclusions of the viability studies (CD4/H8 and CD4/H9), my conclusions on similar policies in other plans and current national policy, even if I were to be satisfied that the rest of policy CP9 is sound, I would be likely to find that viability needs to be more fully embedded in the policy and not viewed only as an exceptional circumstance (highlighted only in the delivery box).

6.4 There would be several ways to adjust the wording to embed the full range of possible viability considerations. One approach would be to succinctly combine the paragraphs relating to the possibility of higher or

lower affordable housing provision (replacing all of 2nd and 3rd paragraphs of the policy) eg:

Taking into account the overall viability of the proposed development, including:

- *Whether the site is likely to have market values materially above or below the average for the district;*
- *Whether grant or other public subsidy is available;*
- *Whether there are exceptional build or other development costs;*
- *The achievement of other planning objectives, and*
- *The tenure and size mix of the affordable housing to be provided*

A higher (up to 45%) proportion of affordable housing may be sought or provision below the average of 35% may be accepted.

I would therefore invite the Council to consider advertising such a change as part of the consultation.

6.5 Other points for the Council to consider now:

- Given the creation by the Government of *affordable rent* as a type of affordable housing does the tenure mix need to be reviewed? (I note that a further study has been commissioned.)
- Given that the proposed 17.5% provision on sites of between 5-9 dwellings would never translate neatly into whole affordable dwellings, how would this wording be applied in practice?
- Is the requirement at the end of CP9 for all affordable units to remain at an affordable price for future eligible households realistic, bearing in mind that for some types of housing stair-casing to full ownership may be allowed? Could the underlying aim be secured by indicating that arrangements should be in place to recycle the subsidy for the provision of future affordable housing?

7. Monitoring

7.1 In chapter 7 many of the monitoring indicators do not have a *Quantification of objective* (or target in conventional terms). Thus there is no means of measuring whether the policy is achieving its objective. The Council should look again at the effectiveness/usefulness of the monitoring framework.

8. The way forward

8.1 I intend now to suspend the Examination as previously indicated. Provided that the Council is able to adhere to its timetable, I will resume the Examination at the end of October. I do not intend to do further work until the Examination resumes. I would aim to give at least 10 days notice if the Pre-Hearing Meeting is required on the 18 November.

8.2 I would be grateful for hard copies of all the additional material in two stages. Firstly, all the new evidence, schedules of changes, report to Cabinet/Council etc once agreed by the Council and the consultation is underway. This stage should also include hard copies of any of the documents at submission not previously provided in a paper form, but which are now referred to in supporting Topic Papers.

8.3 Secondly, by the end of October, the reps from the consultation should be provided to include hard copies of the full representation and the critical content of the reps grouped together for each change (and any new evidence/document commented on separately) in the manner of CD7/2.

Simon Emerson
Inspector
12 August 2011