

BATH AND NORTH EAST SOMERSET CORE STRATEGY EXAMINATION**INSPECTOR'S PRELIMINARY CONCLUSIONS - OTHER MATTERS AUGUST 2012****1. Introduction**

1.1 This note supplements my Preliminary Conclusions on Strategic Matters (21 June 2012). The purpose of this note is to highlight to the Council those few further matters on which I consider that there is potential unsoundness so that they can be addressed by the Council during the suspension and relevant possible changes published for consultation before the Examination resumes. The note is primarily concerned with any changes needed to the non-spatial *Core Policies* of the Plan. There may be a range of changes necessary to the spatial policies arising from the further work to be undertaken by the Council. My previous note highlighted my main concerns relating to overall housing and delivery and it will be for the Council to work through the necessary changes to the spatial policies arising from my concerns and the further work being undertaken.

1.2 This note can only express tentative conclusions as I will not be concluding this Examination for a further year and some 18 months after the first hearings. Material circumstances may well change by then. I would need to take into account any such changed circumstances, as well the responses on the proposed consultation and any further hearings. I do not comment on matters on which I consider that there is no unsoundness requiring a change.

1.3 The Council should include in its future consultation all those changes not previously consulted on which it indicated before, during and after the hearings that it was minded to pursue, as set out CD6/E2.2, so far as these remain relevant in the light of its further work. Not all of those changes are necessarily relevant to soundness, but I see no need at this stage to try and pick through that schedule to identify those that are most relevant. Many of the changes relate to strategic matters which may need to be revised before consultation.

1.4 The Council needs to be alert to the possible need for further changes either as a consequence of any changes to strategic matters or from other changed circumstances/new evidence.

2. CP4 District Heating

2.1 The policy refers to Diagram 19 of the Plan which identifies 15 district heating priority areas. These 15 areas are the *long list* of clusters analysed in the *District Heating Opportunity Assessment Study* (CD4/S1-S5). The study concluded that 3 of these locations were the most promising: Bath Centre, Bath Riverside Corridor and Keynsham.

2.2 The evidence does not support the policy requirement that within the 15 identified areas development will be expected (my emphasis) to incorporate infrastructure for district heating. In many of these areas there may be no district heating system in operation when the development is built and may never be. The policy expectation would involve cost and materials which would serve no purpose until a system was in place and would be in addition to the Council's other policy requirement relating to the Code for Sustainable Homes.

2.3 The policy can only have an expectation for the installation of such infrastructure in the 3 most promising locations. In the remaining 12 areas, the

policy could encourage consideration of district heating systems and require connection where any such suitable system is (or will be at the time of construction) in place. The policy as written is unsound because it is not justified and changes are required to better reflect the evidence and the practical reality of the development of such systems. Other changes to the policy have previously been proposed by the Council and remain relevant.

3. CP9 Affordable Housing

3.1 The policy states that an average affordable housing percentage of 35% will be sought on developments of 10 dwellings or more. In practice the policy indicates that a higher proportion may be sought in some locations and a lower than average percentage accepted in other locations. The policy lacks clarity and therefore effectiveness as it does not clearly indicate what the starting point for negotiations will be in any particular location. Developers are not provided with realistic guidance as to what may be expected.

3.2 The above issue is compounded by the evidence that the viability of development varies widely across the district with typical sites in parts of the district unable to deliver close to the average affordable housing requirements. *Validation of Strategic Viability Study* (CD4/H9, paragraph 6.6) states that: *5 of the 12 sites appraised can achieve or exceed policy expectations based on current market conditions and 2 others are not significantly adrift of being viable.* It is not justified to have policy founded on evidence that it may not be deliverable in the majority of typical developments.

3.3 To be sound the policy, firstly, needs greater clarity as to what the starting point for negotiations will be. Secondly, the starting point for negotiations must be more closely based on the reality of current viability. A balance needs to be struck between reasonably maximising the percentage of affordable housing to be achieved and making the policy realistic. The NPPF (paragraph 21) warns that investment in business should not be overburdened by the combined requirements of planning policy expectations.

3.4 I recognise that the policy is intended to cover the whole plan period and that market conditions may change over that time. However, there is no indication of a significant change in market conditions in the short term. If, in the longer term, there was a significant change in market conditions it would not be unduly onerous to review the policy if opportunities so secure affordable housing were being missed.

3.5 In my view, these competing considerations would best be achieved by setting different affordable housing requirements in different parts of the district to reflect the viability evidence. The *Viability Study Final Report* June 2010 (CD4/H8) suggested 2 possible options for split targets (paragraph 6.25). Different targets in different parts of an authority's area are not uncommon and are included in the adopted Bristol City Core Strategy. I see no overriding difficulty in setting sensible boundaries.

3.6 On current evidence, the option of a 2 way split (40% in the higher value areas and 30% in the lower value areas) would seem simplest. However, having identified the unsoundness and the overall approach required, I do not intend to be prescriptive as to the remedy given the long time before I will be finally concluding on this matter. The Council may wish to propose a split based on further consideration of the matter.

3.7 The previously proposed change referring to viability will remain relevant, but the reference to higher proportions of affordable housing would need to be dropped.

4. CP11 Gypsies, Travellers and Travelling Showpeople

4.1 The policy and supporting text needs to take into account the implications of national policy in *Planning Policy for Traveller Sites* (March 2012). The accommodation needs of Gypsies, Travellers and Travelling Showpeople should be assessed for the whole plan period. The policy should commit to making appropriate allocations in another part of the Local Plan to meet those needs and to ensure the required 5 year supply is available.

4.2 If evidence (such as in the emerging Gypsies and Travellers Site Allocations Plan) suggests that sufficient sites cannot be found, then the criteria in CP11 need to be more flexible. Alternatively, any needs which are not to be met within the district would have to be accommodated in adjoining districts (provided this would still reasonably address the needs where they arise). But there must be a clear commitment from the adjoining authority to deliver any such sites.

5. Recreation Ground

5.1 In my note of 23 January 2012 (ID/24) I expressed some concerns about the clarity and effectiveness of the Plan in relation to the central area boundary and the proposed sports stadium at the Recreation Ground. In response, the Council proposed various changes, including some variations on suggested wording in CD6/E2.2. I have considered the subsequent comments made by the relevant parties on this matter.

5.2 In my view, no clear reason has been provided for the Central Area boundary to encompass the whole of the Recreation Ground. I therefore consider that this is not justified and the Council should pursue those changes which amend the boundary proposed in the Plan.

5.3 The references in the Plan to a stadium do not reflect the Council's intentions which is the development of a sporting, cultural and leisure arena at the Recreation Ground. The plan should express what is actually intended. I previously expressed some concern about the site-specific reference, given that a specific allocation was not intended. However, given that this is the intended location, I consider that this should be made clear, otherwise the policy would be ambiguous. No credible alternative location/proposal has been seriously advanced in evidence. With the move signalled in the NPPF to combined single Local Plans there is much less of a distinction than previously about what is appropriate content for a "Core Strategy" and for the other documents which will make up the overall Local Plan.

5.4 The wording needs to acknowledge the unique legal matters relating to the Recreation Ground which could affect the delivery of the proposal. I therefore invite the Council to consult on its preferred wording for this change (RC16 b) and any necessary related changes. There may, of course, be further developments concerning legal matters in relation to the Recreation Ground which affect this proposal and which would need to be taken into account when the changes are published.

6. Model Policy for Sustainable development

6.1 All local plans are expected to include an over-arching policy to reflect the Government's intention for a presumption in favour of sustainable development, as set out in the NPPF. The wording of a model policy is on the Planning Portal. A policy along these lines should be included in the future consultation. (<http://www.planningportal.gov.uk/planning/planningsystem/localplans>)

7. Procedural Points

7.1 I now suspend the Examination until the beginning of June 2013. When I actually start work again on this Exam will depend on my own commitments and whether the Council is ready for the Exam to resume. I would not resume until the Council has considered the responses to the consultation and decided whether any further changes are required. Apart from possibly setting the date for the resumption of the hearings, I will not comment during the suspension on the further work the Council is undertaking or on procedural points. The Council should, however, send me paper copies of all the new material when the consultation takes place so that I am aware of the significance of the changes proposed and the extent of new evidence. I remind the Council about my request for a draft schedule of Main Modifications for when the Exam resumes.

7.2 Bearing in mind the Council's timetable and the work I will need to do when resuming the Examination, I cannot envisage hearings until the latter part of July 2013 at the earliest. At least 6 weeks notice should be given for the resumption of the hearings. Accordingly, I may need to liaise with the Council towards the end of May to set a date for resumption, but only if I consider that it is practical to do so at that stage.

Simon Emerson
INSPECTOR
30 August 2012