

Bath and North East Somerset Core Strategy Examination

Inspector's Response to BNES/47 - Green Belt Matters and Possible Further Changes

Introduction

1. BNES/47 responds to a number of concerns that I raised in ID/36. The Council's note is helpful in many respects, but also raises further questions about possible further changes which are likely to have consequences for the provisional hearings programme. BNES/47 invites me to choose from various options for resolving concerns that I have raised. However, I do not want to make choices on contentious matters which have not been debated unless I consider the way forward is clear cut in the light of all the material before me.

2. This note is primarily aimed at helping the Council decide whether it wants to continue the Examination on the basis of the existing provisional timetable for hearings or delay at least some of the hearings to enable either further work to be done and/or formal consultation to be carried out on revised changes. There is considerable urgency in the deciding whether or not the Council wishes to proceed with the first set of hearings at the end of November. I have issued this note as quickly as possible in the light of this time pressure. The Council may need to respond in stages commensurate with the urgent need to decide whether the hearings are to commence on 26 November.

3. I do not comment on the Council's explanation of the relationship between the various evidence studies. The Council's explanation can be taken into account by parties when preparing for the hearings.

General principles

4. Because of the wide-ranging and inter-related matters on which I need to comment arising from BNES/47 I set out below some general procedural principles as to how I see new evidence or intended amendments to the proposed changes being progressed.

5. Firstly, there is already a large volume of complex evidential material associated with this examination. A series of partial amendments and updates of evidence add considerably to the complexity of conducting the Examination and the ability of all parties to participate effectively. An unplanned succession of changes/new material needs to be avoided. Considerable time can be wasted in preparing for different stages of the Examination on the basis of evidence which is subsequently updated or superseded. If changes or updating is required this should now be done on the basis of a clear timetable and programme where consideration of all new material can be done in a planned and comprehensive way.

6. Secondly, BNES/47 indicates in various places (eg paragraph 5.6) that new material or possible further changes can be introduced or debated *if it is helpful to the examination process*. The hearings need to be as focussed as possible. At this stage, it is for the Council to decide whether in the light of its new evidence, the representations already made, and the concerns I have raised whether further changes are required to ensure that its proposals would most likely achieve a sound plan at the end of the process.

7. Thirdly, if the Council know now that on some matters changes are required to the scope/wording of proposed changes, then all those changes and the reasons for them should be set as soon as possible. Unless these cover only minor

matters, any such further changes would need to be highlighted before I finalised my questions for pre-hearing statements. They could then be fully taken into account by parties preparing their hearing statements. Any such changes which I thought necessary to remedy unsoundness would subsequently still need to be the subject of formal consultation. Pursuing changes in this way (without formal consultation before the hearings) might be appropriate on some technical matters on which there may be limited wider public interest and where the likelihood of further hearings following public consultation is low.

8. Fourthly, if the Council is contemplating a substantial change, such as wanting to propose some of the Green Belt locations as site specific allocations, then all the relevant material in support of such new changes should be the subject of formal consultation before any hearings on those locations. This is because any new changes making allocations are likely to generate considerable stakeholder and wider public comment. In addition, some matters of concern to others may no longer be relevant because it is now clear what is proposed. Such clarification could avoid the wasted effort of discussing the matter at an earlier hearing. I do not want to hold 2 sets of hearings on the Green Belt locations - it would be a waste of time and effort for all parties. The same applies to any substantial rewording of the policies for the Green Belt locations, even if they remain broad locations, or if greater clarity is proposed in defining the broad locations on the Key Diagram. Any such changes are likely to prompt considerable interest.

9. Finally, if the existing provisional hearing programme is put into effect, I have little time for additional preparation, not already planned, to absorb new material. This is because of existing commitments.

SHLAA

10. Paragraph 2.15 of BNES/47 indicates that the SHLAA March 2013 (CD9/H3) was not updated as it should have been to reflect the Council's final analysis of the capacity of the broad locations identified in the proposed changes, although the delivery trajectory was updated. Neither did the SHLAA update of May 2013 include this update. The Council state that the next published SHLAA will include updated site assessments.

11. When is the Council proposing to update the SHLAA? I would not want any update emerging only a few weeks before a hearing session on the SHLAA. It must be available for me to take into account in preparing questions. If there was any change to the Council's calculations of the 5 year supply and what locations were included in the 5 year supply then the SHLAA would need to be updated before I prepared my questions. Once the issues of the housing requirement and land supply have been discussed, I would not want the SHLAA to be updated further during the Examination (unless I specifically requested it).

Weston

12. In paragraph 3.8 the Council state that the more detailed investigation to inform site allocations in the Place-making Plan indicate a more restricted capacity at Weston than set out in the Core Strategy SPC89. What capacity does the Council now consider is justified? Assuming it is a material difference to that currently proposed, any new change would need to be subject of formal consultation in due course. Formally clarifying the scale of the development proposed here and greater clarity about the location being identified may help better focus any hearing session and potentially reduce the number of participants.

Calculation of the 5 year supply (plus 20%)

13. Neither ID/36 nor previous notes commented on the Council's calculation of the 5 year supply, which is disputed by many parties. It was a matter I had intended to raise in my pre-hearing questions for subsequent discussion. However, because of its implications for other matters on which the Council needs to take a view now, such as the expectation of delivery from the identified Green Belt locations, I comment on it here to help the Council. The Council's approach is set out in paragraphs 3.31-3.32 of Annex 1 to the Report to Council of 4 March 2013 (CD9/PC3). I find the Council's approach complicated and difficult to understand, so I can provide only a preliminary view now.

14. NPPF paragraph 47 refers to identifying sufficient deliverable sites to provide 5 years worth of housing against the *housing requirement*, plus an appropriate buffer. In my view, the *housing requirement* is the requirement that has been (or, in this case, is proposed to be) identified in a Council's up-to-date, adopted development plan. It is the scale of housing that the Council is promising to deliver. Such an identified requirement may be higher or lower than objectively assessed needs, depending on justified local circumstances (eg overriding environmental constraints or the need to deliver needs that adjoining Council's cannot accommodate). Once a plan is adopted, the calculation of the 5 year supply should not require interrogation of any background evidence to identify the *housing requirement*. If, for justified reasons, the rate of delivery of the housing requirement is to be calculated other than on a simple pro-rata annual basis over the plan period, then the basis for any front or back-loading of delivery should be set out clearly in the plan in some form of phasing policy. Although many decision-makers are currently basing their assessment of a Council's 5 year supply on emerging evidence of household projections etc that is only because there is no up-to-date plan to confirm what is the appropriate housing requirement.

15. If I am correct in the approach set out above, then the Council's approach is not justified. It seeks to calculate the 5 year supply on the basis of the selected household projection (plus front-loaded local plan backlog) rather than the headline requirement which will be set out in the Core Strategy. Parties would need to refer to background evidence to know the basis for the calculation. More importantly, the Council has concluded that 12,700 new homes are necessary and should be delivered over the plan period. This is what the Council is promising to do and therefore is the figure against which its delivery should be judged in calculating the 5 year supply. The Council's proposed changes also do not make clear that the intended annual rate of development is greater in the first part of the plan period than later (if I have understood the intention correctly). This should be set out clearly in the plan for the benefit of all parties in the future. Accordingly, there is considerable risk that I would find the Council's approach unjustified. Therefore the 5 year supply (plus 20%) requirement may well be materially greater than the Council assume.

16. I am not inviting a further response from the Council on this matter at this stage. If the Council wishes to pursue its current approach, it can be discussed at the hearings.

Adding greater clarity to the chosen Green Belt locations

17. If I am correct in my approach to the calculation of the 5 year requirements and given the Council's acceptance (BNES/47, paragraph 5.11) that the 5 year supply needs to be adjusted for the time being to remove the contribution from the urban extensions, the Council's existing intentions and assumptions are undermined. Adoption of the Core Strategy would not deliver at that time a NPPF compliant 5 year supply. The Council would be reliant on the Place-making Plan

to achieve this goal. The Council will be aware that a number of representations from landowner/developers consider that the plan is unsound for not making at least some strategic site specific allocations. Without exploring all the implications further at a hearing I am not in a position to be prescriptive about the most appropriate way forward. Making at least some of the strategic broad locations specific allocations in the Core Strategy would enable the plan to contribute directly to the 5 year supply at adoption.

18. I do not understand the possible option outlined in paragraph 5.9 of BNES/47 about redefining now the general extent of the Green Belt. The Core Strategy is already indicating the intention to remove certain areas from the Green Belt to be implemented in detail in the Place-making Plan. Either the Green Belt boundary is changed on the Proposals Map now or it is not. I do not see that there is a half-way house.

19. The appropriate content of development plans is set out in the NPPF. It is written on the assumption that there should normally be a single Local Plan. Whilst many Councils are currently progressing Local Plans in different parts, this sometimes makes it difficult to know how the advice in the NPPF should be applied to them. I suggest that the Council should not place much reliance on the approach adopted in previous Structure Plans as the context is now different. I am not inviting any further explanation of this suggested approach now.

20. The Council has suggested that an alternative approach would be for at least some of the proposed broad Green Belt locations to be advanced as site specific allocations. The Council needs to decide how it wants to proceed on this matter before any further hearings commence. If any such specific allocations have not been the subject of formal consultation before discussion of the broad locations at a hearing, it is inevitable that a further hearing would need to be held following such consultation. I do not want to hold 2 sets of hearings on the same Green Belt locations/sites.

21. If the Council is considering delaying the hearings to put forward allocations, the Council must give itself time to do this thoroughly and with careful explanation of the reasons for its choice of boundaries and policy requirements. Matters that would need to be addressed include (but are not limited to):

- which of the Green Belt locations should be taken forward in this way. The same approach may not be appropriate for all the locations. The choice should take into account the availability of the necessary evidence and the likely timescale for delivery. With regard to the latter, the Council may wish to explore with landowners/developers the scope for closer alignment of the Council's and landowners/developers intentions.

- clear, justified site boundaries for the allocation, as well as consequential changes such as the Green Belt boundary; there would need to be proper consideration of the scope for any safeguarded land when changing the boundary.

- policies which set out expected outcomes/requirements from the development rather than a list of factors to be assessed and explored in further work. If there is a need for further detail, such as through a masterplan and/or SPD, this should also be made clear.

- the further work related to allocations/earlier delivery may also need to address whether any existing uses need to be relocated, whether there are sites available for such uses and the impact of such relocation.

22. To avoid confusion, I suggest that any such new allocations replace the previously proposed changes relating to the broad locations. It is not helpful to have changes to changes. If in my final report I am able to make recommendations to make the plan sound I will be recommending only one set of changes to the plan as originally submitted.

23. If the Council chooses not to pursue allocations then the clarity of the locations identified on the Key Diagram and the wording of the policies would remain a concern and the Council should consider what greater clarity could be introduced. The Council should consider, for example, whether the references to various points of access are still consistent with its intentions for the scale and location of the proposed development. If a number of changes are intended on these matters and are likely to either prompt further representations or possibly satisfy the concerns of some existing representors than I would suggest they should be pursued by way of formal consultation before any hearings on the Green Belt.

Safeguarded Land

24. BNES/47 (5.12 -5.29) helpfully explains the Council's position in some respects. Whether or not the Council is justified in concluding that certain locations have no scope to identify safeguarded land can be discussed at the hearings. Whilst the Council accepts that there is scope to identify safeguarded land at SW Keynsham and Whitchurch, it nevertheless suggests deferring the matter to the review of the Core Strategy. It remains unclear to me how the consideration of safeguarded land will be taken forward effectively. There is a danger that the Core Strategy would simply be ignoring a requirement of the NPPF.

25. I indicated at the end of my note on the coverage of the SHMA (ID/39) that the Council needs to give further thought on the scope and wording of the intended review to cover the various possibilities that might arise. What would happen for example, if there was no external trigger for additional housing land (such as no need to accommodate needs from Bristol)? Greater clarity concerning the review might help provide a clearer context for the Council's suggestion. However, the fundamental concern remains that Green Belt boundaries might need to change almost immediately after they have been changed in this Core Strategy (if it made allocations) or in the Place-making Plan. If the Council is correct in its assessment of the potential of the Green Belt around Bath and east of Keynsham, then this risk arises only in the western part of the district. This issue remains a concern to be explored, but I am not in a position to advise further at this stage.

Small (non-strategic) Green Belt sites on the edge of Bath/Keynsham

26. BNES/47 6.8-6.12 suggests 2 alternative approaches to address my concern relating to the proper assessment of the potential of any such sites. I agree with the Council that it would seem inappropriate to include them as allocations given that the Core Strategy is not (currently) making even strategic allocations. I do not want to add unnecessarily to the scope and complexity of this plan/Examination. Such sites would seem best addressed in an allocations plan and my concern is solely to ensure that they have a fair opportunity of being considered then.

27. I therefore agree with Council's suggestion that the scope and capacity of these sites should be (and should have been) addressed in the SHLAA. If there is evidence of capacity, suitability and so on then an allowance could be made for

some limited delivery from such sites. However, this should not be described a *large site windfall allowance* as the Council suggest (because the sites would have been identified). Instead, a non-strategic Green Belt site allocations allowance would be included in the planned delivery table for the housing requirement and the Core Strategy would need to make clear that the Place-making Plan would be expected to allocate some such sites as part of the contribution to supply (including related small scale changes to the Green Belt). I would suggest this is weaved into the other work to be undertaken by the Council before the hearings.

28. I should make clear that I have not considered at this stage the merits of the various site listed by the Council in BNES/47.

Sites at smaller settlements in the Green Belt

29. The justification for the Council's approach will have to be explored further at the hearing. It remains a concern, but I am unable to suggest a way forward.

MEDS

30. If any formal consultation is undertaken before further hearings relating to Green Belt matters I would encourage the inclusion of changes to clarify the intended approach to MEDS. If there is no such consultation at this stage, I would ask the Council to set out the intended revised wording in a note in advance of my preparation of the questions for pre-hearing statements.

Other matter

31. If any formal consultation is undertaken before further hearings, I invite the Council to consider including clarification of the changes relating to Twerton and Newbridge Riverside. In general SPC74 reflects my request in ID/28 for greater clarity about the future of these 2 areas. However, as Newbridge is the primary location for industry surely the presumption in favour of retaining land and premises should include B2 as well as B1? Is B8 intentionally omitted?

32. Similarly for Twerton. The 2nd sentence refers to scope to redevelop the area for new business (B1a-c) premises and housing, but the last sentence refers only to areas *for B1c* (which is light industry) *alongside offices* (which are B1a) *and housing*. Thus B1b research and development is omitted. I see no justification for this omission within the B1 class as all B1 uses are compatible with housing. Is this an error? Should not the end of the last sentence simply read...*land in this area for B1 uses and housing*? Although the changes seem small, they do affect what would be acceptable in the area and therefore any change (even if it is a correction) should be consulted on. A brief supporting explanation should be provided (not part of the proposed change).

The way forward

33. The Council needs to consider the extent of the further changes/amendments that it wants to introduce before further hearings, in particular to decide whether it wants to pursue allocations in place of the currently proposed broad locations. The Council also needs to consider the cumulative effect of all the various changes it has suggested and how best to pursue these in a timely way that aligns with my proper preparation for the hearings and fairness to all parties.

34. If the hearings are to start as provisionally planned (26 November) then I need to know by **Tuesday 2 October** so that I can make use of the preparation time booked in my programme and appropriate notification can be given to all parties. If the Examination is to proceed in this way, I also need as soon as

possible and by 2 October at the latest, the Statement of Common Ground on housing matters and the draft agenda previously requested. The absence of these would mean that I would be unlikely to be able to produce pre hearing questions in sufficient time.

However, a start to the hearings at the end of November would seem unrealistic given the changes that seem necessary in relation to the 5 year supply and SHLAA, even if no formal consultation is envisaged before the hearings. Whether or not a later week of the planned hearings could be utilised for discussion of housing requirements and supply depends on how quickly the Council could produce the updated information. Any updating of the SHLAA at this stage would need to be a full and final version and thus include the final capacities assessed for the Green Belt locations/sites. I want to discuss the SHLAA only once more in this Examination. If the Council wishes to proceed in this way it should confirm when the relevant updated information/changes would be available for me.

35. I would be content for there to be a gap in the hearings between the consideration of the housing requirement/housing supply and related matters and the Green Belt locations, if the Council wanted to formally advance replacement changes for the latter.

36. Assuming that the Council does not want to proceed with all the further hearings as provisionally planned, which now appears both unrealistic and unlikely to produce a sound plan, I would be grateful if the Council would provide a timetable/programme of all the further work proposed and what formal consultation is to be undertaken. Please let me know as soon as possible. To enable me to plan my time an initial indication of the Council's intentions by 2 October (or sooner) is required, even if a more detailed work programme is to follow.

37. As the Examination is likely to become more protracted than previously envisaged with a delay to some or all of the hearings, I want to exclude January from further work on this Examination to enable me to try and complete another currently suspended examination.

Simon Emerson
Inspector
24 September 2013