

Further response to Inspector's questions for the B&NES examination hearing 17 September 2013

Bristol City Council, North Somerset Council and South Gloucestershire Council.

1. This document has been prepared by the West of England Authorities, Bristol City Council, North Somerset and South Gloucestershire ("the authorities") in response to question 3.12 of the Inspector's Questions for Pre-hearing statements, and in response to other comments made to this question, which propose that the B&NES Core Strategy should not be allowed to progress further. The question posed is:

3.12 "If I were to conclude that the B&NES only approach of the new SHMA (CD9/H4) is an inadequate and unjustified response to the unsoundness identified in ID/28, what are the consequences for the examination? What should I do?"

2. The authorities consider that the evidence in relation to the housing market area presented by B&NES provides robust and convincing reasons in support of the approach they have taken and is therefore sound. However, this note addresses the contrary position, should the Inspector find the approach undertaken by B&NES to be inadequate.
3. In summary, the authorities consider that, it is clearly in the public interest to continue to progress the B&NES core strategy to adoption given the highly undesirable consequences of non-adoption for B&NES and the wider area which are outlined below. The inspector is invited to take a pragmatic and realistic approach to this issue, which a number of other inspectors have recently taken in similar circumstances.

The national policy context: The NPPF and the importance of a plan-led system.

4. The NPPF clearly sets out the core land-use planning principles which should underpin both plan-making and decision taking. The first of these is that planning should be genuinely plan led and provide the practical framework within which decisions on planning applications can be made with a high degree of predictability and efficiency.

5. It is a fundamental tenet of the NPPF that B&NES should have in place a plan to lead decision making to ensure that a clear framework is provided for the delivery of sustainable development, that communities are empowered to help shape their environments, and that a practical framework exists to provide certainty for both communities and investment decisions.
6. Furthermore the NPPF makes it clear that it is important that local planning authorities have a Local Plan for its area, which can be **reviewed ‘in whole or in part to respond flexibly to changing circumstances’ (para 153)**.
7. In addition to this, the government’s electronic ‘National Planning Practice Guidance’ resource pages - ‘Assessment of housing and economic development needs’ states at section 1 (with whom do local planning authorities need to work?):

‘Where Local Plans are at different stages of production, local planning authorities can build upon the existing evidence base of partner local authorities in their housing market area but should co-ordinate future housing reviews so they take place at the same time.’

8. The authorities consider that, for the reasons set out below not to proceed with the Core Strategy would be contrary to the plan led system, and not in the public interest

The pragmatic approach taken within the West of England

9. The NPPF is clear (para 17, 3rd bullet underlining our emphasis) that:

“Every effort should be made objectively to identify and then meet the housing needs of an area, and respond positively to wider opportunities for growth”

10. It is our view that B&NES have demonstrated that they have made every effort to achieve this. Given the circumstance and timing of the core strategies across the West of England, B&NES have undertaken a responsible and pragmatic approach.

11. The national and local policy context within which this core strategy has been brought forward has necessarily had a significant impact on the options available and the approach taken. It should be acknowledged that the B&NES Core Strategy preparation started prior to the publication of the NPPF, and in the context of the Government's stated intention to revoke Regional Spatial Strategies, and has continued in the policy vacuum created by the abandonment of the emerging regional strategy for the south west, the new policy framework as contained in the NPPF and has therefore sought to respond to a rapidly changing policy context. It is unlikely that a plan submitted for examination prior to the final publication of the NPPF will be wholly compliant with that document. However failure to achieve total compliance is not a reason for abandonment of the whole process.

12. Each of the Unitary Authorities has either completed or is progressing with its Core Strategy, and seeking to take an NPPF compliant and realistic approach. All have reached an advanced stage, and are either at Examination or have been adopted. We urge that they all need to be allowed to continue to completion so that a full coverage of the authorities' areas up to date adopted plans is enabled without further delay. Progressing the plans to adoption should be allowed to continue even if this means that the authorities will then need to undertake an early review of these adopted plans; reviews which are provided for within them in any event.

13. This is of particular significance given that the 4 West of England authorities have identified and agreed a mechanism for reviewing the Strategic Housing Market Area evidence dated 2009 in order to clearly identify the current Housing Market Areas within which they are located. This approach has been consulted upon with the development industry and a published timetable has been produced for undertaking this work which is anticipated for completion in 2014.

14. Each plan within the West of England has incorporated an NPPF compliant review mechanism which will enable all plans to be reviewed. If all the outstanding plans progress to completion this will ensure that the plan led system operates and that any subsequent adjustments to these plans can be made through the review mechanism contained in these plans.

15. The position reached in respect of each of the authorities' plans is as follows.

Bath and North East Somerset Council Core Strategy

16. B&NES has included in its Core Strategy arrangements to monitor its performance against targets and to undertake a review every 5 yrs in case policies need adjusting in light of the results of monitoring. This includes a review of housing and employment growth. The date of the first review will be scheduled to enable co-ordination of a review of Core Strategies across the West of England.
17. Para 1.36 of the B&NES Core Strategy sets out the proposals for the review of the Core Strategy. **“The Council will monitor delivery rates in the plan period which will shape the early review of the Core Strategy programmed for around 2016 to co-ordinate with the other West of England districts.”**
18. This is translated into POLICY DW1 which sets out the District-wide spatial Strategy and states that,

“The Core Strategy will be reviewed around five yearly intervals and when necessary, changes made to ensure that both:

- a. the objectives are being achieved particularly the delivery of the housing and work space targets set out in Table 9; and***
- b. the Core Strategy is planning for the most appropriate growth targets, particularly housing and employment space/jobs.”***

19. The arrangement for monitoring and review are set out in section 7 of the Plan. In terms of review, and in relation to undertaking this jointly, the Plan states:

“Duty to Co-operate

7.05c These reviews will be undertaken in co-operation with neighbouring authorities, particularly in the West of England in accordance with the Duty to Cooperate to ensure that cross-boundary issues are addressed. This will include a review of the plan period.”

Bristol City Council Core Strategy

20. The Bristol City Council Core Strategy was adopted in June 2011. Paragraph 4.5.16 makes provision for a policy review of the housing requirement set out in policy BCS5 by June 2016 and states:

“The determinants of need and demand for homes, and the elements of

supply, change over time. If the economy grows more quickly than expected, the planned level of homes could ultimately prove insufficient to ensure that there are enough homes to address employment growth. Therefore the appropriate level will be reviewed within 5 years of the adoption of the Core Strategy.”

21. This is restated in Policy BCS5 as follows:

“The appropriate level of new homes will be reviewed within 5 years of the adoption of the Core Strategy.”

22. The policy delivery section on page 57 provides further details about how such a review would be implemented.

North Somerset Council Core Strategy

23. The Inspector at examination recognised that given significant uncertainties at the time of the examination, over the economic situation and doubts about the robustness of trend-based projections that the Core Strategy needed to be a practical document that could respond flexibly to changing circumstances both within the district and the West of England HMA. He found the overall Core Strategy approach to the housing requirement sound given that:

- The housing requirement was framed as a minimum of 14,000 dwellings, not a maximum.
- The North Somerset Core Strategy proposes formal plan reviews at 2016 and 2021.
- SHLAA evidence had indicated that supply was likely to be in the order of 17,150 dwellings (this related to sustainable sites in locations consistent with the spatial strategy and not including Green Belt, and included a windfall allowance of 1,570 units 2021-26).
- There was no current need to cater for any unmet need from neighbouring districts. (IR paragraphs 27-35).

24. The Core Strategy set out in Policy CS13 the mechanism for a local plan review as follows:

“A supply of deliverable and developable land will be identified to secure the delivery of a minimum of 14,000 dwellings within North Somerset 2006–2026. The appropriate level of new homes will be reviewed in 2016 and 2021.”

25. Para 3.190 in supporting text, re-iterated that this would be undertaken jointly:

“The council will review the appropriate level of new homes in 2016 and 2021. It will examine all available evidence sources including demographic evidence, economic conditions and forecasts. If evidence suggests that additional provision of homes will be required the review will consider the appropriate response. If additional strategic provision is required its delivery will be determined on a West of England-wide basis through the duty to co-operate.”

26. The Core Strategy was subsequently subject to a successful legal challenge which found Policy CS13 to be unlawful as result of the Inspector’s failure to give adequate or intelligible reasons for his conclusion that the housing requirement made sufficient allowance for latent demand.
27. It is not the figure of a minimum of 14,000 dwellings that was unlawful, but that inadequate or intelligible reasons were given by the Inspector to explain it. The primary task for the examination is therefore to reassess the reasoning and conclusions in the light of the evidence, taking account of more recent information.
28. Policy CS13 was remitted to the Planning Inspectorate for re-examination. In addition, eight other policies were also remitted specifically in case consequential changes were required to the spatial strategy as a result of the re-examination of the housing requirement. The judgment made it clear that these policies should still carry appropriate weight in development decisions. The other policies of the plan remain adopted. However it can be seen that the plan makes provision for a review in 2016.

South Gloucestershire Council Core Strategy

29. South Gloucestershire submitted their Core Strategy in March 2011 and is currently at Examination and awaiting their Inspector’s report. Following Further Modifications published by the Inspector in March 2013 the Core Strategy makes provision for a review of the evidence as follows:

“10.6bi. It is important housing land supply is monitored in order to ensure that there remains a flexible supply of deliverable and developable land for housing. To achieve this, an annual report and supporting technical methodology will be prepared which will confirm the level of housing provision to be provided for the basis of the 5 year land supply in the context of paragraph 47 of the NPPF.”

“10.6bii. To ensure sufficient land comes forward to meet housing needs to the end of the plan period the Council will undertake a review of the Core Strategy/Local Plan to be completed before 2021. This should be based on a revised Strategic Housing Market Assessment undertaken in conjunction with other relevant authorities in the West of England region. Regard will also be had to all available evidence sources including demographic evidence, economic conditions and forecasts. If evidence suggests that additional provision of homes will be required the review will consider the appropriate response. If additional strategic provision is required its delivery will be determined on a West of England-wide basis through the duty to cooperate. This will involve reviewing the general extent of the Green Belt. This will enable, should the further release of land for development prove necessary, land currently within the Green Belt to be assessed against other reasonable alternatives.”

30. The authorities have a commitment to approach the reviews of their core strategies/ local plans in a manner which is fully NPPF compliant, and will demonstrate the duty to cooperate through joint preparation of evidence base and policy response to that evidence.

31. The West of England Authorities have in place a timetable that has been publicly consulted on as part of a pre-production brief proposing a timetable and delivery framework for the West of England SHMA. The timetable expressly reflects and has been prepared to support the requirement in the authorities’ adopted or emerging Core Strategies to review the appropriate level of new homes. This timetable has also been synchronised to the anticipated availability of key pieces of evidence and guidance which includes the publication of the ONS Travel to Work Area data (April 2014) and the Census projections (May 2014).

32. The West of England Authorities have previously set out the pragmatic reasons why bringing forward a joint West of England SHMA review, at this time, was not possible namely:

- Different timescales of plan preparation and;
- Practical constraints around Census availability particularly travel to work area information to inform the housing market area.

Therefore it would not have been possible to undertake a joint SHMA within this context; instead we have taken a realistic, pragmatic approach and prepared to commission a SHMA as soon as reasonably possible.

33. We would urge the Inspector to reach a decision on this matter with full regard to the imperative expressed in the NPPF that development decisions should take place within not outside a plan led system, and that a plan led approach is clearly in the public interest.

34. B&NES has clearly set out in its response (BNES/45 at paragraphs 98-108) its reasons why there is little to be gained from withdrawing the Plan. The West of England authorities would support this position and provide further comment as follows.

35. Withdrawal of the B&NES Core Strategy would create a policy vacuum, not just in the area of housing provision, but in relation to all other policies contained within the plan. Plan preparation timescales would be around 3 years, during which time development would be led by speculative planning applications and by appeal. This would create at least 3 years of uncertainty for communities, the development industry, investors in the West of England and neighbouring authorities.

36. The absence of an adopted plan would significantly hinder existing commitments in the plan to be implemented notably the policy mechanism for review, but also delay in facilitating future growth. This would further frustrate the NPPF objective in para 47 **“to boost significantly the supply of housing”**.

37. Withdrawing the Core Strategy when there are clear, serious consequences of doing so would be a disproportionate response when the matter in hand is constrained to the evidence to support housing provision and the matter will be shortly resolved.

The positive advantages of having a plan in place

38. The direction of development, consistent with co-ordinated strategic priorities for the West of England and contained in an adopted core strategy, will ensure development is supported by programmed infrastructure and is therefore sustainable.

39. The direction of development interest to locations in accordance with policy agreed in an adopted plan will ensure best use of limited resources for both local authority and developer and prevent waste of financial and staff resources in costly public inquiries.
40. The complete coverage by adopted Core Strategies over the whole of the authorities' areas will enable the effective provision for a co-ordinated review, resulting in a better base for assessment of policy effectiveness, efficient use of resources and a co-ordinated and strategic response.
41. Public confidence in the planning system and particularly the plan led system is maintained.

The way forward

42. The Milton Keynes Core Strategy Inspector's Report (29 May 2013) has a number of significant parallels with the B&NES situation. This document was found sound despite an out-of-date SHMA. Given the uncertainty around the sub-regional growth context that Inspector supported the housing target as an interim, minimum figure, subject to an early review in co-operation with adjoining authorities.
43. The Inspector concluded in paragraph 37 that despite the plan having a limited time horizon **“there is a large measure of agreement that its adoption would be in the public interest”**. However **“an early review is needed for greater clarity about the role that Milton Keynes and its hinterland will play in the longer term. This will complement initiatives to help deliver growth locally and ensure that the potential for significant uplift in housing and other requirements will be planned in the most sustainable way”**.
44. This was therefore a pragmatic approach where it was concluded that it was in the public interest to support plan adoption, albeit with the recognition that this was an interim solution pending a wider sub-regional assessment.
45. Similarly, the Inspector, in his report to Dacorum Borough Council, attached great weight to the guidance on soundness in the NPPF but confirms that the NPPF is guidance and not statute. He also took into account that it is highly desirable that

local planning authorities have an up-to-date plan in place (paragraph 12 of the NPPF). On balance, he was satisfied that the Plan as a whole was sound and that any shortcomings could be addressed through an early review. He considered that in the short to medium term, the Core Strategy provided a sound basis on which planning decisions can be taken.

46. He stated that the alternative would be to find the document not sound and in those circumstances the Council would in effect be starting the process again which would take time and may threaten the level of house building that is anticipated in the next few years. He concluded that the Core Strategy was compatible with the Government's overall aims of securing an increase in housing supply and would broadly meet the objectives of the NPPF and in that respect the plan as modified would be sound.

47. It is our strongly held view that the Inspector can and should take the pragmatic approach as did the Milton Keynes and the Dacorum Inspectors, and proceed with the B&NES Core Strategy on the basis he could assure himself that a) there is a clearly accepted policy mechanism for a review with neighbouring authorities within a clearly defined and immediate time frame, and b) there is a clear precedent for an interim core strategy position, agreed by other Inspectors for example in the recent examinations.

South Gloucestershire Council

Bristol City Council

North Somerset Council