

BATH AND NORTH EAST SOMERSET
CORE STRATEGY EXAMINATION

CONSULTEE ID – 4588

REPRESENTATIONS

17 September 2013

MATTER

THE SCOPE OF THE STRATEGIC HOUSING MARKET
ASSESSMENT (SHMA)

August 2013



PCL Planning Ltd 1st Floor, 3 Silverdown Office Park, Fair Oak Close, Clyst Honiton
Exeter, Devon. EX5 2UX United Kingdom
t + 44 (0)1392 363812
f + 44 (0)1392 262805
email: info@pclplanning.co.uk

-
- 1.1 The Inspector's questions for the session are directed quite specifically at the Council. It is therefore for them to respond to the detailed points that are put to them, and to justify their actions and position, and not for other participants to pre-empt their responses. The Inspector has allowed an opportunity for other participants to comment on the Council's response in due course. This limits the scope of the submissions that can be made at this stage. However, in an effort to assist the Inspector with finding a positive outcome, some preliminary thoughts are set out below in relation to the overarching question identified by him for the Hearing, namely:

In the context of the Examination to date, including my preliminary conclusions on strategic matters in June 2012, does the geographic coverage of the Council's new SHMA (CD9/H4) in relation to Housing Market Areas provide an adequate basis for the objective assessment of housing needs in accordance with the NPPF? If not, is any departure from national policy justified?

- 1.2 In terms of the Inspector's commentary, it is agreed that all of the available evidence to date points to BANES being part of an HMA that extends beyond its administrative boundaries, and there is no evidence to the contrary. The two SHMAs that have now been undertaken both indicate that BANES is both part of a greater Bristol HMA and also extends into west Wiltshire and north east Somerset (North Mendip). There can therefore be little dispute that BANES does not form a single HMA in isolation.
- 1.3 It is questionable whether the HMA should be sub-divided into Tier 1 and Tier 2 HMAS, and indeed what the purpose of this subdivision is in practical terms for calculating the housing requirement. However, as the Inspector notes (ID/32, para. 5), there is little dispute regarding the definition of HMAs in CD9/H4. The most reasonable and appropriate conclusion is therefore that BANES is part of an HMA that is affected by both greater Bristol (including North Somerset and the City of Bristol) and parts of west Wiltshire and the north east of the County of Somerset.
- 1.4 What follows from the above is that, as identified by the Inspector in ID32 (para. 6), having identified that BANES is part of an HMA(s) that extends beyond its administrative boundaries, and the new SHMA does not then say any more about the HMAs that have been identified but sets out figures for BANES only, it is difficult to find the SHMA to be NPPF-compliant and therefore to identify a robust housing requirement for the district. It is also concurred with the Inspector that, given the indication in the SHMA that two different HMAs straddle the district, the matter is highly relevant to the spatial strategy and, in particular, the merits of strategic scale of

development closer to Bristol (and in particular at Keynsham) than Bath.

- 1.5 The representors have already made this point in their submissions to the Proposed Changes to the Submission Draft Core Strategy, and in particular that the failure to take into account potential housing needs arising in greater Bristol has particular implications for identifying the appropriate strategic scale of development at Keynsham. As is also identified by the Inspector (ID32, para. 9), it is difficult to identify new permanent Green Belt boundaries that can endure in the longer term beyond the present plan period, in the absence of a high degree of confidence about housing needs.
- 1.6 The preliminary conclusion based on the foregoing considerations is therefore that the Core Strategy is not based on a 'clear' understanding of housing needs in the area. The SHMA does not adequately assess the 'full' housing needs since the housing market area crosses the administrative boundaries of BANES into several neighbouring authorities, and the assessment does not embrace the requirement generated within the adjoining areas. Moreover, since the SHMA embodies an employment-led requirement, it fails to identify the scale and mix of housing and range of tenures that the local population is likely to need over the plan period which meets household and population projections, taking account of migration and demographic change. This was previously acknowledged by the Inspector in his Preliminary Conclusions on Strategic Matters (ID28), which contributed to his agreement to suspend the Examination.
- 1.7 It is unfortunate, and perhaps injudicious, on the part of the Council, that they have failed to rectify the identified weaknesses of their approach in the planning policy context that now prevails under the NPPF having regard to the fair warning that they were given in June 2012. The Council will no doubt explain their rationale for continuing with their previous approach in response to the specific questions that the Inspector has directed to them in ID/35. However, it would not appear to be compliant with the requirements of the NPPF (para. 159).
- 1.8 The second part of the overarching question posed by the Inspector is, in the event that the new SHMA does not provide an adequate basis for the objective assessment of housing needs in accordance with the NPPF, is any departure from national policy justified? It is on this matter that attention is now focused.
- 1.9 Core planning principles set out in the NPPF (para. 17) are that planning should be:
 - *Genuinely plan-led, empowering local people to shape their surroundings, with succinct local and neighbourhood plans setting out a positive vision for the future of the area;*

-
- *Proactively drive and support sustainable economic development to deliver the homes, business and industrial units, infrastructure and thriving local places that the country needs. Every effort should be made objectively to identify and then meet the housing, business and other development needs of an area, and respond positively to wider opportunities for growth. Plans should take account of market signals, such as land prices and affordability, and set out a clear strategy for allocating sufficient land which is suitable for development in their area, taking account of the needs of the residential and business communities;*
 - *Take account of the different roles and character of different areas, promoting the vitality of our main urban areas, protecting the Green Belts around them, recognising the intrinsic character and beauty of the countryside and supporting thriving rural communities within it;*
 - *Contribute to conserving and enhancing the natural environment and reducing pollution. Allocations of land for development should prefer land of lesser environmental value, where consistent with other policies in this framework;*
 - *Promote mixed use developments, and encourage multiple benefits from the use of land in urban and rural areas, recognising that some open land can perform many functions (wildlife, recreation, flood risk, carbon storage or food production);*
 - *Conserve heritage assets in a manner appropriate to their significance, so that they can be enjoyed for their contribution to the quality of life of this and future generations;*
 - *Actively manage patterns of growth to make the fullest possible use of public transport, walking and cycling, and focus significant development in locations which are or can be made sustainable.*

1.10 In relation to housing, the underlying objective is to "boost significantly the supply of housing" (para. 47).

1.11 Having regard to the age of the adopted Local Plan, the context within which it was prepared and the evidence base by which it was informed, and the abolition of the higher level strategic framework within which it sat, it is arguable that the provisions of the emerging Core Strategy, even if deficient in certain key areas, are a better fit with the core planning principles set out in the NPPF. To continue with an out-of-date Local Plan which has failed to deliver the housing required during its currency, will do little to boost

significantly the supply of housing in a manner consistent with the core principles, including a genuinely plan-led, empowering approach that proactively drives and supports sustainable economic development.

- 1.12 If further progress on the Core Strategy is abandoned, it is likely to be a further considerable period of time before any alternative, replacement Development Plan framework is progressed sufficiently to have any positive effect in terms of the Core Planning Principles set out above. The consequence will be ad hoc planning decisions taken in a context that is almost completely lacking in up-to-date strategic guidance. Since the local planning authority is unable to demonstrate a five-year supply of deliverable housing sites, relevant policies of the supply of housing should not be considered up-to-date (NPPF, para. 49). This, together with the outdateness of the time-expired Local Plan in general, means that planning permission should be granted unless there is significant and demonstrable harm when assessed against the policies in the NPPF (NPPF, para. 14). Whilst this presumption may not be superseded by a plan that remains unsound in terms of the housing provisions that it contains, refreshed strategy guidance would assist the assessment of whether any adverse impacts of granting planning permission would significantly and demonstrably outweigh the benefits of development proposals. In particular, it would assist the evaluation of where it is appropriate to release land from the Green Belt, and to progress strategic sites that will contribute to boosting significantly housing delivery in sustainable locations.
- 1.13 Whilst the Council's failure to produce a fully sound and effective plan, in particular because of the unresolved issues in relation to the housing provisions that it contains, is a very serious matter, and not one that should be endorsed lightly, there are perhaps some mitigating circumstances in this instance. Preparation of the plan was commenced under the previous planning policy regime, and has been caught up in the abolition of the regional strategies and the transition to locally-determined housing requirements involving cross-boundary cooperation. Whilst effective joint-working is a soundness issue in terms of the examination of the current plan, at the present time there has been little compulsion on the part of the neighbouring authorities to cooperate bearing in mind that their Core Strategies were largely in place. However, that situation will change as the Development Plan Documents in those neighbouring authorities progress towards review dates, and pressure is already building having regard to the necessity for North Somerset to review its housing requirements now having regard to the successful legal challenge to the policy that set its housing provisions and the consequential need for its partial re-examination. It appears that the infrastructure is now being put in place to enable cross-boundary preparation of SHMAs that properly address the full requirements of the HMAs where they transcend

administrative boundaries. This should resolve the deficiencies in the evidence base going forward.

- 1.14 Whilst the above circumstances are far from satisfactory, the requirement in the core planning principles is that 'every effort' should be made objectively to identify and then meet, *inter alia*, the housing needs of the area. If, in the light of the Council's response to his questions, the Inspector concludes that 'every effort' has been made to do so, then that may provide a legitimate basis for a short term fix pending the objective assessment of the full need that will be result from the work being commissioned by the West of England LEP.
- 1.15 In the event of the Inspector concluding that the Core Strategy should proceed further, the key issue that then arises is should the housing requirement be based on the defective SHMA, or some alternative evidence base. Since it will have implications for the re-assessment and re-setting of Green Belt boundaries that will need to endure for the long term, it is imperative that any interim requirement is not based on a suppressed quantum that fails to reflect the full potential housing need in the area. For this reason, and having regard to the persistent under-delivery of housing during previous plan periods, it is considered that there is a strong case for continuing to rely on the tested RS evidence base, and the SHMA that underpinned that. This is considered to be the most appropriate approach in the context of the NPPF ambition to 'boost significantly' housing delivery. If, in the light of the West of England LEP, the requirement is shown to be a lower quantum, then it can be adjusted accordingly following proper testing of the revised requirement.
- 1.16 Although the RS has now been formally abolished, that its evidence base remains a material consideration has been endorsed by a recent appeal decision (dated 7 August 2013) in relation to land at Bradley Road, Bovey Tracey, Devon (copy appended – Appendix 1). The Public Inquiry into that appeal post-dated the abolition of the RS (on 24th April 2013), and yet the Inspector held that:

Although the emerging plan is now at the stage of going forward to examination, the weight I can accord to it and to the 2012 SHMA in these circumstances is substantially less than attributable to the dRSS. (para. 10).

She concluded that it was appropriate to give substantially greater weight to the dRSS based figures than those in the emerging Local Plan (para. 12).

- 1.17 Whilst appreciating the current circumstances are different in that they relate to the preparation of a development plan rather than a Section 78 appeal, there is a common principle. That is that, where the emerging evidence base is not sufficiently robust to place

reliance on it, notwithstanding abolition of the RS, the tested evidence base that underpinned it remains relevant and continued reliance can be placed on it in order to uphold NPPF objectives.

- 1.18 If the Core Strategy is permitted to continue in the interim, it must inevitably be conditional upon provisions for an early review in the light of reassessment of the housing requirement. This is not without precedent where the housing requirement, and the evidence base that supports it, has been found to be deficient, but the balance of considerations has resulted in the conclusion that the public interest would not be best served by abandoning the plan.
- 1.19 In 2011, Inspector Kingaby came to the overall conclusion that the Exeter Core Strategy was a sound document notwithstanding that a five year supply of deliverable housing land could not be demonstrated at the time of its examination and adoption. Whilst the inability to comply with the requirements of Government policy was of concern, it was the widely held view of participants at the Examination that it was not in anyone's interests for the Inspector to find that the document was unsound, with the inevitable delays and uncertainty that would ensue. Following a short suspension of the Examination, the Council put forward a Development Management Policy Statement committing it to a number of actions to be proactive and boost the five year housing land supply, and which was broadly supported by participants at the Hearing.
- 1.20 The Inspector held as follows:

I consider the reference to the Policy Statement in PC14 demonstrates the Council's commitment to increasing the short term supply of housing land; the change goes some way to making the plan sound. I do not underestimate the seriousness of the shortfall in deliverable housing sites at the beginning of the life of this plan. Continuation of the pattern could undermine the authority of the Core Strategy. Instead of developing the best sites for housing in a planned fashion, the authority would be vulnerable to ad hoc development by way of paragraph 71 of Planning Policy Statement 3: Housing. (para. 25).

Since the consensus was that few interests would be served by finding the Plan unsound, the Inspector allowed it to proceed notwithstanding the deficiencies in its housing provisions subject to a commitment to its early review if a five year housing land supply could not be demonstrated within the following two years, at most.

- 1.21 More recently, and post-introduction of the NPPF, the Inspector will be very familiar with the circumstances pertaining to the West Berkshire Core Strategy, where he was the appointed Examiner for that DPD. There would seem to be close parallels with the current circumstances in that the Inspector found that the Housing Market

Assessment failed to provide a clear understanding of housing needs and demands in the area as required by the NPPF (para. 159) since it was not based on "an up-to-date, comprehensive SHMA based on the Housing Market Area and agreed between the relevant local authorities covering that HMA ..." (para. 30 of his report).

- 1.22 The Inspector's conclusions on the matter in that instance would seem to prevail in the current circumstances:

The lack of justification for housing provision which complies fully with the requirements of the NPPF is a significant shortcoming and there is no specific main modification which I could make now to overcome this problem. What is required is a new SHMA which complies with NPPF paragraph 159, the apportionment of identified needs and demands between local authorities within the HMA, coupled with an explicit balancing of meeting those needs against environmental impacts. Given that this work requires co-operative working between several authorities (where all except West Berkshire have no immediate need to undertake such work), the task is likely to be complex and take considerable time. It would require a very lengthy further suspension to secure this as part of this Examination. (para. 35).

- 1.23 The Inspector noted the misfortune of that Plan in terms of being caught in the transitional period between the demise of Regional Strategies and the emergence of the NPPF as the sole higher tier guidance for the preparation of Local Plans (para. 37). Whilst considering that the Council could have done more in response to the evolving planning context, he accepted that the timescale for producing an agreed cross-border SHMA would still have been protracted.

- 1.24 Having regard to the 12 core planning principles set out in the NPPF, including that planning should be genuinely plan-led, a positive process to support sustainable economic development (para. 38), and that continuing with, rather than abandoning, the Core Strategy would enable substantial development to proceed in a plan-led way and enable the delivery of homes more quickly through both confirming the strategic allocations and permitting the Site Allocations and Delivery DPD to proceed (para. 39), his conclusion was that:

On balance, I consider that the Government's planning aims, as set out in the NPPF, are best achieved in the short term in West Berkshire by the adoption of this Core Strategy (subject to the main modifications necessary for soundness), but amended to make clear that the 10,500 housing figure is a minimum and not a ceiling and requiring a review of housing provision. This review would be in two stages. Firstly, a

review of needs and demands for housing to inform the appropriate scale of housing to be met in the District. This would be done through an update of the SHMA which complies with the NPPF. This review is a stand-alone piece of work and a pre-requisite of any review of the Core Strategy itself. This SHMA should be completed within 3 years. Secondly, if the updated SHMA indicates that housing provision within the District needs to be greater than currently planned, a review of the scale of housing provision in the Core Strategy will be undertaken. (para. 41).

- 1.25 This endorses the conclusions reached above that, subject to the Council's response to the Inspector's questions, the balance of the public interest assessed in terms of furtherance of the 12 Core Planning Principles set out in the NPPF may be in enabling this Core Strategy to proceed to adoption. The likely consequences of substantial further delay are as set out above and also endorsed by the current Inspector when considering the West Berkshire circumstances, namely:

That necessary greenfield housing would have to be judged primarily on the basis of the guidance in the NPPF and would not be plan-led. It is not difficult to envisage a significant increase in the number of appeals, creating delay, uncertainty and additional costs for all parties involved. Needed homes would not be built any sooner. (para. 39).

- 1.26 The criticisms of West Berkshire in terms of its failure to do more to respond more constructively to the changing planning context, apply with greater force in the current circumstances. The changed context has been in place for a longer period, its requirements and expectations are much clearer and now reinforced through policy and legislation. Moreover, there has already been a considerable suspension of the Examination to give the Council the chance to respond constructively. The Council have their opportunity to account for their actions in response to the Inspector's questions and to justify how they have made 'every effort' to objectively identify housing needs.
- 1.27 Notwithstanding the foregoing, and whatever the shortcomings of the Council's actions, the key consideration is similar in this instance and is whether the Government's planning aims are best achieved by continuing with the current Core Strategy, or abandoning it in favour of a properly prepared Local Plan that incorporates a proper and robust assessment of housing provisions in accordance with the requirements of the NPPF. In this regard, it is difficult to conclude that, subject to proceeding in a way that is conducive to boosting housing delivery significantly bearing in mind the years of under-delivery in Bath and North East Somerset, the balance of advantage would be any different from the situation in

West Berkshire given that the same Government planning aims prevail.

1.28 Having regard to the above, in response to the Inspector's specific question regarding the consequences for the Examination and what he should do if he concludes that the approach of the new SHMA is an inadequate and unjustified response to the unsoundness he identified when suspending the Examination in June 2012, the following approach is suggested:

- Continue with the Core Strategy Examination.
- Suggest that the Council abandons the housing requirement deriving from the most recent, defective SHMA in favour of the 'tested' figure for the district contained in the RS evidence base.
- Assess the locational strategy and establishment of Green Belt boundaries on the basis of the RS housing requirement.
- Seek an undertaking from the Council that it will participate fully, actively and cooperatively in the production of a Joint West of England SHMA.
- If otherwise found to be sound, similarly to the situation in West Berkshire, require a review of the scale of housing provision in the Core Strategy if the joint SHMA indicates that it should be materially different from what is planned at the time of its Examination.

1.29 Unlike the situation in West Berkshire, where the housing requirement in the Core Strategy reflected that in the RS, there is an opportunity in this instance to opt for a higher, 'tested' figure that is based on a properly prepared previous SHMA that transcends administrative boundaries. All of the indications are that the most recent SHMA underestimates the scale of housing need, through both its employment-led approach and BANES-only focus, and that, as in North Somerset (which assumes the same employment-led methodology) once the Core Strategy is re-examined, the requirement is likely to increase. Moreover, there remains a significant backlog of housing need from previous plan periods that has to be made up together with a very significant existing affordable housing need for which the submitted Plan does not make provision.

1.30 For all of these reasons, there would seem to be little risk that adopting the higher, 'tested' figure of the RS evidence base will result in an over-provision of housing within the district. It will be consistent with the objective to boost significantly housing delivery which is of enhanced importance in this instance bearing in mind the backlog from years of persistent under-delivery, and is likely to

provide a more appropriate and robust basis for assessing the locational strategy for major housing development across the district as well as the establishment of Green Belt boundaries that will endure beyond the Plan period.

- 1.31 There is little doubt that the level of housing provision indicated by the RS evidence base will be required in the foreseeable future, and if the new SHMA indicates that it is not all required in the period of the current CS, then a phasing policy could be introduced to extend into the review period. This is entirely consistent with the NPPF encouragement to take a long-term view by identifying specific, developable sites or broad locations for growth for up to 15 year time horizons. There is nothing that indicates that planning for a longer period is inappropriate, and indeed this may be the inevitable consequence if, as is allowed for in the NPPF, the supply of new homes is 'best achieved' through planning for larger scale development, such as new settlements or extensions to existing villages and towns that follow the principles of Garden Cities (NPPF, para. 52).
- 1.32 In conclusion on the matters raised in the overarching question for the session, and subject to consideration of the Council's response:
- The geographic coverage of the Council's new SHMA does not provide an adequate basis for the objective assessment of housing needs in accordance with the NPPF.
 - Notwithstanding the above, a departure from national policy is justified since, subject proceeding in the way suggested above (para. 1.28), the Government's planning aims as set out in the NPPF would be best achieved in the short term in Bath and North East Somerset by putting an updated strategic planning policy framework in place.