

BATH AND NORTH EAST SOMERSET - CORE STRATEGY EXAMINATION**INSPECTOR'S NOTE – CONCERNS IN RELATION TO EVIDENCE ON THE STRATEGIC LOCATIONS AND QUESTIONS ON GREEN BELT MATTERS.****Introduction**

1. As the Council is aware, despite uncertainty as to whether and how the Examination might continue after the hearing on 17th September, I have been undertaking further preparation, particularly in relation to the selected Green Belt/greenfield strategic locations proposed for development. This note is to highlight various concerns and general questions about matters that would be the subject of discussion at the later hearings if they took place. On some matters further clarification from the Council is likely to be helpful in advance of participants preparing their pre-hearing statements for those later hearings. On other matters, the Council may wish to consider whether the proposed changes clearly express the Council's intentions in a justified and effective way. Given the time before any later hearings I hope it is helpful to highlight these matters now to avoid so many questions for the Council to address in the run-up to any later hearings. The absence of an issue being identified here does not, of course, mean that I am satisfied that the other changes would make the Core Strategy sound. There are many controversial matters that will need to be addressed at any later hearings.

Use of Evidence

2. I have found it difficult to understand the relationship between the assessments of possible Green Belt/greenfield housing sites in the assessment of locations in: the Sustainability Appraisal Annex L (CD9/A1/5); the SHLAA (March 2013, CD9/H3); the Arup Green Belt Review Stage 1 Report (CD9/E2); the Arup Development Concept Options Reports and Landscape and Visual Studies for some of the locations (CD9/CO1-CD9/CO10); the Arup Transport Evaluations of alternative sites (CD9/I2/1-25); and the assessment of the locations in Annex 1 of the Report to Council, 4 March 2013 (CD9/PC3).

3. The publication dates suggest that the Arup Concept Reports could not inform any earlier work, but there are references to them prior to their publication date. I appreciate that there may be, rightly, an iterative process in determining the most appropriate outcomes. However, the documents rarely make clear which, if any, evidence studies, have informed an assessment or, where potential concerns are raised, whether the assessment has had regard to acknowledged constraints and possible mitigation suggested in other parallel studies. Given that there is some time before I need to publish the main issues and questions for the main set of hearings (if they are to take place), there is the opportunity for the Council to explain how these documents relate. This will help all parties in preparing any subsequent hearing statements.

4 Any response to this and any of the other matters raised in this note should be published by, say, 9 September. (Please let me know soon, if a later deadline is needed, but I would want to see any response before the 17th September to ensure I have an overview of all matters). I would emphasise that I am seeking understanding of how the documents were used leading up to the 4 March Council meeting, not a subsequent justification for what has been done.

5. An overview of the development of these evidence documents and their use (or not) in informing parallel work would be helpful, including but not restricted to clarifying the following questions.

- Whether the comparative assessment of locations in Annex L of the SA were based on the Arup Concept Options (so far as they cover relevant matters)?

- whether any of the studies take into account any specific proposals by developers/landowners in relevant locations or their suggestions for mitigating potential adverse impacts?

- Whether in the SHLAA assessment of some of the Bath Green Belt locations (where reference is made to the Arup Concept Options Reports of February or March 2013 with regard to housing potential/capacity) the analysis of impacts/mitigation is drawn primarily from those (presumably draft) Concept Options Reports or represents a separate, potentially different, assessment? To what extent are the capacity figures in the SHLAA tables based on the options/capacities explored in the Arup Reports?

6. An example of why I have found the evidential trail so confusing is the derivation of the proposal at Whitchurch. The Arup Concept Report's Options 1-3 were for: 395, 2968 or 1775 dwellings respectively. The Sustainability Appraisal Annex L Stage 3 Assessment indicates that at Whitchurch the capacity considered was up to 3,000 (which is clearly consistent with the Arup maximum option), but that the capacity recommended was 200 homes. The last sentence of that assessment reads *with adequate environmental mitigation the capacity of 200 homes is recommended*, implying that is all the area acceptably could accommodate. But in Annex 1 of the report to Council, Table 7 *Locations with capacity to contribute to housing land supply* Whitchurch is listed with a capacity of 500. It is not clear where that figure comes from. Annex 1 paragraphs 5.26-5.27 then go on to refer to an outstanding need to identify a further 200 homes to meet the housing requirement and recommends this figure be released from the Green Belt at Whitchurch. It is clear that the figure of 200 in Annex 1 is a residual, not related to the capacity of Whitchurch. Annex 1 does not refer to this being the environmental capacity of Whitchurch identified in the SA. The figure of 200 in Annex L of the SA therefore appears too coincidental to have been derived independently. Finally, the 3 Scenarios used in the Transport Evaluation (CD9/I2/1) tested Whitchurch for 200, 0 and 800 dwellings respectively. It is unclear whether the conclusions of this evaluation informed the other work.

Justification for the Council's limits on the capacity of the Green Belt strategic releases

7. The only link between the evidence/background material and the chosen locations and their indicative scale/capacity is Annex 1 of the officers' report to Council (4 March 2013). Where the Council has put forward some development in a strategic location, but at a scale significantly less than any of the options in the main supporting evidence, I have seen nothing which explicitly justifies the Council's position. Some of the selected figures appear arbitrary. It is difficult to understand how the Council will seek to demonstrate the soundness of the capacity limits. If the main hearings take place, what reliance would the Council be placing on the Arup Concept Options Reports to justify the choice of strategic location and the scale of development proposed at each? This situation has made it hard to prepare straightforward questions which explore and test the soundness of the Council's proposals.

8. In addition, I have seen nothing which explicitly justifies the Council's view that in a number of locations there is no scope to consider removing additional land from the Green Belt for any needed development in the longer term. Given the wide range of issues that the policies generally set out for further

consideration and assessment and the potential identified in the Arup Concept Reports there seems no basis for such a categorical position. I am not inviting the Council to justify its approach with new evidence, but if there is any additional explanation that the Council wishes to provide of the basis for its decisions in March 2013 there is the opportunity to do so.

New Evidence

9. BNES/42 (paragraph 4.2 and table of new studies) indicates that the Council intends to publish during August more detailed studies relating to the strategic locations. I understand that these are intended to inform preparation of the Place-making Plan. The Council says: *these studies...would be available in good time to inform the Examination hearings if the Inspector consider this would be helpful.* This is ambiguous, leaving the Council's position unclear. All the evidence on which the Council relies to justify the proposed changes should have been published as part of the consultation so that representations were made in the light of that evidence and the opportunity was available to challenge it. Evidence should not emerge in a piecemeal manner. Points I previously made when suspending the Examination (ID28, paragraph 12).

10. It is also necessary to be clear whether the Council relies on or endorses any evidence studies conducted by others (a problem apparent in relation to the Arup Concept Options Reports). Furthermore, these new emerging studies will presumably have been informed by the decisions already made by the Council, such as capacity, which may limit their relevance in explaining these decisions

11. For the hearings on the Green Belt strategic releases, I will be asking questions about how the Council had assessed the significance of the various designations/assets (eg AONB, Conservation Area, WHS, Scheduled Ancient Monument and their settings) and the potential impact of the proposals on these. I have seen little evidence which really deals with such matters. The Council will need to reflect on whether it had the evidence to justify the decisions it made. If not, it will need to consider carefully how it wishes to proceed.

12. It is important that I do not get drawn into matters that are for the Place-making Plan to resolve and its future Examination to test. Thus consideration of specific site boundaries is not an issue for me in the Examination at present. A number of representors are seeking specific allocations to be made for strategic sites in the Core Strategy (in part because of one of the concerns highlighted below). If I were to be persuaded that this plan is unsound in the absence of specific allocations, I would need to consider whether this Examination could proceed. Any such scenario is speculative and a long way off, but is intended to explain why my focus is on the Council's proposed changes and the justification for the choices made by the Council in March 2013.

Other concerns relating to the strategic Green Belt proposals

13. There are clearly a range of potential controversial matters to be considered if the Examination continues after 17 September, but I set out below some general concerns/questions about the justification for and effectiveness of this Plan in relation to the identified strategic locations. With one exception, these are generic concerns not related to the particular merits of the sites. I am not requiring a response from the Council, unless it wishes to put forward potential changes for consideration at the hearings. Any such potential changes would need to be published before parties had to prepare any hearing statements and, of course, subsequently be formally consulted on if I were to consider that any unsoundness could be remedied by further changes. These matters will need to

be discussed at the hearings, but I want to alert the Council to them well in advance.

14. Firstly, I am concerned at the reliance on completion from these strategic locations to demonstrate the 5 year supply now and in the next couple of years. NPPF paragraph 47, 2nd bullet states that LPAs should: *identify and update annually a supply of specific deliverable sites sufficient to provide 5 years worth of housing*. The Core Strategy identifies 6 strategic locations for new housing. Within these broad locations specific sites will be identified and allocated in the Place-making Plan. The LDS indicates adoption of that Plan by March 2015. However the LDS assumes adoption of the Core Strategy by the end of 2013 which is not now possible. There would seem likely to be some delay in the Place-making Plan, even if this Examination were to continue and I were eventually able to make the Plan sound.

15. The 5 year supply identified in the SHLAA relies on completions from 5 Green Belt broad locations eg Odd Down from 2015/16 onwards; Weston, East of Keynsham, SW Keynsham and Whitchurch from 2016/17 onwards, (SHLAA June 2015 - for several of the locations delivery has been delayed by 1 year compared with SHLAA of March 2013). It seems to me that *specific deliverable sites* will not have been identified until the Place-making-Plan is at least published or submitted for Examination and not be certain until it is adopted. Accordingly, adoption of the Core Strategy with changes as proposed would not create a 5 year supply complaint with the NPPF. Furthermore, given that the identifiable sites will not be confirmed by a development plan until sometime in 2015 at the earliest, delivery from all these sites within 1 or 2 years seems optimistic. There is not yet a close alignment between what the Council is proposing and landowner/developer proposals in these locations and there is a long list of constraints and matters requiring further assessment.

16. Secondly, as I have previously highlighted and as many representors also point out, the NPPF requires that where Green Belt boundaries are reviewed they should endure beyond the plan period (*to meet longer term development needs stretching well beyond the plan period* NPPF paragraph 85). As also highlighted above, I cannot see the evidential basis for the Council concluding that there is no scope to identify safeguarded land at Bath and East Keynsham (if Green Belt land release is otherwise justified), bearing in mind the potential scale of development options in the Arup Concept Options Reports, the absence of any assessment of appropriate detailed boundaries and all the other factors the proposed policies require to be assessed.

17. Where the Council has not completely ruled out identifying safeguarded land, it delegates to the Place-making Plan all further consideration of the matter and provides no strategic steer. Thus that plan would have to tackle the general scale of any safeguarding land required, its broad location, as well as the precise boundary. That would mean reopening issues relating to the possible overall housing needs beyond 2029. The issue of safeguarded land is a strategic matter which the Core Strategy should be addressing so that the Place-making Plan has a clear outcome to deliver (accepting for the present that the Place-making Plan is the appropriate vehicle to define the precise new boundary of the Green Belt, which is disputed by some as acknowledged above).

18. My third concern is whether the indication on the Key Diagram of each strategic location by a single star and the lack of much locational guidance or principles in the policies provides sufficient guidance as to the intended locations/areas within which potential the allocation(s) should be assessed in preparing the Place-making Plan and for testing at subsequent Examination.

Given that the Council is proposing much less development than explored in the Arup Concept Options Reports there seems potential scope for major subsequent debate about what areas the policies apply to and how broad the area of search should be. I note that the strategic locations have been identified only on the Key Diagram and not on the Diagrams for Bath (Diagram 5) or Keynsham (Diagram 12) where more guidance as to the intended location could have been provided. Diagram 5 has a note saying: *Indicate areas where land will be released from the Green Belt...as if this is intended in due course, but no such indications are given.* I could consider any new notations only if they had been the subject of consultation because they could have significance for the selection of the specific sites in the Place-making Plan.

19 Fourthly, I am unclear as to the intended purpose of the long list of *planning requirements* identified in the policy for each location. Are these work that has to be undertaken by the Council in preparing the Place-making Plan or criteria for consideration of a planning application? If the latter, why are they needed in this Core Strategy? Furthermore, I do not understand or see the justification for the different approach taken in the policy wording for these locations compared with policies applying to other strategic locations in the submitted plan which refer to *place-making principles* and highlight specific issues to overcome or benefits to be achieved? The new policies give a long list of the further work to be done, but very little about the positive outcomes which are being sought.

20. Finally, at Weston, I am concerned about the state of the evidence in relation to demonstrating compliance with the Habitats Regulations for the protection of the SACs. Policy B3B d) requires, in part, *appropriate site assessment and ecological surveys to be undertaken....and to safeguard and enhance key SAC bat foraging areas and flight lines.* There has been only a walk-over survey/habitat assessment (Dr Ransome February 2013 CD9/E1), but no detailed survey of the actual use by bats of the area. Dr Ransome concluded: *the loss of some habitats within the four zones of the Weston site for greater horseshoe bats is judged likely to have a potentially significant impact on the large horseshoe populations known to be present in the SACs and SSSIs.* In summary, it appears that the most favourable habitat for bats are the smaller, grassed fields on the lower slopes with good hedgerows/woodland edge. Natural England (rep 281, letter 8 May 2013) states that there is currently insufficient survey data to conclude that the amount of proposed development in this area would not result in adverse effects on the integrity of the European site.

21. Bearing in mind the limited number and size of the specific parcels of land that may be suitable for development (in order to minimise the adverse impact on heritage, landscape and other constraints) and that development would be on the lower slopes (abutting the existing urban area), I question the conclusion of the HRA Review Part C (March 2013, CD9/A2), namely that: *Given no direct habitat loss or impacts to the SAC site, it is concluded that some development would be feasible without adversely affecting the integrity of the SAC subject to specific development requirements.*

22. I cannot see that there would be much practical scope to respond to the results of the more detailed surveys (required in the policy) about the use of the area by bats. My preliminary view is that the evidence at this stage does not provide a sufficient basis to conclude that any significant effects could be mitigated. That would mean that the development could not proceed, undermining the Council's expectation for delivery at Bath.

Comments concerning other Green Belt matters

23. I want to clarify how the Council sees the role of the Place-making Plan in reviewing the detailed (inner) Green Belt boundary and the clarity and justification for the task set for that plan in this Core Strategy.

24. The last sentence of SPC19 states: *Exceptional circumstances will need to be demonstrated through this review process in order for the detailed boundary to be changed.* A similar approach is set out in SPC171. Am I correct in assuming that this sentence is not intended to apply to defining the new boundaries in relation to the strategic releases (since it would be the role of the Core Strategy to have addressed the *exceptional circumstances* for those releases to be followed-through in the Place-making Plan)? Does the sentence apply to all other possible changes to the Green Belt boundary? If it does, the following matters are relevant.

25. The SHLAA (CD9/H3, paragraph 2.22 and June 2013, 2.35) indicates that a small site at Minster Way, Bath is unsuitable for development, but also refers to 4-5 other parcels as not yet being fully assessed but which might yield 20-30 houses each. Annex 1 of the Report to Council, 4 March 2013 (paragraph 4.11, CD9/PC3) also refers to smaller sites on the edge of Bath which could be considered in the *Place-making Plan as part of a minor review of the inner Green Belt boundary in the context of the context of the NPPF.*

26. Whilst the individual scale of these sites is not strategic they could (if otherwise suitable) make a useful contribution to housing land supply and/or longer term safeguarded land, but I cannot see that the Council's apparent approach would give a proper opportunity for the merits of those sites to be considered in the Place-making Plan unless the intention to do so is clearly signalled in the Core Strategy. If the Core Strategy were to be found sound on the basis of the Council's proposals there would be no unmet need for additional sites to be allocated for housing, other than as specifically highlighted in this Plan. Accordingly, in the absence of some exceptional site-specific factor, the sustainability merits of any smaller edge-of-Bath sites for housing would never actually be assessed because there would be no exceptional circumstances to release the land. The same issue would also apply to smaller (non strategic) Green Belt sites on the edge of Keynsham (as referred to in Annex 1, paragraph 4.17).

27. If I have understood the position correctly, it seems unsatisfactory. These smaller sites have not been assessed at this stage, even though cumulatively they might be equivalent in capacity to one of the strategic locations being proposed and thus an alternative approach which should have been tested. The non-assessment at this stage would be acceptable, in my view, if there was a real opportunity for their merits to be assessed at the next development plan stage, but as currently proposed that seems likely to be ruled out at the first hurdle. There may be several ways of addressing this issue and without a debate at a hearing I would not want to be prescriptive, but I am currently concerned that the Core Strategy closes down possibilities that have not been properly tested.

28. The same problem also applies to smaller settlements in the Green Belt that might meet the criteria in the policy RA1, (albeit that the policy does not apply to the Green Belt settlements). In the context of the plan as originally submitted, I was concerned at various ambiguities in the Council's approach concerning policy RA1, the relationship with existing Local Plan policies and the clarity of intentions relating to villages in the Green Belt. I was content with various changes relating to these matters suggested by the Council at the hearings last year. However, the context has now significantly changed. There are to be major releases from the Green Belt and a general review of the Green Belt inner boundary made as

part of the Place-making Plan. Land is to be released at the village of Whitchurch for 200 dwellings. In addition, the suggested scale of small scale housing development in RA1 villages has increased from 30 dwellings to 50 (SPC140) and allocations may need to be made in RA1 villages. But the Green Belt settlements are excluded from such specific provision as RA1 does not apply to them and any change to the Green Belt boundary would need to demonstrate exceptional circumstances. If the Core Strategy with the currently proposed changes was found sound that would be difficult to demonstrate. The sustainability merits of modest development in the larger Green Belt villages would then not have been assessed at any stage. I cannot see that this sequence of events would be justified.

29. Finally, there is one other detailed Green Belt matter concerning Major Existing Development Sites (MEDS). SPC174 implies that the Place-making Plan will be retaining MEDS in principle. Other than reviewing the boundaries of MEDs, it is not clear what the intended review will encompass – does it include the possibility of deleting any existing MEDS or identifying additional MEDS? However, this general intention appears to conflict with the specific change relating to the MEDS at Bath Spa University's campus. SP96 deletes previous reference to the MEDS at this site and highlights NPPF paragraph 89 as the context for considering development here. Since the NPPF no longer refers to MEDS and Annex C of PPG2 is not retained, is retention of the MEDS concept consistent with national policy? Even if it is justified as a local approach, the concept and principles applying would have to be explained in the plan. The Council is invited to clarify its intentions.

30. Clearly none of the above matters may need to be explored further if, after the hearing on the 17th September, I consider that there is an inadequate evidential basis in relation to the HMA/assessment of the housing for the Examination to proceed.

Simon Emerson
Inspector
26 July 2013