

Selby District Council's Note for the Inspector on issues raised at the Examination in Public that took place on the 27th of February 2013 regarding the Council's Sustainability Appraisal

Introduction

- 1 At the EIP hearing on 27 February 2013, the Council's Sustainability Appraisal and Strategic Environmental Assessment (SA/SEA) was questioned as to whether it had addressed the environmental impact of housing development.
- 2 Specifically, the Council has set out in the Core Strategy that the average annual housing requirement is 450 dwellings per annum (dpa) to meet the objectively assessed need. The Core Strategy also envisages that on top of this there will be more housing delivered through an unknown quantum of windfall development – by definition windfalls are not identifiable in advance. Following debate at previous EIP sessions, the Core Strategy now indicates that the quantum of windfall is anticipated to be at least 105dpa (See 7th Set of Proposed Changes).
- 3 Upon further discussion it was apparent that there were two aspects to the debate:
 - a) Mr Bolton of DLP consultants (on behalf of various house builders) asserted that the Council has not Sustainability Appraised all of the options regarding housing numbers; specifically 550dpa should have been assessed as an option, and
 - b) Legal representatives for Samuel Smith's Old Brewery, Tadcaster (from here-on referred to as SSOBT) asserted that the Council has not subjected the specific figure of 105 'probable' windfalls to SA, and the Core Strategy's consequent expectation of 555dpa.

a) SA of 550dpa as a reasonable alternative

- 4 Mr Bolton stated that 550dpa is a reasonable alternative as he considers it to be the objectively assessed need, and as such there is a legal requirement under the SA Regulations that 550dpa should have been assessed. Because the Council has not done this then the Core Strategy is not legally compliant.
- 5 The Council notes that the key statutory provision in this instance is regulation 12(2) of the *Environmental Assessment of Plans and Programmes Regulations 2004*. This provides that the environmental report (i.e., the SA) "*shall identify, describe and evaluate the likely significant effects on the environment of*
 - (a) *Implementing the plan or programme; and*
 - (b) *reasonable alternatives taking into account the objectives and the geographical scope of the plan or programme.*"

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- 6 Regulation 12(3) provides that the report shall include such information referred to in Schedule 2 as may reasonably be required, taking account of various factors (which are then set out).
- 7 Paragraph 8 of Schedule 2 refers to “*an outline of the reasons for selecting the alternatives dealt with, and a description of how the assessment was undertaken including any difficulties (such as technical deficiencies or lack of know-how) encountered in compiling the required information.*”
- 8 The Council would note that it has undertaken a robust assessment of relevant and up-to-date evidence including all of the projections which have been taken in to account - as they form part of the evidence base (ARUP papers November 2011 and April 2012 and Background Paper 14). The Council maintains that its objectively assessed need figure of 450dpa is robust.
- 9 Mr Bolton's case questions the Council's evidence, but the assertion that the SA is deficient is a misinterpretation of the above regulations as it confuses “objectives” and “alternatives”. The distinction between alternatives and objectives is inherent in regulation 12(2)(b): I. The reasonable alternatives which fall to be assessed are alternative ways of meeting the plan's objectives, not *alternative objectives*.
- 10 The relevant objective of the Core Strategy is to meet the full objectively assessed housing need (as per the NPPF). That objective has been quantified as 450dpa. This is a *need*, and what is required to be assessed is *alternative ways of delivering that need* (which the Council has done). The question is not one of considering alternative objectives or alternative need figures. Indeed, it could be said that, while objectors have different views about what the need is, ultimately there can only be one “right” need figure, so there is no question of any alternative need figure in any event. The point here is not that 550dpa is not a *reasonable* alternative, it is that it is *not an alternative at all*.
- 11 Other objectors have suggested other figures and the Council takes the same view of those that they are not objectively assessed needs which do not form reasonable alternatives and have therefore correctly not undertaken SA/SEA on those either.

b) SA of 105dpa as an explicit quantum of windfall means that the Council has failed to SA an expected delivery of 555dpa

- 12 SSOBT assert that the Council should SA/SEA the specific figure of 555 dpa (450 dpa planned and 105dpa windfall), now that there is a specific expectation of windfall delivery. It is the expected outcomes of the Core Strategy as a whole which should be SA'd and not those elements in isolation.
- 13 The Council considers that delivery of windfall per se has already been

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- assessed throughout the process, as windfalls have always been anticipated in delivering the Core Strategy.
- 14 The Council would note that each policy is assessed individually, but that the summary findings cross refer to other aspects of the plan, or indeed to other plans and strategies wherever appropriate. For example, where there are uncertainties that arise in relation to the location of housing development in CP1A, other policies such as CP12 will provide mitigation measures to steer development – thus policies work together.
- 15 The Council would not appraise the windfall figure itself, but would SA/SEA the *strategy to deliver* (or more accurately determine) planning applications which is made up of the above policies.
- 16 The SA has consistently addressed the housing target of 450dpa, and most recently the Second Addendum to the SA (October 2012) notes
- “4.1.6 Policy CP2 - The Scale and Distribution of Housing*
This policy sets out the overall quantum and broad distribution of the housing requirement across Selby town, the Local Services Centres of Sherburn-in-Elmet and Tadcaster, the Designated Service Villages and the Secondary Villages. Reference to phasing of the provision has been removed from the policy and the policy wording has been amended slightly to make it clear that the delivery is a minimum of 450 dwellings per year. However, the overall figures presented within the policy remain consistent with those assessed previously in the 2011 SA Addendum and therefore no additional SA work is considered to be required.”
- 17 While the Addendum to the SA/SEA is not explicit in referencing 555dpa, the Council would assert that the combined effects of the Core Strategy *have* been subject to SA. The assessment above has covered 450dpa as set out in CP2, and has assessed Policy CP1 which sets out the spatial strategy for directing development **including both allocations and windfall**. Policy CP1A then provides the framework for the management of windfall development.
- 18 *“6.1.2 CP1: Spatial Development Strategy*
The changes to this policy are considered likely to result in a more positive effect on SA Objectives 6 and 9 relating to community vibrancy and meeting local needs locally. This is because development outside of Development Limits may be permitted where it will enhance or maintain the vitality of rural communities.
- The inclusion of Escrick as a Designated Service Village means that it can now be subject to ‘appropriate scale*

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development on greenfield land' as well as development on Previously Developed Land, replacements and conversions, as was previously permitted under the Secondary Village designation. It is also now considered to have scope for additional future residential and small scale employment development, rather than limited development as was allowed under the Secondary Village designation. However, such development would still be subject to application of the other policies within the Core Strategy and the proposed Green Belt Review. Currently, potential development land at Escrick largely falls within the green belt. However, should the proposed Green Belt Review find that the boundaries of the green belt could be revised around Escrick, additional land may become available. As the quantum and location of development at Escrick is currently so uncertain, it is not considered feasible to undertake a SA of the inclusion of potential development sites within Escrick (as Designated Service Village); however its inclusion is not considered to change the overall assessment of the Core Strategy Policy as set out under previous SA reports. A SA will be undertaken of any proposed site allocations within Escrick under the Site Allocations DPD, if and when they come forward.

Whilst the target for development on Previously Developed Land (PDL) has been removed, the requirement to carry out a sequential test to direct development to PDL remains and therefore there are no changes to the appraisal of the remaining sustainability objectives."

And

"4.1.5 Policy CP1A – Management of Residential Developments in Settlements

Small changes to the policy wording are proposed within the seventh set of amendments to clarify how residential developments will be managed on non-allocated sites [windfall]. It is considered that the proposed changes would not result in any change to the SA undertaken of this policy within the 2010 SA Report."

- 19 The Council therefore asserts that the SA/SEA outcome of the whole Strategy remains correct, despite the fact that an indicative figure of windfall has now been included in the footnote to Policy CP2. The SA/SEA work shows that generally it is a sustainable plan, but that there are some unknown and uncertain outcomes due to the high level

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strategic nature of the Core Strategy – i.e. until specific sites are identified, a more detailed assessment cannot be made. However, through the application of other policies there are measures to direct the location of development in principle and mitigation measures such as the requirement to reflect national benchmarks in sustainable construction.

- 20 A further SA/SEA of the Site Allocations Local Plan will of course be undertaken in due course on the delivery of the 450dpa in site-specific terms. However, windfall *sites* of course will not be subject to SA/SEA, but *will* be subject to the policy tests that *have* been.

Conclusion

- 21 The SA/SEA undertaken by Waterman Environmental on behalf of the Council is a comprehensive, robust and accurate assessment of the likely impacts of implementing the Core Strategy
- 22 There is no requirement to undertake SA/SEA on an alternative figure for housing need as it is not a “*reasonable alternative*” in that sense. However, the SA/SEA work already undertaken does include as assessment of the whole evidence base within the round of assessing the whole Core Strategy approach.
- 23 The Council considers that windfalls have always been anticipated in delivering the Core Strategy and have been assessed throughout the SA process. Each policy is assessed individually, and the summary findings cross refer to other aspects of the plan, and are read together. The windfall figure itself would not be appraised, instead the *strategy to deliver* (or more accurately determine) planning applications is appraised and thus the likely outcomes of the strategy. This statement shows clearly that the SA cannot be considered deficient as it has correctly considered the likely effects of the anticipated house building in the plan period. It need not specify a specific number.
- 24 The Core Strategy has been informed by the findings of the SA/SEA work throughout the process to produce a sustainable framework for shaping the District over the coming plan period. As a high level plan there will inevitably be uncertain and unknown outcomes, however through other Core Strategy Policies, and indeed through further work on daughter documents, those uncertainties and unknowns can be explored and assessed in an equally thorough SA/SEA. The Core Strategy is therefore Sound and legally compliant.
- 25 The SA process will continue, and the Post Adoption Statement will be prepared in accordance with the Environmental Assessment of Plans and Programmes Regulations 2004 (16) (3) and (4), which requires a statement to be produced on adoption of a plan or programme, to detail:
- How environmental considerations have been integrated into the plan or programme;

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- How the Environmental Report has been taken into account;
- How opinions expressed through public consultation have been taken into account;
- The reasons for choosing the plan or programme as adopted, in the light of the other reasonable alternatives dealt with;
- The measures that are to be taken to monitor the significant environmental effects of the implementation of the plan or programme.