

## **SELBY DISTRICT LOCAL DEVELOPMENT FRAMEWORK CORE STRATEGY EXAMINATION**

### **NOTES OF PRE-HEARING MEETING**

Held on 20 July 2011 at the Civic Centre, Portholme Road, Selby

#### **Introductions**

- 1 The Pre-Hearing Meeting (PHM) was opened at 10 o'clock by the Inspector, Martin Pike. He is appointed by the Secretary of State to carry out the Examination into the soundness of the Selby District Submission Draft Core Strategy (SDCS). He introduced Elspeth Fowler, the Programme Officer for the Examination. The Council introduced its team: Terry Heselton, Michelle Sacks (Solicitor), Thomas Milner, Helen Gregory, Eileen Scothern, Ryan King and Keith Dawson. 28 other persons were present, representing local residents, various organisations and the development industry.
- 2 The purpose of the meeting was to discuss procedural and administrative matters relating to the management of the Examination. The Inspector stressed that there would be no discussion at the PHM of the content or merits of the SDCS and the representations made.

#### **Scope of the Examination and the Inspector's role**

- 3 The Inspector explained that his task is to consider, firstly, whether the SDCS meets the requirements of the Planning and Compulsory Purchase Act 2004 and associated Regulations, and secondly whether it is "sound" in terms of the tests of soundness set out in Planning Policy Statement 12. These tests cover three broad areas which examine whether the CS is: 1) **justified** (founded on a robust and credible evidence base, and the most appropriate strategy when considered against the reasonable alternatives); 2) **effective** (deliverable, flexible, and able to be monitored); and 3) **consistent with national policy**. The Examination will focus on these tests of soundness, and it starts from the presumption that the Council has submitted what it considers to be a sound plan.
- 4 The Inspector emphasised that those seeking changes must demonstrate why the SDCS is unsound by reference to one or more of the tests of soundness. He will consider the representations made to the SDCS as the starting point for his assessment, but only insofar as they relate to these tests. Thus he is not required to consider every point seeking a change to the plan, nor to report on every representation that has been submitted. The Inspector also explained that his remit does not extend to making the SDCS "more sound" in the sense of recommending improvements that are not essential to make the plan sound.

- 5 The process of Examination starts with the submission of the SDCS and ends with the submission of the Inspector's Report. As the Report is binding on the Council, it limits the changes that can be made. Changes involving clarifications are possible, or maybe bringing the SDCS into line with government policy, or deleting part of the SDCS, provided the remainder is satisfactory in its own right. Any other fundamental changes that would materially affect the underlying strategy could potentially result in the SDCS being found unsound. Nevertheless, if fundamental changes are proposed it may be possible in exceptional circumstances to adjourn the Hearings and delay the Examination process to enable a further round of Sustainability Appraisal and public consultation to take place.
- 6 The Inspector stressed that he was only examining the Core Strategy and not the Preferred Options Site Allocations DPD which is soon to be published by the Council. The Site Allocations DPD is an entirely separate part of the Local Development Framework and will be subject to its own independent Examination in due course. The Inspector stated that it would **not be appropriate for him to receive representations which relate to the specific content of the Site Allocations DPD**, though he accepted that the identification of development sites in that document may potentially be relevant to the deliverability of the Core Strategy. The Council stated that the Preferred Options Site Allocations DPD would be in the public domain by the end of July 2011, with formal approval anticipated on 13<sup>th</sup> September 2011.

### **Role of the Programme Officer**

- 7 Elspeth Fowler is acting as an impartial officer of the Examination under the Inspector's direction and not as an employee of the Council. She is the point of communication between the Inspector and all other parties, and is responsible for:
- organising the hearing sessions of the examination;
  - recording and circulating all material received;
  - maintaining the Examination library of documents;
  - assisting the Inspector with procedural and administrative matters.

Thus, if the Council or anyone else has any queries about the Examination which they wish to raise with the Inspector, these should be addressed through the Programme Officer. Similarly, all communications from the Inspector will be through the Programme Officer – this is to ensure his independence at all times.

Elspeth's contact details are:

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From 1<sup>st</sup> August 2011 the postal address for documents will be:  
Elspeth Fowler, Programme Officer, Selby District Core Strategy Examination, Civic Centre, Doncaster Road, Selby YO8 9FT.

### **Representations to Submission Draft Core Strategy**

- 8 The Council confirmed that 586 individual representations to the SDCS, from 61 organisations and individuals, had been submitted in accordance with the correct procedure and timetable. A small number of representations had been received after the close of the consultation period; because the Council has found no 'exceptional circumstances' which would warrant acceptance of these late representations, they have not been considered further. Mr Keogh asked whether the Council had decided how to respond to a late representation from The Potter Group; Mr Heselton advised that a decision was likely on 28 July.
- 9 The Inspector stated that he had only been supplied with copies of representations made at the Submission Draft stage (in January/February 2011), and is not aware of the content of representations made during the earlier stages of the Core Strategy process.

### **Procedural Questions for the Council**

- 10 In answer to the Inspector's questions, the Council confirmed that the SDCS:
- has been prepared in accordance with the Local Development Scheme;
  - is in general accordance with the Statement of Community Involvement and public consultation requirements;
  - has been subjected to Sustainability Appraisal;
  - has had regard to national planning policy;
  - is in general conformity with the Regional Plan;
  - has had regard to the Sustainable Community Strategy;
  - has been subject to an Appropriate Assessment under the Habitat Regulations, and its conclusions have been taken into account.

The Council also stated that it had produced its own Self Assessment of the SDCS against the tests of soundness.

- 11 Mr Hinchey, a local resident, attempted to prevent the continuation of the PHM by submitting that the proceedings were unlawful insofar as they represented the actions of a public body which is incompatible with Human Rights Act 1998. He threatened to perform a Citizen's Arrest on the Inspector; after a brief discussion he left the meeting and stated that he was going to report the matter to the Police.

### **The Examination Process**

- 12 The Inspector referred all parties to the Guidance Notes issued in June 2011 which give a broad outline of the Examination process. Following his initial study of the SDCS and the representations, he issued a draft "Matters and Issues" document and a draft Programme for the Hearings. The "Matters and Issues" document sets out the topics which the Inspector regards as crucial to the soundness of the SDCS and will serve as the focus for the Hearing sessions.

- 13 The Inspector explained that the right to appear at the Hearing sessions applies specifically to those who have made representations that the SDCS is in some way “unsound”. Most representors have already indicated whether their views can be dealt with in written form or whether they wish to present them orally at a Hearing session. **The Inspector emphasised that both methods carry the same weight.** Attendance at a Hearing session will only be useful if representors wish and need to participate in a debate. If representors change their mind about their preferred method of pursuing representations they should inform the Programme Officer. In response to a question from Mr Heselton, the Inspector advised that supporters of the Council’s position were welcome to attend the Hearings if they had particular expertise which would contribute to the debate.
- 14 The Hearing sessions will take the form of an informal round table discussion, led by the Inspector, where the Council and those who seek changes to the SDCS can debate the key points and issues. There is no need for participants to bring legal representatives with them but, if they do, they may take part as a member of the team rather than as a traditional advocate. There will be no formal presentation of evidence or cross-examination. Each party is expected to have read the cases of the other parties attending the particular Hearing session. The Inspector will endeavour to progress the Hearings in an effective and efficient manner, keeping a tight hand on the discussions and the time taken.

#### **“Matters and Issues” and draft Programme**

- 15 The Inspector briefly outlined the draft “Matters and Issues” document and the draft Programme and invited questions or points of clarification. The following matters were raised:
- (i) Irene Newton, a Kellington resident, asked to attend the Hearings; the Inspector has added her to the list of participants for Matter 2.6(ii), and has added Kellington to the list of villages to be discussed.
  - (ii) Paul Bedwell, representing BOCM Pauls, was concerned that a morning might not be long enough to cover all the issues relating to the Olympia Park Strategic Development Site (Matter 4). The Inspector replied that he hoped a morning would be sufficient, but if it was not he had built some flexibility into the Programme to allow for overruns.
  - (iii) Helen Smith of Osgodby Residents Action Association asked if her organisation could be added to the list of participants at the Hearing; the Inspector has added her organisation to the participants for Matter 2.6(i).
  - (iv) Simon Jones indicated that the Highways Agency would wish to participate in Matters 2.3, 2.8, 3.13 and 7.1, though he also stated that the HA would continue to discuss its concerns with the Council prior to commencement of the Hearing sessions. The Inspector agreed to amend the programme accordingly.

- (v) Pam Johnson asked that North Yorkshire County Council (Highways) be added to the list of participants for the Olympia Park Strategic Development Site session (Matter 4); the Inspector agreed.

### **Handling changes in Government planning policy**

- 16 The Inspector referred to the likelihood of changes to national planning policy over the next year or so, and said that he is required to consider the soundness of the SDCS against the policy and legislative framework that is in place at the time he prepares his Report. If significant changes were to occur between the Hearing sessions and the completion of his Report, there was the potential for a delay in the process if it was necessary to revert back to the parties.
- 17 There have already been a number of policy related developments since the Council published the SDCS in January, which resulted in a consultation in June 2011 to seek the views of respondents on these matters. Five responses were received and the Council has recently published its comments on the matters raised. All these documents are available on the Core Strategy website.
- 18 In response to questions from Mr Wilson and the Inspector, Mr Heselton said that the Council had considered the recent *Cala Homes* Court of Appeal judgement and that it was not proposing to make further amendments to the SDCS.

*Inspector's Update* On 25 July 2011 the Government issued the Consultation Draft of the National Planning Policy Framework (NPPF). The Inspector considers it necessary to seek the views of all parties on the implications for the SDCS of the Draft NPPF, including the weight to be attached to it. He is inviting all parties to include a section on the Draft NPPF, if they wish, as part of their supplementary statements in response to the Matters and Issues (see below). If there are any aspects of the SDCS which are affected by the Draft NPPF but which are not addressed in the Matters and Issues, the parties are asked to contact the Programme Officer.

### **Hearing sessions - times, venue and administrative arrangements**

- 19 The Hearing sessions of the Examination will commence at 10.00am on Tuesday 20 September 2011. Separate Hearing sessions will be held for each of the main Matters identified in the Programme. Where more than one session is necessary for a main Matter, topics that are related have been group together. It is anticipated that about 6 days will be required over two weeks, sitting for three consecutive days each week. This will leave the Monday and Friday of each week free for preparation, to accommodate any overruns and for site visits.
- 20 The venue for the Hearing sessions will be the Council's new offices at Doncaster Road, Selby. Hearing sessions will start at 10.00am and 2.00pm on each day, with a break for lunch at about 1.00pm; the

intention is to finish each day at about 5.00pm. There will normally be a short break during morning and afternoon sessions.

- 21 In response to a question from Mark Johnson, Mr Heselton advised that only disabled parking would be available at the new Civic Centre. Parking will continue to be provided at the old Civic Centre on Portholme Road, which is about a 10 minute walk from the new offices.
- 22 It is important to be aware the programme for the Hearings may change. Therefore persons wishing to attend a particular Hearing session should check the latest position by contacting the Programme Officer or viewing the programme on the website.

### **Submission of further Statements**

- 23 Persons who have made representations to the Submission Draft Core Strategy will have the opportunity to provide further written Statements, if they wish, in advance of the Hearing sessions. The Inspector stressed that it was not necessary to repeat arguments that had already been fully made at the Submission Draft stage in January/February 2011, as these original representations will be taken into account. In some cases it may be beneficial for representors and the Council to also produce a joint Statement of Common Ground which identifies areas of agreement; the separate Statements for each party can then focus solely on the matters in dispute.
- 24 Any further Statements should only address the Matters and Issues identified by the Inspector, and should explain the nature of the party's concern; they should not stray beyond the issues raised in the original representation. Separate Statements should be provided for each of the Matters to be examined, setting out the party's position in relation to the Issues and questions raised by the Inspector.  
**It is important that all further Statements explain:**
  - Which particular part of the Core Strategy is unsound?
  - Which soundness test(s) does it fail?
  - Why does it fail?
  - How can the Core Strategy be made sound?
  - What is the precise change/wording that is being sought?
- 25 The Council's Statements should deal with all of the Issues and questions, even if they are not subject to representations. The Council should say why it considers the SDCS to be sound in that particular aspect (or suggest changes to make it sound), and why the changes sought by other parties would make it less sound or even unsound.
- 26 Submissions should be succinct, avoiding unnecessary detail and repetition. **Statements should be no longer than 3,000 words** - any submissions longer than this will be returned by the Programme Officer for editing. There is no need for verbatim quotations from the SDCS, policy guidance or other Core Documents – cross references will suffice. Nonetheless, it is vital that the fundamental elements of cases are set out clearly and succinctly – the Hearing sessions are not the

place for new arguments to be introduced. It is the quality of the reasoning that carries weight, not the bulk of the documents.

- 27 All Statements should be sent to arrive with the Programme Officer by no later than **Friday 2 September 2011**. Both respondents' and the Council's Statements have the same deadline. There will be no further opportunity for rebuttals of these Statements, unless the Inspector decides that he needs further information on a particular point.
- 28 Statements should be prepared on A4 paper, printed on both sides, and not bound but punched with two holes for filing. Any plans, diagrams or photographs should be submitted in A4 format and should be clearly labelled. Supporting material in the form of appendices to statements should be limited to those which are essential and should not contain extracts from any publication that is already before the Examination, such as those in the evidence base and Government policy or guidance – again, references will suffice. Any appendices should have a contents page and be paginated throughout. Whilst the word limit does not include text in appendices, they should respect the aim of succinctness.
- 29 All submissions should be clearly marked, **at the top right hand corner**, with the appropriate "Representor Number", the name(s) of the respondent, and the policy number and/or the question number mentioned in the Inspector's "Matter and Issues", e.g. **1234 Mr S Jones/CP1/Matter 2.9**. The Council's Statements should be similarly referenced using "SDC", e.g. **SDC/CP1/Matter 2.9**. The answers to a number of questions can, of course, be combined together in one Statement with the relevant policies or question numbers referenced.
- 30 Where possible, electronic versions of all Statements and Appendices should be emailed to the Programme Officer (in Word or PDF format). In addition, a minimum of 4 paper copies of each Statement and Appendices are required, plus a copy for each participant attending that Hearing session. Following a discussion initiated by Rob Smith, it was agreed that parties would let the Programme Officer know if they were content to receive only electronic copies of these further submissions, thereby reducing the number of paper copies required. Parties are advised to check with the Programme Officer the up-to-date number of hard copies required before submission.
- 31 The Inspector will compile an agenda for each Hearing session, based on the submitted Statements, and have this circulated to participants not later than one week before the relevant session.

### **Further suggested changes to the Core Strategy**

- 32 The Inspector acknowledged that some minor changes to the SDCS will be considered appropriate as the Examination process unfolds. The Council has already published two such sets of changes (details are on the website), and it may be that more will be forthcoming. **All further changes should be specified at the earliest possible stage and discussed with the relevant parties.** This approach could mean that

in some cases, changes which would meet soundness but which are not fundamental to the SDCS come forward with agreement among the parties. A process of early negotiation can save time at the Hearings.

- 33 All such changes will be cumulatively listed on the Council's website on a regularly updated basis. Respondents should monitor this in case they wish to comment upon them to the Programme Officer. If more significant changes are proposed, the Inspector will need to ensure that the rights of third parties are not prejudiced by recommendations on matters which would take them by surprise. Where appropriate, changes may also need to be covered by a revised Sustainability Appraisal.

### **Site visits**

- 34 The Inspector stated that before the Hearing sessions commence he would be making a tour around the District in order to familiarise himself with some of the key features raised in the representations. He will also undertake further visits during and after the Hearings. He will generally carry out these visits on an unaccompanied basis – it is only necessary for him to be accompanied where access to private land is essential. The Inspector agreed with the suggestion from Paul Bedwell that an accompanied visit of the BOCM Pauls land (part of the Olympia Park site) would be advisable. If anyone else feels that an accompanied site visit is necessary, the Programme Officer should be advised.

### **Submission of Inspector's Report**

- 35 The Inspector indicated that following the end of the Hearing sessions he will prepare a Report for the Council with his conclusions and any changes required to the SDCS. He intends to give a clearer forecast of the timescale involved at the end of the Hearing sessions, as the submission date necessarily depends on the complexity and length of the examination process. At present, his best estimate is that the report is likely to be sent to the Council in late November or early December 2011.

### **Inspector's Closing**

- 36 The Inspector thanked everyone for their attendance at the PHM and looked forward to meeting many of them again at the Hearing sessions. The meeting closed at 11.30am.

*Martin Pike*

Inspector  
28 July 2011