



Cambridge City and South Cambridgeshire Local Plan Examinations Matters and Issues Statement

Representor **Commercial Estates Group**
CCLP ID **5423**
SCDC ID **17653**
Prepared by **Nathaniel Lichfield and Partners**
Date **10 October 2014**

Matter 1 Legal Process and Requirements (Tuesday 4 November 2014)

- 1.0 **A. Have the Local Plans been prepared in accordance with the relevant Local Development Schemes?**
- 1.1 Based on the evidence currently available, CEG does not wish to comment further on this question in this statement.
- 2.0 **B. Have the Local Plans been prepared in compliance with the relevant Statement of Community Involvement?**
- 2.1 Based on the evidence currently available, CEG does not wish to comment further on this question in this statement.
- 3.0 **C. Have the Local Plans had regard to the Sustainable Community Strategies?**
- 3.1 Based on the evidence currently available, CEG does not wish to comment further on this question in this statement.
- 4.0 **D. Have the Local Plans been subject to adequate Sustainability Appraisal?**
- 4.1 In September 2013, CEG undertook a review of the adequacy of the Sustainability Appraisal ('SA') process undertaken by both authorities to examine whether the approach correctly interprets the requirements of European Directive 2001/42/EC ('the SEA Directive'). This review identified several key issues which meant that neither the SA of the CCC draft Local

Plan (July 2013) nor the SA of the SCDC draft Local Plan (July 2013) complied with the requirements of the SEA Directive. These concerns related to a failure to have appropriate regard to housing and job needs; a failure to give proper assessment to the role of the Green Belt versus sustainability objectives; and a lack of clarity in the presentation of the SA for CCC (and partly for SCDC).

4.2

In March 2014, CCC and SCDC published their final SA for submission to the Secretary of State. Further review of both documents has been undertaken to establish whether the matters identified have been adequately addressed. It has been concluded by NLP that there has been a failure to carry out the limited and focused examination that was recommended in the representations submitted by CEG and, as such, it must be concluded that the SA does not fully comply with the requirements of the SEA Directive. Notably:-

- 1 No adequate account has been taken of the implications of the “Employment Land Review Update: Addendum” (May 2013) which amended the job projections for Cambridge from 14,800 to 22,100. As outlined in our representations of September 2013, the sole amendment to the SA appears to be a textual addition of one sentence to make reference to the additional figures and no analysis or SA has been carried out to assess what the higher job projections mean for other needs within the Cambridge administrative area or the wider sub-region. Our assessment of the relationship between jobs and housing creation suggests that the increase to 22,000 jobs would create demand for 18,000 new homes in Cambridge City which is above the 14,000 new homes being proposed within the City. Further SA is required to assess this further;
- 2 As stressed in the previous representations, CEG has specific concern that the Green Belt has been given far greater priority than any of the sustainability objectives which were formally scoped into the SA process by both authorities. This is despite Green Belt not being included within the SA Framework for SCDC and only being recognised as one sub-matter for consideration within the CCC SA. The resulting assessment fails to be objective and, importantly, means that the policy focus for both Local Plans has been based on less sustainable choices; and
- 3 Whilst the updated SAs published in March 2014 provide some additional clarity in their presentation, there remains some uncertainty as to the approach taken by both authorities that should be addressed.

4.3

These issues mean that the potential sustainable credentials of the proposed development and reasonable alternative forms of development have not been adequately addressed by the SEA process undertaken by CCC and SCDC in breach of the requirements of Article 5 and Annex I to the SEA Directive and Regulation 12 and Schedule 2 of the Environmental Assessment of Plans and Programmes Regulations 2004.

- 4.4 As outlined in the review of September 2013, the key alternatives that have failed to be taken into account due to the approach adopted are:-
- 1 A failure to address the potential sustainability benefits of proposed development on the edge of Cambridge within the Green Belt given the primacy given to this designation as part of the SA process. By way of example, our initial review noted that information provided in the Alternatives Assessment included at Appendix 4 to the SCDC SA (July 2013) identified a series of 'packages' of development allocations which SCDC considered to deliver the additional dwellings needed to meet their housing needs in the Plan period. The stated preferred option of SCDC scores well against sustainability objectives but other options (notably Options 6 and 7 and which include urban extensions to Cambridge within the Green Belt) also score well, and in some cases better than the options stated as 'preferred'; and
 - 2 A failure to properly have regard to the sustainability benefits of providing for additional housing and employment needs within the area during the Plan period. This is despite early stages of the SA process for both CCC and SCDC identifying that higher levels of growth could have far more substantial benefits in terms of sustainability.

4.5 The issues raised in the original representations are critical ones. In the absence of a robust analysis of them and their relationship to the principles of sustainable development, the SEA undertaken by both CCC and SCDC is defective and inadequate for the purposes of the SEA Directive and the 2004 Regulations.

5.0 **E. Have the Local Plans been prepared in accordance with the Habitat Directive?**

5.1 Based on the evidence currently available, CEG does not wish to comment further on this question in this statement.

6.0 **F. Have all the procedural requirements for publicity been met?**

6.1 Based on the evidence currently available, CEG does not wish to comment further on this question in this statement.

7.0 **G. Have the Councils submitted robust evidence to demonstrate that they have met the duty to co-operate?**

7.1 The legal requirement for co-operation is established by Section 33A of the Planning and Compulsory Purchase Act 2004 (inserted by the Localism Act 2011).

7.2 In particular, the Duty requires local planning authorities to engage constructively, actively and on an ongoing basis in relation to certain specified

plan preparation activities in so far as these relate to ‘strategic matters’, in order to maximise the effectiveness of this activity.

7.3 Strategic matters, as defined in subsection 4, include:

“sustainable development or use of land that has or would have a significant impact on at least two planning areas, including (in particular) sustainable development or use of land for or in connection with infrastructure that is strategic and has or would have a significant impact on at least two planning areas”

7.4 The legal requirement to co-operate is reinforced by the National Planning Policy Framework (paras 178 – 182). The NPPF also identifies, at para 156, the strategic priorities which local authorities should consider together. These include policies to deliver homes, jobs and infrastructure for transport.

7.5 In essence, the Act establishes four legal ‘tests’ which must be evidenced to demonstrate the Duty to Co-operate has been met. Co-operation must be:

- 1 Constructive (s.33A(2)(a));
- 2 Active (s.33A(2)(a));
- 3 Ongoing (s.33A(2)(a)); and
- 4 Effective (s.33A(1))

7.6 CEG does not dispute that CCC and SCDC have sought to work together in preparing their plans.

7.7 However, it is also clear from the resulting plans which are the subject of this Examination that the local planning authorities have only partially complied with the duty to co-operate having regard to the four tests set out above.

7.8 Despite preparing a significant number of evidence base documents jointly, there is no clear evidence that the Councils gave any consideration in advance to the preparation of a joint local plan. This issue was raised in CEG’s original representations (see Section 10 of the Cambridge South East Synopsis of Representations). The issue is a fundamental one since, by section 33A(6)(b) of the Act, consideration of whether to agree to prepare a joint local plan was a necessary element of the duty to co-operate.

7.9 Research by the CEG team indicates that while CCC was aware of the need for joint working when the decision to commence the review of the Cambridge Local Plan was taken at the Development Plan Scrutiny Sub Committee Meeting on 22 March 2011 (extract from the Minutes at Appendix 1), there is no record of the option of a joint core strategy being given any appropriate consideration, either prior to this meeting or subsequently.

7.10 The Councils’ consultations on Issues and Options recognised the need for joint working and the important cross-boundary strategy issues which exist

between the City and South Cambridgeshire but, notwithstanding the recognised context, the option of a joint strategic plan was not presented.

- 7.11 Chapter 2 of the subsequent Issues and Options 2 report (January 2013) sought to retrospectively justify why the two authorities had chosen not to produce joint planning policies, but this does not point to the evidence of when or how that decision was made at the time.
- 7.12 The recently published Memorandum of Understanding relating to the five year housing land supply position of the authorities [RD/CR/460, 470 and 480] reinforces the conclusion that the effectiveness of the Councils' plan making activity can only be maximised through a joint plan. A joint plan is necessary to address the strategic planning of sustainable development across the Cambridge City and South Cambridgeshire areas.
- 7.13 The consequence of this failure to co-operate is a failure to identify and allocate sites close to the edge of the City where strong linkages would secure sustainable patterns of development. This manifests itself in 45% of the proposed housing target being put forward through New Settlements. This:
- a runs against what is purported to be the Plans' development strategy which seeks to prioritise development in and on the edge of Cambridge before New Settlements; and
 - b results in proposals for new development focused on locations in South Cambridgeshire that are counter to the purported Development Strategy, demonstrably less sustainable than on the edge of Cambridge (see CEG Matter 2 Statement), do not meet economic needs focused on the Cambridge urban area (see CEG Matter 4 statement), and are not aligned with provision of infrastructure (See Matter 5 Statement). There is no clear evidence base or consideration of alternatives that adequately justifies the approach adopted, with the proposals of one Local Planning Authority (SCDC) clearly driven by the refusal of another LPA (Cambridge City Council) to positively seek opportunities to address its housing needs and correctly implement Green Belt policy in the NPPF.
- 7.14 This is not an effective addressing of strategic matters across the two areas. This failure to satisfy the legal Duty to Co-operate can only be resolved by the withdrawal of both plans and the preparation of a joint Strategic Local Plan which addresses the need for sustainable development and infrastructure provision which will have a significant impact on both authorities.

**Appendix 1 Minutes of Development Plan Scrutiny Sub Committee
Meeting on 22 March 2011**

The Scrutiny Committee considered and endorsed the recommendations in the report unanimously.

The Executive Councillor for Climate Change and Growth agreed the recommendations.

Conflicts of interest declared by the Executive Councillor (and any dispensations granted)

N/A

11/20/DPSSC Cambridge Local Plan Review - Approach and Timescales for Review

Matter for Decision:

To agree the approach and timescales to preparing a new Local Plan for Cambridge.

Decision of Exec Cllr for Climate Change and Growth:

- I. Agreed the approach and indicative timescales for reviewing the 2006 Local Plan as set out in paragraphs 3.20 to 3.23.
- II. Agreed that the Community Infrastructure Levy is taken forward in parallel with the Local Plan review.
- III. Agreed that the Local Development Scheme is updated in accordance with the agreed approach and indicative timescales and is made available on the Council's website.

Reason for the Decision:

- I. The Cambridge Local Plan was adopted in July 2006. On 2nd July 2009, the Secretary of State issued a formal direction saving the majority of policies in the Cambridge Local Plan and these policies remain saved until replaced by new policies in the Local Development Framework.
- II. The Localism Bill was published on 13th December 2010 and proposes a number of reforms to the planning system. In terms of plan making at a local level, no significant changes have been proposed to the Local Development Framework system. Given this, it is considered appropriate for the Council to move forward with reviewing the Local Plan. This report outlines a suggested approach and indicative timescales for preparing a new Development Plan for Cambridge including the timescales for taking the Community Infrastructure Levy (CIL) forward.

Any alternative options considered and rejected:

N/A

Scrutiny Considerations:

The Planning Policy Manager introduced the report regarding the Cambridge Local Plan Review.

In response to member's questions she explained that a schedule of rates at which the Community Infrastructure Levy would be applied would be developed. A charging schedule would be taken for consultation and examination. Viability would be a consideration and an appropriate rate to allow development would be agreed.

The Head of Planning confirmed that the Planning Authority would make decisions taking into account infrastructure needs and Cambridge land values. The Localism Bills would establish some recognition of the impact of developments on existing communities. CIL would be applied to all types of development while S106 contributions would continue for affordable housing developments. The CIL tariff was likely to be based on land area; however, the percentage had not yet been decided.

Councillor Herbert suggested broadening joint working policies to include shared policies, in particular for fringe sites. He expressed concern that the loss of bodies such as the East of England Regional Strategy had left gaps at a regional planning level. Councillor Ward suggested that some of the gaps had been filled by informal working partnership groups.

Councillor Blair responded and stated that Cambridge had a long history of partnership working, in a non political way, and this would continue. The Localism Bill was strongly worded in favour of joint approaches. Wherever possible joint policies would be developed. Moving forward communities would have a stronger voice as there would be no imposed, top down, targets.

The Head of Planning agreed that there was a need for a clear growth strategy and joint statements were being explored. However, a joint core strategy might not be in meet the different needs of authorities in the area. In response to members' questions she confirmed that there would be a series of member workshops to assist members to work through the issues and to gain a thorough understanding of the new planning policies.

The Scrutiny Committee considered and endorsed the recommendations in the report unanimously.

The Executive Councillor for Climate Change and Growth agreed recommendations.

Conflicts of interest declared by the Executive Councillor (and any dispensations granted)

N/A

The meeting ended at 11.05 am

CHAIR