

## **Item 6**

### King's Lynn and West Norfolk: Site allocations and Development Management Policies Examination

## NOTE FROM THE INSPECTOR

### ADJOURNMENT OF THE HEARING SESSIONS

Having read the evidence and listened to the discussion at the first hearing session on 7<sup>th</sup> July, it became clear to me that there is a significant risk that the Site Allocations and Development Management Plan (SADMP), in its current form, could not be found sound. My concerns are twofold and to some extent are inter-linked and relate to the need for the Plan to be justified (the most appropriate strategy); effective (deliverable); and consistent with national policy<sup>1</sup>.

Within the Borough are a number of European sites of nature conservation importance (for example Special Areas of Conservation) and also part of the Breckland Special Protection Area where, for example, the protection of woodlarks and nightjars is sought.

A number of the proposed housing allocations may have detrimental consequences for the protected sites and species and this is acknowledged by the Council. Indeed a number of policies reflect this concern. For example policies E2.1 (West Winch Growth Area) and E4.1 (Knights Hill) both refer to a requirement for an agreed package of habitat protection measures to mitigate potential adverse impacts on nature conservation sites.

My primary concerns are that there is insufficient evidence regarding the potential implications of the proposed developments on the protected sites and species and that there is no detailed consideration of the mitigation measures that may be required, as part of any development package, to satisfactorily address those 'implications' – either on-site or off-site.

Policy E1.13 (King's Lynn Green Infrastructure) refers to the provision of 'habitat protection measures relating to mitigation of potential adverse recreational impacts on Natura 2000 sites associated with housing and other developments' and the Council's Statement on Issue 1<sup>2</sup> (page 23) refers to the Council being in discussion with stakeholders, working towards a Mitigation, Monitoring and Green Infrastructure Delivery Plan (MMGIDP). In paragraph 3.3 of the draft Statement of Common Ground between the Council, Natural England, the Norfolk Wildlife Trust and the RSPB (which highlights a number of

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<sup>1</sup> National Planning Policy Framework paragraph 182

<sup>2</sup> Document CREP-01

outstanding concerns) the Council concludes that the timescales for producing the MMGIDP are too long to meet the timetable for the Examination. This may be the case but I need to be more certain that appropriate mitigation can be provided, or failing that, that the Council has a suitable fall-back position in the event that satisfactory mitigation cannot be achieved.

Similarly there are a number of sites where concerns about flood risk have been raised, including from the Environment Agency and the Internal Drainage Board. Policy DM 21 (Sites in Areas of Flood Risk) refers to the need for site specific flood risk assessments in some circumstances and this is repeated in some of the specific allocation policies, for example Boal Quay, King's Lynn and Knights Hill. Indeed in the latter case (policy E4.1) it is confirmed that a detailed assessment would be required on issues (including flood risk) 'which are likely to affect the extent and design of the development'.

Clearly the evidence base needs to be proportionate and I would not expect the detail that may be required to accompany a planning application. Nevertheless I need to be confident that should the more detailed assessments conclude that a site could not satisfactorily accommodate the level of development proposed, then there is a fall-back position which would ensure that the Council's current overall housing figures could still be achieved in the plan period.

NPPF paragraph 14 refers to the need for Plans to be 'sufficiently flexible to adapt to rapid change' and currently I consider there is insufficient flexibility embedded in the Plan to cope with any change in circumstances that may arise from the additional work that would be expected by the Council (probably at planning application stage) on nature conservation mitigation measures and flood risk assessments.

I am therefore asking the Council to provide further evidence:

- regarding the implications of the proposed allocations in the SADMP on European nature conservation sites and protected species;
- relating to how the Council proposes to address those implications, particularly in terms of mitigation measures, bearing in mind issues of delivery and viability;
- on its approach should it be concluded (following further detailed assessment) that mitigation measures cannot be satisfactorily provided to overcome all the implications (i.e. the fall-back position); and
- on its approach should it be concluded that issues of flood risk on particular sites would have consequences for the amount of development proposed (i.e. the fall-back position).

For the avoidance of doubt it is not being suggested that the number of dwellings being proposed by the Council should be raised – rather it is the delivery of those dwellings over the plan period that needs to be secured.

It would be helpful if the Council could provide an indication of the approach it intends to take and a preliminary timetable for the work to be undertaken. I do not wish to pre-judge the Council's approach but would comment that any

implications of any additional evidence to be submitted, in terms of the Sustainability Appraisal, the Habitats Regulation Assessment and public consultation, should be considered by the Council.

*David Hogger*

Inspector

9<sup>th</sup> July 2015

## NOTE FROM THE INSPECTOR

### FURTHER WORK REQUESTED BY THE INSPECTOR AT THE HEARING

I appreciate that the Council is already undertaking significant work at my request and the purpose of this Note is not to increase that burden.

There is likely to be a delay before the Hearing Sessions can be resumed and therefore I thought it prudent to confirm, in summary, the matters raised at the Hearing (prior to its adjournment) where I requested clarification from the Council:

1. Preparation of a Note regarding the objectives identified by the Council and how those objectives contributed towards the site selection process. How alternatives were identified and assessed and how compliance with the EIA Regulations has been approached;
2. Provision of a Schedule of allocated sites at risk of flooding and the Council's approach towards their satisfactory development;
3. Clarification of the Council's approach towards the Sustainability Appraisal and the Habitats Regulations Assessment.

It may be that some or all of these matters will be subsumed in the work already being undertaken by the Council and that would be acceptable. I am confident that the Council will address the matters raised and I consider it appropriate to rely on the Council's judgement as to how it wishes to respond to the clarification requested.

*David Hogger*

Inspector

14<sup>th</sup> July 2015