

Matter 1: Legal Process and Requirements

1.1 Martin Grant Homes and Harcourt Developments Ltd submitted representations in response to consultation on the South Cambs Submission Local Plan (SCLP) in October 2013. As part of these representations, MGH/Harcourt raised issues relating to the process and evidence base for the SCLP and identified flaws in both. The focus of our representations was particularly in relation to the Sustainability Appraisal and the legal requirement to undertake analysis of 'reasonable alternatives'. The SEA Regulations require that the plan-making authority should identify, describe and evaluate '*reasonable alternatives taking into account the objectives and the geographical scope of the plan or programme*' (Article 5(1)). In light of the content of these earlier representations, the focus of this written statement is this same matter and inevitably is concerned particularly with that component of the spatial strategy that relates to the A428 corridor / Bourn Airfield in which our clients have their specific interest.

d. Have the Local Plans been subject to adequate Sustainability Appraisal in compliance with the SEA Directive

1.2 The NPPG at paragraph 001 ref: 11-001-20140306 identifies the ways in which the SA process can contribute towards achieving sustainable objectives, mitigating adverse effects and demonstrating soundness. The contribution of the analysis of alternatives is an essential feature of SA process. However, what is evident from the relevant documentation supporting the SCLP is that only a very limited analysis of alternatives has been undertaken. Furthermore, there is not a consistency in the evidence base that comprises the SA. We maintain therefore that the SA and related appraisals do not provide a suitably comprehensive analysis on which to base the LP. This is particularly evident in the narrow way in which the analysis of alternatives – both spatial strategies and sites - has been undertaken.

1.3 The SCLP at paragraphs 2.14-2.17 refers to a number of documents as providing the background to, and justification for, the spatial strategy contained in the Submission Local Plan, which includes:

- the 'Cambridgeshire Development Study' (CDS) (2009);
- the 'Cambridge and South Cambridgeshire Sustainable Development Strategy' (SDS) (2012) (Doc ref: RD/Strat/040); and
- the 'South Cambridgeshire Draft Final Sustainability Appraisal' (2014) (Doc ref: RD/Sub/SC/060).

1.4 The CDS was undertaken by a team of consultants on behalf of the County Council and the constituent local planning authorities. The purpose of the CDS was to provide an evaluation of the potential spatial options for growth in Cambridgeshire. The CDS includes an analysis of free-standing new settlements as one of the spatial options and states in paragraph 7.11.6 that:

'For the new settlement option there may be a range of pressures, including:

- *road congestion on the local road network surrounding the potential locations;*
- *out-commuting for services, facilities and employment; and*
- *higher car mode share (noting Cambourne levels of car use and out-commuting) without significant high quality public transport provision or upgrades.'*

1.5 In relation to this final point, one of the main findings of the CDS and identified as a likely challenge to growth in Appendix F, 'Infrastructure Supply' is that:

'Existing travel patterns and commuting habits are not sustainable (significant out-commuting from market towns, such as Ely and newer settlements such as Cambourne);'

1.6 Progressing chronologically, the SDS was prepared in 2012 by the Cambridgeshire and Peterborough Joint Strategic Planning Unit and its purpose is to:

'review what sustainable development means in the context of Cambridge and South Cambridgeshire and to ensure that the sustainability of different broad spatial options for locating new developments are assessed.' (SDS, para 1.5)

1.7 The SDS therefore has an important role in informing subsequent decisions on the SCLP spatial strategy and allowing options to be assessed on a consistent basis. A notable feature of the SDS is the identification of a 'Sustainable Development Sequence', which in order of preference is as follows:

- within the built up area of Cambridge;
- on the edge of Cambridge;
- one or more new settlements;
- within or adjoining market towns; and
- at sustainable villages.

1.8 In relation to the third level of the sequence i.e. new settlements, the SDS acknowledges the contribution that new settlements can make to housing supply and yet also confirms the challenges associated with such developments where they are free-standing, including:

- greater challenge involved in creating new places and a sense of community cohesion;
- new settlements generally result in out-commuting;
- providing all the necessary infrastructure may present viability challenges;
- free standing new towns have the additional burden of having to fund transport links;
- challenges exist in relation to deliverability due to the long preparation, planning and overall lead-in times before development starts.

1.9 The balance of the analysis contained in SDS, at paragraphs 4.11-4.15, is therefore that there are risks associated with free-standing new settlement, albeit that these can be addressed by having regard to factors such as the location of the new settlement and its proximity to other main urban areas and access to good quality public transport.

1.10 In light of these findings, MGH/Harcourt propose a refinement to the sequence that introduces differentiation in the category of new settlements. The proposed refinement is to identify a preference for new settlements where they represent an expansion of an existing community, either existing new settlements e.g. Cambourne or other established settlements e.g. at Waterbeach. This amendment to the sequence allows account to be taken of the availability of already established infrastructure and facilities in the existing neighbouring community and the advantage that this gives in terms of sustainability.

1.11 In order to form a consistent body of work to support and inform the Local Plan, subsequent SA and analysis of individual sites should reflect the findings of the strategic analysis contained in the CDS and SDS. This however is not the case as is evident in a review of the 2014 SA, for example in Part 3, Appendix 4: 'Appraisal of Alternative Packages'. There are a number of instances in the SA where the analysis of the different site package options is in conflict with the conclusions of the SDS and CDS. For example in relation to SA Objective 18; 'Will it encourage engagement with community activities?' the analysis states:

'The assessment of individual sites assumed that larger more focussed developments are more likely to be able to deliver a wider range of new services. On this basis packages 1, 2, 4, 5 and 9, which include new settlements, are more likely to perform well and provide positive support for this sub-objective.'

1.12 Equally, in relation to SA Objective 19 concerning enhanced competitiveness and providing locally available jobs the analysis states:

'New settlements would be mixed use developments incorporating provision of employment land, hence the strongly positive performance for the packages providing new settlements (1, 2, 4, 5, 7, 8 and 9) and the less positive performance of package 3, which would not deliver a new settlement.'

1.13 It is very apparent in these extracts, and there are other examples, that some of the challenges associated with the delivery of free-standing new settlements – those identified by the SDS and CDS – are completely overlooked in the SA. Indeed a wholly different perspective has been taken such that new settlements achieve a positive score when in fact the SDS and CDS actually identify potential adverse effects. Furthermore, the SA overlooks issues of scale and location. For example, it assumes that a new settlement on the scale of Bourn Airfield can achieve the same economies of scale and range of uses as Waterbeach. This analysis again is not consistent with the findings of the SDS and CDS.

1.14 The inconsistencies in the analysis of the spatial strategy are also carried through into the analysis of specific sites. We appreciate that Matter 1 is concerned with legal process and not site-specific matters. However, some reference to site specific issues and analysis is necessary to illustrate the failure to apply the earlier findings of the SDS and CDS consistently throughout the selection of spatial options and site options. An example that we consider most usefully illustrates the point is the comparison that the Council has undertaken of Bourn Airfield and (our clients' site) land north of Cambourne. Both feature in the SHLAA (Doc ref: RD/Strat/100) at Appendix 7i, which is the section that provides the site assessment of new settlement options (we agree that land north of Cambourne should be assessed in this category given its relationship with the existing new settlement to the south).

1.15 We address in more detail in other written statements the flaws of the analyses when comparing the assessment of Bourn Airfield (Site 057) and that of land north of Cambourne (Site 194). From the perspective of identifying the flaws in the SA process, however, the key factor that is overlooked is the very different context of each site and the different concept that is being appraised. In the case of Bourn Airfield, the concept that is being appraised is a free-standing new settlement. In that context, all of the challenges that are identified in the SDS and CDS apply and yet are not acknowledged. For example, in the assessment of Bourn Airfield in the section on Infrastructure the assessment states that:

'New settlement locations are better suited to delivering the necessary infrastructure to encourage travel by non-car modes than dispersed village options.'

1.16 This statement is wholly misleading as it represents an application of a generic assertion relating to new settlements to site-specific circumstances. It is also inaccurate, in that it contradicts the findings of the SDS and CDS in relation to the likelihood of free-standing new settlements giving rise to high levels of out-commuting.

1.17 In contrast, whilst the site option of land north of Cambourne is appraised in the same section as Bourn Airfield i.e. as a 'new settlement', it is in fact proposed as an extension to an existing new settlement i.e. Cambourne. The SDS in paragraph 4.13 identifies some of the advantages of this approach as follows:

'... providing all the necessary infrastructure (for example new secondary schools) may present viability challenges as new settlements have to provide everything needed for a town whereas urban extensions can generally rely on the adjoining town for some infrastructure.'

1.18 In the case of land north of Cambourne, the adjoining town is a new settlement itself. Substantial investment has already been made in Cambourne to deliver new infrastructure, a range of services and facilities, existing job opportunities and to establish a strong sense of community. The presence of this existing infrastructure addresses many of the challenges that the CDS and SDS associate with free-standing new settlements. However, the relationship between land north of Cambourne and Cambourne itself is completely lacking from the site-specific analysis of this location contained in the SHLAA. This flawed analysis leads to the SHLAA concluding that land north of Cambourne does not warrant further assessment. As a consequence it is not considered among the 'Alternative Site Packages' in the SA at Appendix 4 (we address the site-specific aspects of our case more fully in our written statement on Matter 2).

1.19 In light of the issues outlined above, we conclude that the process by which the spatial strategy for the SCLP has been derived is flawed and legally deficient, specifically in terms of the SA. As set out at the start of this statement, the Regulations require that reasonable alternatives to those proposed in the plan are assessed. In this case the SA fails to undertake such an assessment of 'reasonable alternatives' in a way that is consistent with the available evidence and in which all such alternatives are appraised on a common basis. The process is therefore also inconsistent with the tests of soundness specified in the NPPF, paragraph 182, particularly the requirement for Local Plans to be justified. A more comprehensive and consistent evidence base therefore needs to be put in place that appraises the options for accommodating growth – both the spatial strategies and individual sites - on an equitable basis.