

East Cambridgeshire Local Plan Examination: Inspector's Matters, Issues, and Questions for Discussion at the Examination Hearings

Representations: Lichfields on behalf of Gladman Developments Limited

Date: 22 May 2018

Our ref: 16168/MS/RC

Subject Matter 4: Housing and employment land requirement

Issue 1: Whether the Council's approach to calculating its housing and employment requirements is justified, based on up-to-date and reliable evidence, effective, positively prepared, and consistent with national policy?

1.0 Housing:

30. Is the identified overall housing requirement of 10,835 dwellings or 542 per annum (dpa) over the plan period justified and consistent with national policy?

- 1.1 The NPPF – as clarified by the Hunston¹ and Solihull² High Court Judgments - clearly establishes the need for a housing requirement to be informed by objectively assessed housing need (OAN) as part of a two-staged approach. Even before one considers the issue of whether the requirement figure is justified in terms of the wider obligations of the NPPF (having passed through the 'policy lense', the Council's housing requirement does not 'get past go' for the simple reason that it is not informed by OAN but rather by the mistaken application of the Government's draft proposed 'standard housing need methodology'. This runs contrary to the judgment, national policy and guidance.
- 1.2 The Planning Practice Guidance ("PPG") contains a section providing guidance on housing and economic development needs assessments. The PPG identifies that an OAN should fulfil the following criteria:
- be based on facts and unbiased evidence. Constraints should not be applied to the overall assessment of need (ID: 2a-004);
 - utilise household projections published by DCLG as the starting point estimate of overall housing need (ID: 2a-015);
 - consider sensitivity testing, specific to local circumstances, based on alternative assumptions in relation to the underlying demographic projections and household formation rates (ID: 2a-017); and

¹ City and District Council of St Albans and (1) Hunston Properties Limited and (2) Secretary of State for Communities and Local Government [2013] EWCA Civ 1610)

² (1) Gallagher Homes Limited and (2) Lioncourt Homes Limited v Solihull Metropolitan Borough Council [2014] EWHC 1283

- take account of employment trends (Reference ID: 2a-018), appropriate market signals including market indicators of the balance between the demand for and supply of dwellings (ID: 2a-019) and affordable housing needs (ID: 2a-029).

- 1.3 The PPG indicates that there is no one methodological approach or use of a particular dataset(s) that will provide a definitive assessment of development need (ID: 2a-005), but goes on to outline an overarching methodology for preparing need assessments, stating that the use of this method is:
- “strongly recommended because it will ensure that the assessment findings are transparently prepared. Local planning authorities may consider departing from the methodology, but they should explain why their particular local circumstances have led them to adopt a different approach where this is the case” (ID: 2a-005).*
- 1.4 The Council has offered no local circumstances which have led them to adopt a different methodology, but have rather incorrectly stated in PS.EVR2 para 2.1 that OAN is an “old” method no longer to be applied but replaced by the “new” standard method. This unfortunately misreads the very clear position of Government. Whilst the Government has indicated its intentions to implement the standardised methodology in the revised NPPF, at the time of this EIP it is not adopted in policy. Furthermore, even when adopted, the revised Framework allows for a six-month transitional arrangement under which examinations of plans submitted in the timeframe of in this case, will take no account of the revised Framework (para 209). The Council appears to be ‘cherry picking’ the Government’s draft policy and guidance by relying on the standard methodology formula for housing need, but none of its other provisions which should be taken as a whole.
- 1.5 There is also no evidence underpinning the Local Plan Review on what the housing needs are of the Housing Market Area (HMA) – para 47 of the NPPF requires needs to be met “*in the HMA*” and para 159 requires LPAs to “*have a clear understanding of housing needs in their area.... [they should] prepare a SHMA to assess their full housing needs, working with neighbouring authorities where HMAs cross administrative boundaries*”. The Council has not done so. It cannot demonstrate its housing requirement is underpinned by a clear understanding of the housing needs across the HMA let alone be confident that those needs will be met.
- 1.6 PE6 concludes that OAN for East Cambridgeshire is 586 dpa 2014-36. The Council chooses not to rely upon this document for this Local Plan Review and the Council advances its plan based on one element of the Government’s revised guidance for housing needs (the draft standard methodology³) rather than on evidence from a SHMA. This means that – as it stands - the PE6 has not been consulted upon as the primary evidence base for the OAN for the Plan.
- 1.7 Furthermore, no confidence can be drawn in any event from the estimate of OAN as set out in PE6 because it also fails to adhere to the requirements of the PPG in calculating OAN. Lichfields’ response to Q27 and the accompanying Technical Note to Matter 3 set out in detail the shortcomings of PE6 and provides evidence on the likely real scale of OAN for East Cambridgeshire.

³ But not, for example, consideration of other references in the draft PPG to the use of alternative approaches in exceptional circumstances or to consider uplifts for affordable housing need, which is explicitly set out in the draft revised PPG.

31. Do either of the two parts of the second bullet point within Paragraph 14 of the Framework apply to meeting East Cambridgeshire’s objectively assessed needs? If so, how?

1.8 Para 14 of the NPPF requires Local Plans to meet OAN, with sufficient flexibility to adapt to rapid change, unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits; or specific policies at footnote 9 of the Framework indicate development should be restricted. In East Cambridgeshire, neither of these two bullets are engaged.

1. Would adverse effects significantly and demonstrably outweigh the benefits?

1.9 Dealing with the first part of the second bullet, there is no evidence to suggest that the adverse effects of meeting OAN in East Cambridgeshire would significantly and demonstrably outweigh the benefits. This is clear from the various iterations of the Sustainability Appraisal (SA).

1.10 An SA was produced for the Local Plan Preliminary Draft (February 2016) (CD11C), the Local Plan Further Draft (January 2017) (CD11D) and the Local Plan Proposed Submission (November 2017) (CD11A), each of which tested four options for Policy LP2 on levels of housing growth. The four options assessed were the same each time as set out below:

- 1 Growth delivered in accordance with OAN/ Local Housing Need⁴;
- 2 No policy, rely on national policy;
- 3 Provide for a higher level of growth than the identified need; and
- 4 Provide for a lower growth than the identified need.

1.11 Option 1 in each SA was the level of housing growth as set out in Policy LP2 in that version of the plan, which was:

- In the Preliminary Draft Plan (February 2016), a figure of 12,800 homes 2014-2036 (582 dpa);
- In the Further Draft Plan (January 2017) it was 11,400 homes 2014-2036 (518 dpa); and
- In the Proposed Submission Plan (November 2017) it was 10,835 homes 2016-2036 (542dpa).

1.12 In every iteration of the SA, the conclusion on the assessment of the four options is almost identical, stating that “*Although option 3 scores slightly better than option 1 due to providing greater choice in housing by providing more, however, this would generally have a negative effect on the environment and resources especially on undeveloped land*”. Option 1 is concluded as the best outcome for residents in that it meets their needs in sustainable locations. However, this is clearly a flawed assessment because the amount of growth assessed under Option 1 in each version of the SA has changed, but the assessment of options, and the conclusions reached have stayed exactly the same. CD11C (Preliminary Draft) considered Option 1 to deliver 582dpa as the better option, with Option 3 (delivering *more* homes) having negative effects on the environment and undeveloped land. But CD11D (Further Draft) and CD11A (Proposed Submission) both assess Option 1 to deliver less homes, at 518dpa and 542 dpa respectively and yet conclude that Option 3 for providing *higher* growth than this is not the best option because of negative effects on the environment and undeveloped land. This is despite the

⁴ The SA for the Local Plan Preliminary Draft (February 2016) references growth in accordance with OAN (p.26), the SA for the Local Plan Further Draft (January 2017) references OAN with an adjustment for some housing needs being met elsewhere in the HMA (p.22) and the SA for the Local Plan Proposed Submission (November 2017) references growth in accordance with local housing need with adjustment for housing needs being met elsewhere in the HMA (p.23).

fact that a higher level of growth (582 dpa) had already been assessed in CD11C (Preliminary Draft) as the best option to pursue with no stated negative effects on environment and undeveloped land.

- 1.13 Furthermore, the rejection of higher housing growth (Option 3), on the basis of environmental impacts is unfounded. First of all, the SA concludes that it would “*generally have a negative effect*” which is not sufficient to show that it would “*significantly and demonstratively*” outweigh the benefits. All options assessed score (?) or (~) on all environmental objectives 2.1 to 2.3. The Non-Technical Summary of the SA (CD11B) even states at paragraph 8.2.2 that policy LP2 is expected to have a positive impact on the environment objective 2.3, but this is not reflected in the scoring, not even for the adopted Option 1.
- 1.14 Furthermore, the adopted East Cambridgeshire Local Plan plans to deliver 11,500 dwellings from 2011 to 2031 (Policy GROWTH 1) or 575 dpa. To date, the Council has only delivered 1,424 dwellings to the 31st March 2017⁵ (238 dpa). Therefore from 2017 to 2031, according to the adopted East Cambridgeshire Local Plan and the SA underpinning its adopted strategy, 10,076 dwellings (or 720dpa) can feasibly be delivered without significant and demonstrable harm to 2031. The Local Plan Review however states at CD11A that no more than 10,835 dwellings can be delivered without incurring negative effects on the environment and undeveloped land by 2036. This amounts to only 525 units *more* than over the period 2011 to 2031 in the adopted East Cambridgeshire Local Plan. Therefore, through CD11A, the Council appears to be suggesting that the environmental capacity for the delivery of housing from 2031 to 2036 is only 105 dpa, and that beyond this quantum is the ‘tipping point’. It does not present any evidence to support this conclusion that the adverse effects would outweigh the benefits, let alone do so to the extent that it “*significantly and demonstrably*” does so.

Table 1 Comparison of Housing Requirements on the adopted East Cambridgeshire Local Plan and the proposed East Cambridgeshire Local Plan Review

		Adopted Local Plan	Proposed Local Plan Review
Housing Requirement		11,500 (575 dpa) 2011 - 2031	10,835 (542 dpa) 2016-2036
Completions	2011/12-2015/16	1,190	~
	2016/17	234	234
Residual Housing Requirement		10,076 (720 dpa) (2017 – 2031)	10,601 (558 dpa) (2017 – 2036)
Dwellings in excess of adopted Local Plan from 2031 to 2036			+525 (105 dpa) (2031 – 2036)

Source: Adopted and proposed Local Plans, SA's and Lichfields analysis

2. Are there ‘footnote 9’ constraints that indicate development should be restricted?

- 1.15 Turning to the second part of the second bullet, the Council does not appear to have indicated that meeting OAN is not possible due to the presence of NPPF ‘footnote 9’ constraints. Indeed, in high-level terms the local authority area of 65,172ha, only 5,878ha is within an NPPF footnote 9 designation of which 1,906ha is Green Belt. Combined with the existing urban area this totals 8,575ha, or just over 13% of the local authority area⁶.

⁵ Completions 2011/12 369, 2012/13 287, 2013/14 191, 2014/15 162, 2015/16 181 and 2016/17 234

⁶ Sources: Experian, Natural England, Historic England and Lichfields analysis

1.16 Whilst there is no evidence that the requirements of para 14 of the Framework would stop the Council being able to meet OAN, no confidence can in any event be given to the Council's OAN as set out in PE6 for reasons given in response to Q27 and the accompanying Technical Note to Matter 3. On the basis that the SA is also flawed in concluding that no more than 542dpa can be delivered to 2036 without invoking negative consequences for the environment and undeveloped land, there is no reason why the Council could not deliver a higher level of OAN should that be the position concluded upon, and which Lichfields considers – through its Technical Annex – to be the case.

32. What is the justification to discount the OAN figure by 1,125 dwellings and to rely on Peterborough to contribute to the delivery of East Cambridgeshire's needs? What evidence is there that Peterborough has previously delivered the housing needs of East Cambridgeshire, and will continue to do so, and when?

1.17 The *principle* of housing needs within Cambridgeshire County being met within Peterborough is not contentious if there is evidence of HMA linkages and the housing needs of the HMA are met as a whole in a manner consistent with sustainable development. However, in practice, the 25% discount made to the 1,500 units of East Cambridgeshire's unmet housing need in Peterborough from 2011-2031 is wholly unjustified because, since 2011, none of East Cambridgeshire's unmet housing needs have been met in Peterborough, or elsewhere in the HMA, suggesting the redistribution attempt made previously has not been effective. Both East Cambridgeshire and Peterborough appear to be trying to 'wipe the slate clean' by re-basing their Local Plans to 2016, using the standard methodology as 'cover' to set a housing requirement from 2016 and not make provision for any of their unmet housing needs from 2011 to 2016.

1.18 It is not disputed that 2,500 units within the Peterborough Core Strategy housing requirement are earmarked as unmet housing needs of Fenland and East Cambridgeshire. To meet its own share of the HMA's needs, Peterborough's housing requirement would be just 1,350 dpa. However, this has not been achieved once in the past five years (since 2011). Peterborough has not met its own housing needs let alone any unmet needs for East Cambridgeshire.

Table 2 Adopted housing requirement versus housing completions in Peterborough 2011/12 to 2015/16

Peterborough Requirement (CS)	2009-26	2009/10	2010/11	2011/12	2012/13	2013/14	2014/15	2015/16	2011-16 Totals
Core Strategy total need	25,450	1,497	1,497	1,497	1,497	1,497	1,497	1,497	7,485
Excluding 2,500 unmet need	22,950	1,350	1,350	1,350	1,350	1,350	1,350	1,350	6,750
Net Completions	~	1,111	705	740	772	863	1,342	920	4,637
Under delivery	~	~	~	-610	-578	-487	-8	-430	-2,113

Source: Adopted Peterborough Core Strategy and the Peterborough Monitoring Report (2017)

1.19 Even if it were argued that the Core Strategy figure is not representative of OAN for Peterborough, the Peterborough Sub-Regional SHMA (March 2017) advances an OAN for

Peterborough of 981 dpa 2011-2036. Over the 2011-2016 period Peterborough has not met its own housing needs.⁷

Table 3 OAN versus completions in Peterborough 2011/12 to 2015/16

Peterborough OAN	2011/12	2012/13	2013/14	2014/15	2015/16	Totals
SHMA (2017) (2011-2036)	981	981	981	981	981	4,905
Net Housing Completions	740	772	863	1,342	920	4,637
Delivery Against SHMA (2017)	-241	-209	-118	361	-61	-268

Source: Peterborough Sub-Regional SHMA (March 2017) and the Peterborough Monitoring Report (2017)

- 1.20 There is no evidence to suggest that 25% of East Cambridgeshire’s unmet housing need from 2011-2031 have been met in Peterborough by 2016. Furthermore, the other authorities in Cambridgeshire County have similarly failed to meet their own needs (to the tune of 5,055 dwellings up to the 2016 base date of the proposed draft Local Plan), let alone any unmet needs from other LPAs.

Table 4 Housing Needs as identified in the 2013 MOU (2011 to 2031) vs Net Housing Completions

LPA	2011/12	2012/13	2013/14	2014/15	2015/16	Total unmet Need
Peterborough (OAN)	-241	-209	-118	361	-61	-268
Peterborough (CS)	-757	-725	-634	-155	-577	-2,848
Cambridge	-348	-228	625	13	192	254
East Cambridgeshire	-206	-288	-384	-413	-394	-1,685
Fenland	-340	-230	-219	5	-260	-1,044
Huntingdonshire	-3	-438	-164	-336	-316	-1,257
South Cambridgeshire	-256	-394	-319	-83	-271	-1,323
Cambridgeshire	-1,153	-1,578	-461	-814	-1,049	-5,055
Forest Heath	-18	13	-104	-168	-162	-439
St Edmundsbury	-416	-417	-312	-136	?	-1,281

Source: Various Annual Monitoring Reports and Cambridgeshire and Peterborough Memorandum of Cooperation Supporting the Spatial Approach 2011 to 2031

- 1.21 The November 2017 Joint Statement is clear that Peterborough is seeking to apply this discount to its unmet needs contribution within its Local Plan too⁸. Since 2011 Peterborough has failed to meet any of East Cambridgeshire’s unmet housing needs even with an adopted plan in place. There can be no confidence that Peterborough will do so looking further ahead. There is an absence of evidence to justify the perpetuation of this approach or show that it will be effective.

⁷ The East Cambridgeshire Local Plan Inspector was satisfied that the ‘What Homes Where’ figure suggested an indicative need of 882 households per year for Peterborough (2011-2031), but this is simply a household projections figure and does not fulfil the requirements of an OAN calculation as required by the PPG. The 2017 SHMA provides OAN evidence which supersedes this simple need proxy.

⁸ See Table 2 Overall Requirement for Residential Growth of the Peterborough Local Plan (Proposed Submission) January 2018

- 1.22 As a minimum, Peterborough or East Cambridgeshire should be addressing the 375 units of East Cambridgeshire’s unmet need from 2011 to 2016 which has not been met anywhere in the housing market area (HMA).

33. The soundness of individual site allocations will be considered at Stage 2 of the Examination, and I will not be considering individual site allocations in any detail at this stage. However, is the assumption that 1060 dwellings will be delivered over the plan period as a result of windfall developments and unallocated Community Land Trust sites realistic and justified by evidence?

- 1.23 The NPPF paragraph 48 permits local authorities to make an allowance for windfalls provided there is evidence such sites have consistently become available. The estimate of 50 windfalls pa appears reasonable and is based on long term trends. However, to ensure no double counting of small site permissions and windfalls, a more appropriate approach could be applied whereby windfalls allowance does not apply for the next three years, rather than two, to allow those small site permissions sufficient time to build out. This would reduce supply by 50 dwellings.

- 1.24 However, there is insufficient evidence to fulfil the NPPF requirements for including the Community Land Trust (CLT) sites in the housing trajectory. The East Cambridgeshire Five Year Land Supply Report (October 2017) (MO3) states that CLT sites will deliver 210 dwellings over the plan period. This is mirrored in the Proposed Submission Plan which assumes delivery of 210 units from 2022 – 2036 at an indicative rate of 15 pa. Paragraph 8.3 of MO3 however states that “*the names of specific sites have not been included to protect commercial interests*”, as such the location, size and number of CLT sites is unknown. This does not accord with the NPPF which at paragraph 47 requires LPAs to “*identify a supply of specific, developable sites or broad locations for growth, for years 6-10 and, where possible, for years 11-15*”. The CLT sites are not specific, they do not fulfil the definition of being developable (see para 1.20 below) and cannot be considered a broad location, because no location details are in the public domain.

- 1.25 A developable site as per the requirements of the NPPF footnote 12 must be “*in a suitable location for housing development and there should be a reasonable prospect that the site is available and could be viably developed at the point envisaged*”. With no information on the sites there is no way of knowing if they are in a suitable location nor whether they are available, or could become available for development. These assessments are usually undertaken within a SHLAA exercise which appears to be missing in this instance. Further evidence from the Council would be required to justify inclusion of these sites in the housing trajectory to accord with national policy.

2.0 Employment:

34. Is the scale of the allocation of some 154 hectares of land for employment purposes justified, effective, and consistent with national policy? How does this proposed quantum of employment land relate to, and compare with the objectively assessed needs of the district?

- 2.1 N/A