



East Cambridgeshire
District Council

East Cambridgeshire Local Plan

Matter 11 – **Strengthening communities**

East Cambridgeshire District Council
Hearing Statement

September 2018

Matter 11: Strengthening communities

Relevant Policies- LP6

Issue 1: Whether the Local Plan has been positively prepared and whether it is justified, effective and consistent with national policy in relation to the approach towards the provision of housing and affordable housing.

42. Given the Council has used a standard housing method to set its housing requirement, and my initial findings set out in my letter of the 30th of July (ED031), should reference continue to be made to the housing needs of the Cambridge Sub- Region? How is the Council to ensure a justified and appropriate mix of housing is identified, and the delivery of a wide range of tenures and specialist housing, throughout the lifetime of the Plan?

This is best answered in two parts:

Should reference continue to be made to the housing needs of the Cambridge Sub- Region?

The Council responds to this question assuming the initial findings (ED031) become also the findings set out in the Inspector's Report.

Clearly, a number of modifications are necessary to various sections of the Local Plan where reference to the transfer of homes between HMAs is referenced, primarily throughout section 3.3. Suggested modifications will be made accordingly, prior to the hearing sessions commencing.

However, as far as Policy LP6 (and supporting text) is concerned, then the answer is very much 'yes' it should continue to be referenced. The purpose of a SHMA and other evidence at a Cambridge HMA level is far more extensive than just determining the OAN for a district. It covers matters such as tenures, size of homes, affordability, etc. The use of the 'standard method' and the removal of the MoC (as confirmed in ED031) has no effect on the continued use of other HMA level evidence, either present or future evidence.

Policy LP6 is therefore appropriately worded. Indeed, removing such reference would lead to an evidence and policy vacuum: developers and decision makers would have nowhere to turn to for evidence as to what type of home (size, types, tenures, etc) are needed. As a consequence, homes would be built based on no idea whether they were meeting identified wider need.

Ensuring a mix of housing

This will be achieved through two primary means.

First, the applicant and then the decision maker (normally the Council) will respond to policy LP6, which includes reference to providing a mix of housing. The decision maker will then determine whether, based on the evidence, LP6 is being adequately met. A scheme of 100 five-bed homes, of single tenure (private), is unlikely ever to convince the decision maker that LP6 is being complied with, because the evidence does not point to such a sole need for such development.

Second, through monitoring. This will be through the usual monitoring of the performance of the Local Plan, but also through continued joint working and SHMA (or equivalent) evidence periodically updated with our HMA partners.

Affordable housing

43. What are the trends in the delivery of affordable housing and has it been delivered?

The past 10 years data is set out in appendix 1. This shows a 2010/11 had the highest gross AH total, as well as % of all homes (121 / 30.7%), whilst 2016/17 was the lowest for both gross and as a % (11 / 4.5%).

There is a reasonably consistent trend that, in years with higher overall housing delivery, both the gross and the % affordable housing is higher. This makes sense, because in years of low overall housing, such housing tends to comprise of lots of small scale developments only, which normally provide nil affordable housing.

In terms of meeting policy requirements, both the Core Strategy (2009) and the Local Plan (2015) had a requirement for either 30% or 40% affordable housing on qualifying sites. Clearly, such targets have not, when taken as a whole, been met. On purely trend grounds alone, the submitted Local Plan (20/30%) therefore appears to be more consistent with past trends, particularly in years of higher housing delivery overall.

44. What is the evidence in relation to the viability of delivering affordable housing as part of market housing? Is the differentiation between the 30% affordable housing for all of the district, other than Soham and Littleport at 20%, justified by viability assessments? Is the wording of this element of the policy effective?

The Council commissioned a viability assessment of the Local Plan, the findings of which are presented in the Viability Assessment Report (PE16).

The Council has an adopted CIL charging schedule, which applies levy charges at different rates across three different 'zones', responding to differences in development viability (Zone A – Littleport and Soham, Zone B – Ely, Zone C – Rest of District). In addition, the Council's current adopted Local Plan 2015 affordable housing policy (HOU3) applies the affordable housing requirement at a different rate in the north and south of the district. It is therefore not without precedent to apply policy requirements at different rates / levels depending on geographic location within the district.

The viability assessment tested a range of development typologies within each CIL Zone, and applied sensitivity testing to assess the viability impacts of various affordable housing rates. Such impacts are discussed in detail within the Viability Assessment Report.

The Viability Assessment Report recommends an affordable housing rate of 30% for sites located within CIL Zones B and C (for sites above the affordable housing threshold). For CIL Zone A, Littleport and Soham, the Viability Assessment Report recommends a lower affordable housing requirement, reflecting lower assumptions of development values in this zone.

Based on the information presented in the Viability Assessment Report, the Council considers the affordable housing requirement for each zone to be realistic and achievable. The Viability Assessment Report has directly informed, and provides justification for, the affordable housing rates set out in policy LP6. The Council considers the policy wording to be clear and effective in setting out the requirements for affordable housing (however, please also refer to response to question 47).

45. Is the approach to the mix of tenures justified, should reference be made to building for rent?

No, reference should not be made, and certainly not requiring a specific quantity of development being 'build to rent'.

The danger with making specific reference to one specific form of housing (especially as a fixed requirement) is that it offers no flexibility for developers, no flexibility to meet the needs at the point of decision making, and no flexibility to accommodate the latest government initiative (which, on recent evidence, has persistently sought different forms of housing, sometimes of a form previously unheard of and short lived (eg Starter Homes)).

Overall, the approach of the policy is justified, consistent with national policy, offers appropriate flexibility and enables the latest evidence of need/national policy to be considered, at the point a decision is made.

46. Is the approach sufficiently flexible, particularly in terms of the effect on viability and the potential for off-site contributions?

Yes. The policy refers to ‘negotiating’ an affordable housing requirement, and also refers to viability of individual development schemes.

The policy also allows off-site contributions in exceptional cases (consistent with NPPF para 50).

Overall, the policy is both sufficiently clear as to what is expected, but sufficiently flexible to deal with site specific circumstances. As such, it strikes the right balance.

The Council has a ‘Developer Contributions SPD (2013) which sets out a little more detail on how negotiations will take place, and that SPD is intended to be updated very shortly post adoption of the Local Plan (to reflect the contents of the Local Plan, once adopted).

47. Is the affordable housing element justified and consistent with national policy?

On the basis that the Local Plan has to conform with the ‘old’ NPPF 2012, the most relevant paragraphs are these:

Para 47

“use their evidence base to ensure that their Local Plan meets the full, objectively assessed needs for market and affordable housing in the housing market area, ...”

Para 50 (third bullet)

“where they have identified that affordable housing is needed, set policies for meeting this need on site, unless off-site provision or a financial contribution of broadly equivalent value can be robustly justified (for example to improve or make more effective use of the existing housing stock) and the agreed approach contributes to the objective of creating mixed and balanced communities. Such policies should be sufficiently flexible to take account of changing market conditions over time.”

In a nutshell, a local planning authority should identify its need, then set policies.

The ‘need’ is identified in PE06, where at para 144 it concludes:

“The total need for affordable housing is 2,854 houses for 2014-2036, which represents 22-25% of the overall housing figure”

Obviously this is a snapshot in time, and such a need can go up or down on a yearly basis, but it represents a fair judgement of the likely scale of need (130pa).

Depending on the final overall dwelling requirement of the plan (542 dpa on average as submitted, potentially increased to around 600 dpa based on the Interim Findings), the need remains around 22-25% of all dwellings as indicated in PE06.

This level of need is neatly consistent with the LP6 'ask' of 20-30% (accepting of course that all minor development is likely to deliver 0% affordable housing, meaning the average across all sites, including minor, should average around 22-25% with such a policy ask).

It is also neatly consistent with past delivery identified in Appendix 1, which, if totalled up, demonstrates 19.2% affordable housing.

And, of course, the 20-30% ask is based on our viability evidence.

The % ask, therefore, appears entirely justified by the evidence, and consistent with national policy.

The one area of doubt the Council has is the thresholds for when the affordable housing requirement should commence.

The submitted Local Plan reflects the ministerial statement (Nov 2014), later translated into NPPG. At the time of writing, that NPPG paragraph is retained (Paragraph: 031 Reference ID: 23b-031-20161116), though government has indicated that widespread changes to the NPPG to reflect the new NPPF are imminent.

So, the submitted plan is based not on the 'old' (2012) NPPF, but the imminently 'old' NPPG. The new NPPF differs, in that it simply refers to 'major' development, which is subtly different, as it starts at 10 or more (not 11 or more), and there is no reference to the 1,000sq m threshold.

In practice, the Council has (as have applicants) found applying the 1,000 sq m threshold a very tortuous and complex matter, and would have no objection to its removal. And, on the basis that the 'old' NPPF makes no reference to 11 or more or the 1,000 sq m threshold, then it probably makes most sense, and avoids most confusion in the future, if the plan is amended so as to simply refer to a threshold of 'major'. The plan will be far more 'effective' if simplified to just refer to 'major'. Arguably, the submitted plan is unsound, because it is not effective, because it can lead to confusing and complicated negotiations. It is arguably not in accordance with national policy (either old, and certainly not new)

This is set out below, and as a suggested modification:

Affordable housing

Major Development proposals of 11 or more dwellings (or fewer dwellings if the combined gross floorspace totals 1,000 sq. m or more, with such floorspace including any attached/integrated garages, but excluding any detached garages) should, through negotiation, provide 30% affordable housing except in Soham and Littleport where it is set at 20%. The Council will negotiate with developers to secure such affordable housing, taking into account the financial viability of individual schemes (using a recognised viability model). Affordable housing should be provided onsite, unless exceptional circumstances can be demonstrated for provision of homes and/or land to be provided off site or through a commuted sum.

For outline proposals of between 5-10 dwellings, the applicant should state whether the total floorspace will exceed a combined gross 1,000 sqm. If it will, affordable housing will be sought. If the applicant does not state the total floorspace or states that it will not exceed 1,000 sqm, then any approved outline scheme will be conditioned so as to restrict the total floorspace to a maximum of 1,000 sqm.

If the number of units in a development scheme that comes forward is below **Major Development** ~~the 11 dwellings/1,000 sq.m threshold set above~~ (and thus does not require the provision of affordable housing), but the scheme is followed by an obviously linked subsequent development scheme either:

- a. at any point where the original permission remains extant; or
- b. up to 5 years following completion of the first scheme,

then, if the combined total of dwellings provided by the first scheme and the subsequent scheme/s provide **the equivalent of Major Development** ~~equal to or more dwellings (or floorspace) than the thresholds set above~~, then Policy LP6 as a whole will be applied, with the precise level of affordable housing to be provided being 'back dated' to include the earlier scheme(s).

The above same principles apply if a minor development scheme is applied for, if such a scheme is obviously linked to a previous major development scheme

Dwellings with Higher Access standards

48. What is the justification to require all housing within the district to be built to Building Regulations Part M (Vol 1) Category 2? Is there a quantified need and how does this requirement impact on the viability of housing and its deliverability? Is the policy effective and consistent with national policy?

Document PS.EVR6 contains full justification for the higher access standards (esp from para 2.13 onwards). Para 2.23 gives some more locally specific, quantified justification.

In terms of viability, PE16 notes:

“3.4.6 The results indicate that for Part M4(2) there is a relatively minor impact on viability and we are of the opinion that the sensitivity of the results to the change in costs is not one that can be easily differentiated. On that basis it is unlikely that this requirement would lead to a previously viable scheme becoming unviable.”

It should also be noted that by applying (barring exception design reasons) a 100% requirement for M4(2) means that developers are not burdened by having to produce two dwelling types. That scenario would occur if, say, only a proportion of new dwellings were required to meet M4(2).

Overall, based on relatively low cost, the ease of implementation, the unlikely effect on viability and the clear national and local need for greater accessible and adaptable homes, then it is entirely justified to require all homes to meet M4(2).

Nevertheless, so the reader of the Local Plan is absolutely clear as to what we are referring to, it would be useful to add in the policy (and supporting para 4.3.6) that short hand for Category 2 is 'M4(2)' and similarly for Category 3 it is 'M4(3)'. A suggested modification will be made to this effect, for clarity and effectiveness.

Self- Build Homes

49. What is the justification for the 100 dwelling plus threshold set for self- build housing? Is such an approach justified, effective and consistent with national policy? What are the practical implications? Is the wording of the policy effective?

Document PS.EVR6 contains full justification for the self-build ask, such as:

- Para 1.9 (reference to the Act)
- Para 3.8 (local evidence of self build)
- Para 4.4 (implementation of the policy)

Further evidence on local self build interest is found in our AMR (from para 2.15) (MO2B).

Of considerable weight in determining whether the 5% / 100 unit thresholds are sound is the fact that the adopted Local Plan contains exactly the same thresholds and has been found to work very successfully and with little concern by applicants. A number of 100+ sites (and some less than 100) have been granted permission with approximately 5% of plots set aside for self-build, and in most instances these plots have been offered at the point of application (not through planning application negotiation).

In viability terms, the Viability Assessment Report (PE16) considers that the provision of plots for self-build or custom plots 'has the potential to be a sufficiently profitable activity', and is therefore 'at least neutral in viability terms'. It is reasonable to conclude that the policy requirement will have no significant adverse impact on viability.

Both PS.EVR6 and the SA appraises alternative options, and, taking the evidence in to account, the Council firmly believes the continuation of 5%/100 unit thresholds is sound and proven to be deliverable.

Homes for older people

50. Is the wording of this element of Policy LP6 effective, clear and consistent with national policy? How does the occupancy of a development influence the visual impact of a proposal? How can a more positive approach be set out?

Document PS.EVR6 contains full justification for the section relating to homes for the elderly.

It is not clear what the second part of the question is referring to.

It is also not clear how a more positive approach could be set out.

Residential care accommodation

51. Is the wording of this element of Policy LP6 effective, clear and consistent with national policy? How will the contribution of such communal accommodation to the housing supply be calculated?

Yes, it is considered to be clear and consistent with national policy.

Such communal accommodation will not (and has previous not) counted towards the dwelling requirement or future housing supply.

However, moving forward, the Council is hoping to add an additional reporting line its AMR, so the annual quantity of bedrooms provided by such communal accommodation can be reported (but, for the avoidance of doubt, will still not be used as part of annual dwelling completions).

Hybrid schemes for older people

52. How would such schemes be determined under the policies of the Local Plan?

Any hybrid type application will be determined on their merits. It is not apparent that the policies of the plan are in any way unsound to prevent this, or are lacking to enable this to happen.

Homes for Permanent Caravan Dwellers/ Park homes

53. Is the wording of the policy effective? Does it mean that the caravan dweller must not travel, or that the caravan never moves? Would it be appropriate for this policy to be expanded to provide sites which would be suitable for the needs of former gypsies and travellers who no longer meet the definition of gypsy and traveller set out in the Planning Policy for Traveller Sites?

The wording relates to the caravan, not the occupier. i.e. that the caravan is unlikely to be moved, to the degree that it is sufficiently 'permanent' as to be registered for council tax.

No, it would not be appropriate to expand this policy to refer to Gypsy and Travellers that do not travel. Government has made it very clear, for the purpose of planning, that non-travelling Gypsy and Travellers should be treated in terms of 'need' as part of the wider housing need.

Nor would it be appropriate to expand the policy to provide sites to meet this one ethnic group. There is no basis in government policy to do this.

Indeed, a Local Plan which attempted to allocate land for one particular group of people would open up the question as to why other ethnic or socio-economic groups (particularly disadvantaged groups) should also not have land allocated, solely for their benefit.

To answer the question in a more practical sense, should a Gypsy and Traveller (from an ethnicity perspective) put forward an application to meet their own need, and meet that need via a caravan style accommodation (citing cultural or any other reasons why a caravan is preferred), then the steps to be taken by the decision taker are thus:

1. Does the applicant meet the planning definition of a Gypsy and Traveller? (i.e. does the applicant still travel?).
2. If yes, then Policy LP7 applies; Or, if the applicant does not want to use the provisions of LP7, then the wider policies of the plan would apply, including LP6.
3. If no, then Policy LP7 does not apply. Instead, Policy LP6 would apply, particular the sub paragraph on Homes for Permanent Caravan Dwellers / Park Homes. That sub-paragraph grants access to a large number of available sites for those whom desire to reside in a caravan, because it confirms (a) an allocated site for housing is, in principle, a site suitable for caravans (in whole or part); and (b) an unallocated small site with planning permission (eg for a single dwelling) is, in principle, a site suitable for a caravan.

Alternatively, the applicant might not apply for permission at all, and simply buy/rent a caravan from the open market, including the relatively large supply of such caravans available across the district, and new supply coming forward from recent 'park home' consents. This is what the vast majority of the whole population does, irrespective of any cultural or socio-economic background. We must also remember, it would be unlawful for an owner of a 'park home' style development to refuse to sell or rent a plot/caravan purely on the basis of the ethnic status of the purchaser.

Provision of sites on which caravans can be stationed

54. Following my initial findings, how is the Council going to ensure that it adequately makes provision for the needs of people residing in, or resorting to the district, with respect to the provision of sites for caravans? What is the scale of need for people not meeting the definition in the PPTS, yet who would require the provision of sites? How will this need be addressed to enable a five year supply of deliverable sites, and to identify broad locations which may be appropriate?

PE09 provides the evidence base, especially from page 82 and from page 116.

This identifies a 'need' for 10 pitches for those who do not meet the definition, plus a further 40 pitches who are of 'unknown' status (i.e. don't know whether the definition is met or not), but the assumption is that the vast majority do not meet the definition. Assuming none meet the definition, this results in a maximum of 50 pitches needed, across the plan period, for non-travelling Gypsy and Travellers.

To put this maximum of 50 into perspective, it is less than 0.5% of all housing need.

Meeting this need is via our response to Q53, which, in quantified terms, gives access, in principle, to 1,000s of plots available, including some specifically for caravan living.

Overall, the quantified level of need is relatively low and the response to that need, as set out in the plan, is proportionate, proactive and sensible, giving ample opportunity for those whom desire caravan style accommodation to have their desires and needs to be met.

Clearly, this matter can also be monitored carefully, and a future review of the plan will benefit from not only updated evidence on Gypsy and Traveller needs, but, hopefully, a Housing Act compliant more broader assessment of caravan dwellers needs. It is not proportionate now to delay the adoption of the Local Plan in order to undertake such a wider assessment of need, primarily because Government is yet to clarify what such a need assessment should entail (and therefore any assessment would be somewhat premature), the Act makes no time provision for when an Assessment should be done, and, ultimately, the Local Plan has, as explained in this Statement, considerable provision and flexibility in any event for those who desire caravan style accommodation.

The last part of the question is presumably making reference to the national policy "Planning policy for traveller sites" (Aug 2015), particularly paragraph 9 and 10. That policy makes it clear that such paragraphs only apply to those Gypsy and Travellers that meet the new definition. Accordingly, the paragraphs do not apply to those that do not meet the definition. There is, therefore, no national policy requiring a specific five year supply of deliverable sites to meet non-travelling Gypsy and Travellers (other than, of course, national policy requiring a local authority to have a five year supply of deliverable sites for all forms of housing, within which, non-travelling Gypsy and Travellers form a very small element of).

Accordingly, the Council has not, and need not, demonstrate a separate five year supply of deliverable sites, or broad locations for any longer term need, for non-travelling Gypsy and Travellers (or any form of caravan dwellers, for that matter).

Appendix 1: Year / Gross Dwellings / Gross Affordable Housing / AH as a %

2008-09	2009-10	2010-11	2011-12	2012-13	2013-14	2014-15	2015-16	2016-17	2017-18	
494	251	394	394	307	208	181	203	246	300	
120	38	121	82	14	24	19	54	11	88	
24.3%	15.1%	30.7%	20.8%	4.6%	11.5%	10.5%	26.6%	4.5%	29.3%	

