

**EAST CAMBRIDGESHIRE DISTRICT LOCAL  
PLAN EXAMINATION IN PUBLIC**

**INSPECTOR'S MATTERS, ISSUES AND  
QUESTIONS – STAGE ONE**

---

**HEARING STATEMENT**

**ON BEHALF OF PALACE GREEN HOMES AND  
THE OWNERS OF LAND TO THE WEST OF  
STATION ROAD, KENNETT**

---

**MAYER • BROWN**

## **Matter 1: Legal Compliance, including Duty to Co-operate**

***Issue 1, Q5. Has the plan been subject to Sustainability Appraisal (SA), including a report on the published plan, which demonstrates, in a transparent manner, how the SA has influenced the evolution of the plan making process? For example, how have the identified impacts on the historic environment, at Kennett and Swaffham Prior affected the allocation of sites (KEN.M1 and SWP.H1)? Has access to community infrastructure, including to education provision, been appropriately assessed within the SA?***

1. Yes, the Sustainability Appraisal (SA) has informed the preparation of the Plan and an SA Report has been produced which sets this out transparently.
2. The SA process has been iterative, with a sustainability scoping report published (initially for consultation, and then again incorporating changes in December 2015), a draft SA published in January 2017 alongside the further draft plan, and a further SA published in November 2017 alongside the submission version of the plan. This SA process has informed the formulation and refinement of the plan through its various stages.
3. Impacts on the historic environment are expressly catered for in the issues to which the SA is addressed (Table 3, SA, SA Objective 3.1). This question has been applied to all policies, including site allocation policies, with each iteration of the SA. For instance, the January 2017 SA noted that there are historic assets on site 14/05 (the larger site area of the Kennett allocation that was then being considered) that would need to be mitigated. As noted in Document CD04, the buffer zone around the historic monument was, accordingly, increased in the November 2017 version of the Kennett allocation policy (KEN.M1) following consultation on the January 2017 version.
4. The SA has informed the preparation of the Plan in other important ways. As an illustration, we refer to the application of the sustainability criteria set out in Table 3 of the SA to the various alternative site allocations. Having applied these criteria, the January 2017 SA gave preference to site 14/05 (which became allocation KEN.M1) as against sites 14/03 and 14/04 (all in Kennett). This was because neither of the latter sites were mixed use sites with employment benefits, and neither had the potential to improve connectivity between Kennett village and the railway station.
5. A further evolution of the Kennett site allocation can also be traced to the SA. In the November 2017 iteration of the SA, it is noted that site 14/09 (or KEN.M1) scores the same as the former larger allocated site 14/05, but it was also observed that because 14/05 is larger "*mitigation [would be] more difficult to achieve*" with that site. Following this (and having regard to the need for mitigation), the site allocation was reduced in the November 2017 version of the emerging plan.
6. With respect to the impact of the Kennett site on the historic environment in a more direct sense, Palace Green Homes (PGH) intends to soon submit a planning application for a development that would align with the requirements of Kennett4. In this regard, PGH has held pre-application discussions with Historic England, which focussed upon the need to protect and enhance the setting of the Scheduled Monument, the relationship between the monument and the opportunity to seek enhancements to the monument through better interpretation.

7. Community infrastructure and education provision has also been addressed in the SA – see the decision-making criteria for SA Objective 7.2, in Table 3 of the SA, which relates to these matters. For instance, the Kennett allocation was assessed as having a potentially significant beneficial impact on criteria 7.2 (investment in people, places, communication and other infrastructure). The narrative of the SA also notes that Kennett4 requires provision of a primary school and open space, and has the potential to improve connectivity for Kennett village given its proximity to the railway station. This is reflected in policy Kennet4.

***Q6. What is the relationship between the SA and the Site Assessment Evidence Report? Is the evidence which underpins the Site Assessment Evidence Report complete, with particular reference to potential flood risk matters and the Water Cycle Study? How has this informed the allocations of sites?***

8. The Sustainability Appraisal was prepared in tandem with the production of the Plan (see page 3-4 of CD11B). The SA appraises all policies and any reasonable alternatives (including site allocations) against the SA framework (see SA Scoping Report 2015 for detail on this framework and associated evidence base).
9. The SA framework provides the means by which the sustainability effects of the Plan can be measured, compared and analysed. It identifies 22 objectives, along with associated decision-making criteria (see page 10 of CD11B). The framework assesses the Plan as a whole, therefore any sites that have been put forward for consideration for allocation have been assessed against the sustainability criteria (i.e. 22 objectives) in the SA.
10. The primary purpose of the SAER, by contrast, is to outline the assessment of sites being considered for allocation, and present the reasons for each site's selection or rejection from the Plan process.
11. In terms of specific differences, the SAER's considerations are wider than those considered in the SA – for instance the SAER expressly considers compliance with national and local policy, site availability, and spatial distribution of development for the relevant area, whereas these issues are not part of the criteria considered in the SA. In other instances, the SA and the SAER consider the same subject matter but approach it from different angles – for instance the SA considers whether a policy will improve opportunities for people to access and appreciate wildlife, whereas the SAER considers the potential impact of a site allocation on wildlife sites. There are also areas of overlap between the two documents, such as with respect to flood risk and access to services.
12. In terms of the Kennett allocation, we note that this site is the preferred site under both the SAER and the SA. On issues where the two documents overlap, the assessments are consistent – for instance on the question of proximity to public transport, Kennett4 gets an "A" rating in the SAER, and a "+" (or supportive of the objective) rating in the SA. The SAER also considers reasons for and against allocation that are not within the SA's scope, such the policy implications associated with stud land. For instance, site 14/03 was rejected in the SAER as allocating it for development would result in the loss of stud land, which we note would in any event be contrary to Policy LP10 and so not be permissible. This is not the case with site 14/09 (now chosen for the Kennett allocation).

13. The evidence which underpins the SAER, aside from desktop analysis and consultations, is primarily based on commissioned studies and assessments. In respect of the above question about evidence relating to flood risk matters, this was based on a Strategic Flood Risk Assessment. This assessment reviews each site's flood risk from various sources. Each site is given a percentage of the total site area located in each Flood Zone. Similarly, in terms of Surface Water Flood Risk, a percentage of the site area is given for each site for risk from a 30 year, 100 year and 1,000 year flood event.
14. We note that the Kennett allocation (14/09) scored well on the flood risk assessment undertaken – being all in Flood Zone 1, with two A ratings in terms of flood zone and surface water flood risk.

***Q8. Is it the Council's intention to seek to address the recommendations of the Habitat Regulations Assessment (HRA) Methodology and Screening document which was produced to accompany the Plan? If not, what are the implications of not responding to, and acting upon all the recommendations set out within the HRA?***

15. We note the correspondence between the Inspector and the Council on the impact of the People Over Wind case, and the approach the Council has taken to its habitats assessment. We concur with the conclusion that more work will be required.
16. The question posed in the People Over Wind Case was:  

*“Whether, or in what circumstances, mitigation measures can be considered when carrying out screening for appropriate assessment under Article 6(3) of the Habitats Directive”.*

17. The factual circumstances were different from those of the East Cambridgeshire Plan but the Court, in a very brief judgment, held at paragraph 40 that:  

*"In order to determine whether it is necessary to carry out, subsequently, an appropriate assessment of the implications, for a site concerned, of a plan or project, it is not appropriate, at the screening stage, to take account of the measures intended to avoid or reduce the harmful effects of the plan or project on that site."*

18. We request the opportunity to be heard at Stage One of the Examination on this point due to the significance of this case, the fact that it raises questions of law relevant to the Examination of the Plan and Matter 1 - Issue 1, and Matter 1 - Issue 1 specifically refers to the Kennett site allocation. We therefore submit that our participation at Stage One of the Examination is particularly relevant to the matters under discussion.<sup>1</sup>

***Q14. How has the Council engaged with all its neighbours and the County Council in considering and identifying matters of strategic importance in the preparation of the plan? What is the significance and practical implication of the Cambridgeshire and Peterborough Devolution Deal (PE33) in relation to matters of strategic significance to the submitted Plan, including housing and transport matters?***

---

<sup>1</sup> We refer to paragraphs 14 to 16 (inclusive) of the Guidance Note from the Inspector.

19. The Council has prepared a Statement of Compliance with the Duty to Cooperate (CD15). It refers to ‘matters of strategic importance’ and how it has addressed issues arising from the wider ‘strategic geography’ through joint working with its neighbours, under Section 4 Strategic Planning Issues (page 8-14). Each strategic issue is referred to, as that term is defined by the NPPF (paragraph 156).
20. Table 2 of CD15 also states which adjoining local authorities have been consulted, including evidence, agreements and actions arising from the joint working arrangement. See 4th column, Table 2 (page 8) for more details.
21. In terms of the relevance of the Devolution Deal, when preparing planning documents, planning authorities are required to have regard to: "the resources likely to be available for implementing the proposals in the document".
22. The Cambridgeshire and Peterborough Devolution Proposal (June 2016) set out the terms of the agreement between central Government, the seven local authorities covering Cambridgeshire and Peterborough, and the Greater Cambridge Greater Peterborough Local Enterprise Partnership (GCGP LEP), to devolve a range of funding, powers and responsibilities. These powers include a multi-year transport budget and control of a £100m housing and infrastructure fund.
23. The Combined Authority and the Government have agreed to a number of new initiatives, including: “to work with local areas’ ambitions for new housing settlements.<sup>2</sup>” This includes, inter alia, “a new Community Land Trust Scheme in East Cambridgeshire at Kennett (500 – 1,000 new homes)”. There are very few specific sites referred to in the Devolution Deal, so by making mention of Kennett, the parties have all clearly signalled their support for a strategic housing-led scheme in Kennett.
24. PGH is also in discussion with the Combined Authority about funding for Kennett as part of the East Cambs Strategic Community Land Trust Programme. The existence of the Programme is referred to in minutes of the Combined Authority's Board meeting of 28th March (see link), although Kennett is not specifically mentioned by name: <http://cambridgeshirepeterborough-ca.gov.uk/meetings/combined-authority-board-28-march-2018>.
25. The matters above raise legal questions as to the relevance of the Devolution Deal in the context of the duty to co-operate and this impacts on the Kennett site allocation. Again, we submit that our participation at Stage One of the Examination is particularly relevant to the matters under discussion.

---

<sup>2</sup> Cambridgeshire and Peterborough East Anglia Devolution Proposal (June 2016) - paragraph 22 (d)

## **Matter 2: Vision and Objectives and Development Strategy**

***Issue 2, Q18. Nearly half of the housing requirement set out within the submitted Local Plan is proposed to be delivered on strategic sites at Ely, Kennett, Littleport and Soham. Is the strategy and distribution of development justified, effective, positively prepared and consistent with the particular circumstances of East Cambridgeshire District?***

26. The Growth Study (PE11) is a supplement to the SA, and it developed 'Alternative Growth Options' (AGOs) after taking into account key spatial issues. These AGOs were:
  - a. AGO 1: proportionate growth
  - b. AGO 2: corridor growth (growth in large and medium villages)
  - c. AGO 3: main settlement led growth
  - d. AGO 4: prioritise growth in and close to Ely
27. Each of the AGOs was assessed in terms of overall sustainability and deliverability. The overall conclusion of the study, was that, on sustainability grounds alone, option AGO3 Main Settlement Led Growth should be pursued in the emerging Plan. However, in order to meet national policy of boosting housing supply in the short term and meeting five-year land supply requirements, as well as to meet the expressed public view that distribution should be fair and equal, the application of only AGO3 should be avoided, and AGO3 should instead be blended with AGO1: Proportionate Growth, creating a distribution which is broadly main settlement led (and, hence, the most sustainable), but which also has sympathy towards a broadly proportionate distribution of growth.
28. We note that that the 2015 Plan suffered from under-delivery in respect of its housing objectives. It was not responsive to housing needs or flexible. We believe that the emerging Plan will better meet the Council's vision and objectives..

***Q19. Will the development strategy achieve the Council's vision and strategic objectives and deliver sustainable development for East Cambridgeshire? Does Policy LP3 clearly set out the distribution of development and is the settlement hierarchy justified? Does the evidence suggest that some settlements should be placed at different levels within the hierarchy? If so, what implications would this have, if any, on the development strategy?***

### **Vision / strategic objectives and sustainable development**

29. Yes, the development strategy achieves the Council's vision and strategic objectives and delivers sustainable development for East Cambridgeshire.
30. The Council's objectives and vision are set out in section 2 of the emerging Plan and include the provision of new homes, creating employment opportunities, and creating infrastructure / community facilities / services, as well addressing transport deficiencies.

31. New homes: The emerging plan provides for 10,835 new homes, between 2016-2036 (or 542 pa). This is a substantial increase in homes in the district, and represents around a one third increase in total housing stock.
32. Employment: The job growth target for the Plan is based on 2016 forecasts by the East of England Forecast Model (EEFM). The emerging Plan provides for around 150ha of land use for employment.
33. Infrastructure / community facilities / services: The emerging Plan acknowledges the need to preserve existing facilities and that there is likely to be a need for new community facilities over the Plan period as the population grows.
34. Transport: The emerging Plan provides for a number of improvements to transport, including the Ely Station Gateway, better cycling and pedestrian facilities and links, and segregated cycle routes.
35. Specifically with respect to the Kennett4 site allocation, this will assist with achieving the Council's objectives (particularly with respect to new homes, employment, infrastructure and community facilities), and to deliver sustainable development, because the site is:
  - a. near a railway station (one of only four in the District), with the prospect of improved services from December 2019;
  - b. in an area of high housing demand in the south of the District close to Newmarket and reasonably close to Cambridge (which can both be reached by train from Kennett);
  - c. well-connected to the road network and only 3km from the A11 / A14 interchange;
  - d. close to a range of facilities, including a village hall, pavilion and playing fields, several businesses, public house and parish church;
  - e. proposing a 'community-led' mixed-use development of a scale that is able to provide a range of substantial community benefits and planning gains that make it acceptable to the Kennett Community Land Trust; and
  - f. has very few natural, physical or technical constraints to development of the scale proposed, nor is the site constrained by planning policy (e.g. it is not stud land).

### **Settlement hierarchy**

36. Yes Policy LP3 clearly sets out the distribution of development, as detailed further at paragraph 3.8.9 of the emerging Plan.
37. A key document underlying the Council's approach is PE10. It explains the various accepted methods of determining a settlement hierarchy – based on population or facilities, or a combination of the two. The overall conclusion of the report was that a

settlement hierarchy based on a 'combined' approach would generate the most robust hierarchy.

38. The settlement hierarchy is justified because it will help to overcome issues with the previous approach:
  - a. some large villages with a good range of facilities received very little or even nil growth, whilst some small villages with limited services and facilities did receive growth,
  - b. around 85% of growth was directed to the four largest settlements; and
  - c. high proportion growth was directed to relatively large sites, which are slow to develop, limiting the Council's ability to demonstrate it has a five year land supply of deliverable homes in the early part of the plan period.
39. A settlement hierarchy, which assists in distributing some growth, on smaller sites, to a wider range of settlements, will help overcome these issues.

**Mayer Brown International LLP**

**23 May 2018**