

EXAMINATION OF THE EAST CAMBRIDGESHIRE LOCAL PLAN – SINGLE ISSUE REVIEW

Hearing Statement prepared by CODE Development Planners on behalf of
Bennett Homes

17 March 2023



1. Matter 2: Provision of housing (continued)

Housing requirement

Q1: The Council suggest that the housing requirement for the Plan set out in Policy GROWTH1 would be based on the minimum local housing need calculated using the standard method, to cover the period 2022 to 2031. Would the resulting housing requirement of 600 dwellings per annum derived from the minimum local housing need be sound?

- 1.1 No. Whilst East Cambridgeshire District Council (ECDC) is right to use the standard method to calculate the minimum local housing need for the Single-Issue Review (SIR), as advocated by the National Planning Policy Framework (NPPF) and the Planning Practice Guidance (PPG), to only apply the standard method over a nine year period is wholly inconsistent with the approach advocated by national planning policy and guidance.
- 1.2 Paragraph 61 is clear that *“To determine the minimum number of homes needed, **strategic policies should be informed by a local housing needs assessment, conducted using the standard method in national planning guidance...**”* [our emphasis] Paragraph 22 of the NPPF stipulates that strategic policies should look ahead over a minimum 15-year period from adoption.
- 1.3 The PPG¹ clarifies that the *“affordability adjustment is applied to take account of past under-delivery. The standard method identifies the minimum uplift that will be required and therefore it is not a requirement to specifically address under-delivery separately.”*
- 1.4 However, the PPG also further clarifies² that *“The method provides authorities with an annual number, based on a 10 year base line, which can be applied to the whole plan period. **The National Planning Policy Framework requires strategic policies to look ahead over a minimum 15 year period from adoption, although authorities are required to keep their policies under review.**”* [our emphasis]
- 1.5 It is therefore abundantly clear within national policy and guidance that for the standard method to achieve the affordability uplift in full and for a strategic policy to be effective (as required by paragraph 35 of the NPPF), it must be applied over a 15-year plan period, as a minimum. Setting aside, for a moment, the dire record of housing delivery over the period 2011-2022 and the real-world consequences associated with this chronic shortfall of market, and in particular, affordable housing, it is clear that the proposed use of the standard method for a nine-year period only would not deliver the full affordability uplift which might contribute towards rectifying the shortfall over the period 2011-2022.
- 1.6 If ECDC wants to ensure that a meaningful contribution at least is made towards rectifying the significant shortfall over the first 11 years of the plan period, policy GROWTH1 must either look ahead over the 15-year period stipulated both within national policy and guidance, thereby providing 9,000 homes over the full plan period (with additional allocations identified to meet this need), or the 15 year housing

¹ Paragraph 011, reference ID: 2a-011-20190220

² Paragraph 012, reference ID: 2a-012-20190220



requirement should be accommodated within the 9 year period advocated through the proposed review of policy GROWTH1 in the SIR. This would equate to 1,000 dwellings per annum. CODE notes that this would broadly be comparable with the total figure which would be applied if the shortfall over the period 2011-2022 were to be added to the local housing need figure over the period to 2031.

- 1.7 Without these amendments, policy GROWTH1 as submitted is not positively prepared (it would not seek to meet the area's objectively assessed needs), it is not justified (it would not be an appropriate strategy and the approach is not supported by the submitted evidence base), and it is not consistent with national planning policy (by failing to plan for a minimum 15-year period from adoption). The SIR and therefore the proposed amendments to policy GROWTH1, are not sound.
- 1.8 ECDC has already confirmed that it would not have a land supply if the shortfall over the period 2011-2022 were to be accounted for in full. In these circumstances, CODE therefore respectfully considers that the SIR should be not be found sound and withdrawn from examination, as is in the inspector's gift further to the lifting of the Secretary of State's direction regarding plans at examination, and ECDC should prepare a full local plan review, which appropriately considers not only the housing need to be delivered over that plan period, but also the associated employment, the strategic approach to accommodating new growth (including the consideration of new housing allocations) and the locational strategy for directing new growth across the district.
- 1.9 Finally, CODE notes that response of ECDC contained within its letter to the inspector of 7 September 2022 (EX.LA03(A)), regarding the rebasing of the plan period to 2022. Within its Topic Paper (dated February 2023), ECDC states, at paragraph 4.11 that *"In short, if the submitted Plan is modified in line with the Council's letter of 17 January 2023 (EX.LA09), there would be no material effect on the submitted SA (CD06) and HRA (CD07)."*
- 1.10 However, ECDC's response in Ex.LA03(A) contradicts this statement. In the response to the inspector's question 6, ECDC stated, *"Re-basing the start date of the Local Plan to, say 2022, when the LHN assessment figures are utilised would be incredibly confusing, and would require **widescale changes** elsewhere in the Plan in order for the plan as a whole to 'make sense' and read coherently. **There appears no benefit in bringing the start date of the Plan forward.** For example, it would not alter the forward looking housing requirement figure."* [our emphasis]
- Put another way, this option was not even considered as a reasonable alternative option, as the Council sees no benefit in doing so. Consequently, there is no evidence to demonstrate why this option was dismissed."*
- 1.11 The approach now advocated by ECDC has therefore not been subject to appraisal within the Sustainability Appraisal. Given the 'widescale changes' stated to be required to the local plan as a whole (not just the areas of the plan to be updated through the SIR), it is clear that potential significant environmental, economic and social impacts of rebasing the plan have not been considered in any detail at this stage of the examination.



1.12 Furthermore, there is no assessment of rebasing the plan against the other reasonable alternatives. The PPG³ states that, *“The sustainability appraisal needs to consider and compare all reasonable alternatives as the plan evolves, including the preferred approach, and assess these against the baseline environmental, economic and social characteristics of the area and the likely situation if the plan were not to be adopted. In doing so it is important to:*

- *outline the reasons the alternatives were selected, and identify, describe and evaluate their likely significant effects on environmental, economic and social factors using the evidence base (employing the same level of detail for each alternative option). Criteria for determining the likely significance of effects on the environment are set out in schedule 1 to the Environmental Assessment of Plans and Programmes Regulations 2004;*
- *as part of this, identify any likely significant adverse effects and measures envisaged to prevent, reduce and, as fully as possible, offset them;*
- *provide conclusions on the reasons the rejected options are not being taken forward and the reasons for selecting the preferred approach in light of the alternatives.”*

1.13 The inspector is unable to reach a conclusion on the potential significant effects arising out of rebasing the plan, as the evidence base and the Sustainability Appraisal submitted with the plan do not include an assessment of this option. The SIR is therefore not compliant with the relevant provisions of the Environmental Assessment of Plans and Programmes Regulations 2004, and the SIR is unsound as it does not meet the tests contained at paragraph 35 of the NPPF.

Strategic policy

Q2. It is suggested that Policy GROWTH1, in respect of the delivery of housing, should be amended so that it would cover the period 2022 to 2031. Would the amended Policy be justified, positively prepared, effective and consistent with national policy? If not, how should the proposal to make it sound?

1.14 No. The policy would not be justified, positively prepared or consistent with national policy.

1.15 CODE does not seek to unnecessarily repeat previous representations made regarding the Single Issue Review (SIR). Indeed, CODE's representations to the regulation 19 consultation regarding the proposed plan period (see section 2.4) remain valid, in relation to the provisions of national planning policy. We therefore invite the inspector to reconsider these previous submissions in relation to this issue.

1.16 However, having reviewed ECDC's Topic Paper which outlines a suggested way forward, CODE consider that the reliance upon two specific examples is flawed and does not support the rogue approach advocated by ECDC. First, the Topic Paper repeats an answer provided in response to a

³ Paragraph 018, reference ID: 11-018-20140306



similar question from examination document EX.LA03(A), which refers to the precedent of a shorter plan period applying in Forest Heath (now part of West Suffolk).

- 1.17 The Topic Paper states, *“Adjacent neighbour Forest Heath (now part of West Suffolk) adopted a SIR of its housing requirement figure in September 2019, updating the housing requirement figure for the period to March 2031, a period of 11.5 years from adopted... At that time, the same 15 year ‘rule’ was included in the NPPF (para 22 of the 2018 version).”*
- 1.18 Unfortunately, ECDC’s reliance upon this particular precedent does not justify the approach advocated for its SIR. Indeed, the 2018 version of the NPPF did include the 15 year rule for strategic policies. However, the Forest Heath Local Plan was examined under the transitional arrangements in place upon the introduction of the 2018 version of the NPPF, meaning the inspector considered the soundness of the Forest Heath Local Plan against the provisions of the NPPF 2012. The NPPF 2012 did not include a requirement for a 15-year plan period – this was only introduced from the 2018 version of the NPPF. The conclusions of the inspector in the Forest Heath case cannot immediately be said to represent a precedent for the approach taken by ECDC in relation to the SIR.
- 1.19 Furthermore, ECDC relies upon the example of the Bath and North East Somerset partial update of its Local Plan. The inspector examining the ECDC SIR also examined the BANES Local Plan. ECDC’s Topic Paper states, *“Thus, in the above case, the Inspector is taking a ‘pragmatic’ approach and allowing a Plan to proceed without strictly meeting the ‘15 year’ national policy recommendation, despite (a) the plan having an end date of 2029 (which is two years earlier than the East Cambridgeshire Local Plan, so likely to only have 6 or 7 years before its end date is reached post adoption) and (b) that partial update having a much wider scope than the submitted East Cambridgeshire Plan... from the evidence available, it appears extremely hard to make a case that is ‘pragmatic’ for Bath and North East Somerset to proceed, but that it is not ‘pragmatic’ in East Cambridgeshire’s case.”*
- 1.20 CODE is aware that the inspector will be aware of their own conclusions in the BANES case. However, CODE consider that it is important to make a clear distinction between the circumstances in ECDC and the particular circumstances in BANES which contributed to the inspector’s conclusions in relation to the partial update. First, BANES, at the point of submitting the partial update for examination *“concluded that the standard method produced an annualised minimum local housing need below that set out in the Core Strategy, namely 676 dwellings per annum rather than 722.”* The Council therefore concluded that the housing requirement did not need to be reviewed. The inspector considered therefore that the Core Strategy housing requirement presented a sound starting point for calculating five-year housing land supply.
- 1.21 Furthermore, it is important to emphasise the difference in housing delivery between BANES and ECDC. In the BANES case, and as summarised by the inspector at paragraph 39 of their report:



“In the plan period to date, there has been over-supply of 760 dwellings against the Core Strategy housing requirement, demonstrating that the Council has had some success in boosting the supply of housing.”

- 1.22 As outlined in CODE’s regulation 19 representations, in Table 1 (net housing completions in East Cambridgeshire District since 2011, page 4 of our representations), there was a shortfall in ECDC of 2,732 dwellings over the period 2011-2021.
- 1.23 It is also notable that in the BANES case, the Council was also working towards the preparation of a full review of its local plan, which contributed to the inspector’s conclusions that it was *“pragmatic therefore, for an otherwise sound Plan (as amended by MMs) to proceed to adoption despite the plan period being unchanged, and amended/new strategic policies not looking forward for a 15 year period.”*
- 1.24 There are therefore three distinct differences between the current examination of the SIR and the inspector’s consideration of the soundness of the BANES partial update, as follows:
- BANES took a proactive approach to delivering housing by maintaining a higher Core Strategy figure at the point of submitting their partial update for examination, as this exceeded the standard method requirement.
 - In addition, BANES had overprovided against its adopted housing by 760 dwellings, demonstrating that it had succeeded in boosting the supply of housing. Compare this to ECDC, which has recorded significant under-delivery over the first 11-years of its adopted local plan period without any strategy to correct the real world implications for home ownership which this has created. Furthermore, ECDC now seeks to rebase the plan to 2022 and write off the housing shortfall recorded over the period 2011-2022 entirely, relying upon the standard method, thereby demonstrating an intention to reduce housing delivery in the district, fail to address affordability and stall a decision to review the adopted local plan in full. This is not a sound approach to plan making and is certainly not in the spirit of boosting the supply of housing, as outlined at paragraph 59 of the NPPF.
 - In the BANES case, the council was already working towards a full local plan review, with evidence to support that this was happening alongside the partial update to the BANES Core Strategy.
- 1.25 In light of these clear and fundamental differences between the approaches taken between ECDC and BANES, it is quite clear that the approach to the plan period advocated by ECDC is not positively prepared, is not justified and is not consistent with national planning policy. Whilst it is right that there can be exceptions to policy, the circumstances before the inspector with respect to the ECDC SIR do not point to sufficient justification for an alternative approach to be applied.
- 1.26 Lastly, CODE would note that the inspector’s report was also issued during the period in which a letter from the then Secretary of State for levelling up, housing and communities (Greg Clark) applied, which



stated that *“inspectors should not send letters or reports which conclude that local plans are unsound and incapable of being made so and/or which advise councils that local plans should be withdrawn.”* However, this direction has now been withdrawn, as confirmed in a letter from the government’s chief planner dated 6 March 2023. It is therefore quite possible for the inspector overseeing the examination of the SIR to conclude the approach to be unsound and recommend withdrawal.

Delivery shortfall in the adopted plan period to date

Q3. There is a shortfall in the delivery of housing in the current plan period to April 2022 of 2,688 dwellings against the adopted requirement. The Planning Practice Guidance is clear that the standard method (for calculating minimum local housing need) identifies the minimum uplift that will be required and therefore it is not a requirement to specifically address under-delivery separately, as the affordability adjustment is applied to take account of past under-delivery. The Council’s suggestion to rebase housing need to 2022 and for the housing requirement in Policy GROWTH1 to be amended so that it covers the period 2022 to 2031, rather than commencing in 2011, would address the existing shortfall to April 2022. Would this be sound?

- 1.27 No. As outlined in CODE’s response to question 1, ECDC’s approach would not deliver the full affordability uplift contained within the standard method by only being applied over a nine-year period. Policy GROWTH1 should be amended to either look ahead over a 15-year minimum period from adoption, or it should accommodate the full housing requirement expected by the standard method for a 15-year period, within the 9-year period proposed by ECDC.

Main modifications

Q4. The Council has suggested an updated schedule of Main Modifications (EX.LA11). Are the suggested Main Modifications necessary for soundness?

- 1.28 As outlined within CODE’s responses to the inspector’s first three questions, the suggested way forward by ECDC is unsound and therefore the proposed main modifications would not result in sound plan.