

ABBEY PROPERTIES CAMBRIDGESHIRE LIMITED

INSPECTOR'S FURTHER MATTERS, ISSUES AND QUESTIONS

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REPORT

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1 INTRODUCTION

- 1.1 We are instructed by our clients, Abbey Properties Cambridgeshire Limited, to submit a further Hearing Statement and appear at the reconvened Examination Hearing on 28 March 2023 on their behalf in relation the East Cambridgeshire Local Plan – Single Issue Review.
- 1.2 RPS previously submitted representations on behalf of Abbey Properties Cambridgeshire Limited to the East Cambridgeshire Submission Local Plan Examination in May 2018 from which East Cambridgeshire District Council subsequently withdrew; and to the East Cambridgeshire Local Plan – Single Issue Review (Regulation 19) Consultation held in May/June 2022.
- 1.3 In November 2022, on behalf of Abbey Properties Cambridgeshire Limited, RPS submitted two Hearing Statements and appeared at the Examination Hearings on 8 November 2022. Hearing Statements were submitted for both Matters 1 and 2 of the then Inspector’s Matters, Issues and Questions (EX.INS04).
- 1.4 Copies of our previous representations and Hearing Statements should already be before the Inspector. We therefore do not propose to re-provide them here.
- 1.5 This Statement details our clients’ response to the Inspector’s Further Matters, Issues and Questions (EX.INS10, dated 17 February 2023) for discussion at the further hearing session to be held on 28 March 2023.

2 RESPONSE TO THE INSPECTOR'S FURTHER MATTERS, ISSUES AND QUESTIONS FOR DISCUSSION AT THE EXAMINATION HEARING

- 2.1 The Inspector has posed four further questions in respect of Matter 2 for the reconvened Examination Hearing. This Hearing Statement seeks to respond to questions of relevance to our clients' interest in respect of Matter 2. These responses are provided below.

Question 1: Housing Requirement

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?

- 2.2 We do not raise any particular objection to the housing requirement of 600 dwellings per annum, but the number of years this applies is a matter on which we take issue. With the proposed rebasing of GROWTH1 to 2022 the requirement will apply for a maximum of 9 years assuming adoption takes place in 2023.
- 2.3 This will generate a need of 5,400 dwellings over the Plan period. This combined with past delivery of 3,018 dwellings between 2011-2022 equates to 8,418 dwellings – a shortfall of 3,082 dwellings against the district's housing requirement of 11,500 dwellings established in the current adopted Local Plan 2015. The 2021/22 completions figure (to be confirmed) does need to be added into the equation, and is expected to therefore bring the shortfall down to c.2,500 dwellings; still very significant. The extent of these 'lost' dwellings through the shortfall is substantial and cannot simply be ignored through a re-basing of policy GROWTH1. It has wider implications, particularly with regard to affordability issues in East Cambridgeshire, which are not adequately accounted for by the 'affordability adjustment' under the Local Housing Need methodology.

Question 2: Strategic Policy

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 proposed Policy be amended to make it sound?

- 2.4 Local Plans are not single-issue documents. Within the submitted Single Issue Review (SIR), East Cambridgeshire District Council ('the Council') has determined that only Policy GROWTH1 requires revision due to its out of date housing requirement. We maintain however that not reviewing other elements of the Local Plan would result in a confusing and inconsistent picture.
- 2.5 Having exhausted all other options, the approach now proposed by the Council may offer the most expedient solution to the Council but it would have wider implications for all other users and interested parties, and would evidently result in a Plan lacking in certainty and clarity. The narrow scope proposed fails to fully consider the wider social, economic and environmental consequences that we contend would warrant modifications to the wider Local Plan.
- 2.6 The Council has chosen to limit the scope of the review to a Single Issue, seeking to argue that such an approach does not have wider implications. Paragraph 16 of the 2021 National Planning Policy Framework (NPPF) requires that local plans "*contain policies that are clearly written and unambiguous*" which is evidently not that case here, reinforcing our contention that the outcome is an unsound Plan as submitted.
- 2.7 It should be noted at this juncture that the approach now advocated by the Council, namely to rebase policy GROWTH1 to 2022, was dismissed as an option previously. In response to the Inspector's initial questions (EX.LA03(A)), the Council stated as follows:

"Re-basing ... to, say 2022 ... 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.

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."

- 2.8 The Council now appear to be adopting a rather contradictory position in a bid to persuade the Inspector that they have now arrived at a solution which satisfies the tests of soundness; we respectfully dispute any such assertion.
- 2.9 While the approach now proposed by the Council does align with the end date of the currently adopted local plan, it evidently does not align with the base date of the local plan which creates an inconsistent approach through the narrow lens of housing which will have much wider implications.
- 2.10 The Council does not dispute that Policy GROWTH1 is a Strategic Policy, however the proposed Local Plan period of 2022 to 2031 would fall short of the **minimum** 15 year period from adoption, as advocated in paragraph 22 of the NPPF. The NPPF states that *"strategic policies should look ahead over a minimum 15 year period from adoption"*. As a strategic policy the **minimum** 15 year period from adoption should apply (our emphasis added).
- 2.11 The Council does seek to argue however that the NPPF paragraph 22 requirements only apply to a full Local Plan update (EX.LA11, pg 7). However, there does not appear to be any substantiated basis for such an argument; the NPPF is clearly referencing strategic policies in general. The approach adopted by the Council is inconsistent with national policy, and Policy GROWTH1 (and other strategic policies) should look ahead over a minimum 15 year period from adoption, to anticipate and respond to long term requirements and opportunities. If the SIR is adopted in 2023 (at the earliest), the Plan period for the adopted Policy GROWTH1 will only be at most 9 years, a timeframe within which the Council will not be able to effectively foresee and respond to the changes required in infrastructure and delivery across the district.
- 2.12 Within the Council's Topic Paper it is stated that there is *"nothing in law"* requiring a plan to cover a 15 year period from adoption. To seek to justify this point, the Council reference that a precedent has been established at Forest Heath District Council (FHDC) whereby a shorter plan period had been agreed. However, it should be noted that the circumstances in that case were different and it is notable that FHDC no longer exists having since been merged with St Edmundsbury Borough Council to form West Suffolk Council; an authority which is currently embarking on a full Local Plan review.
- 2.13 The Council's Topic Paper also references the case of the Bath and North East Somerset Council Local Plan, whereby the Inspector concluded that the partial update was sound. This review focused primarily on updates required because of the declaration of a climate emergency. However, as part of the review, the scope of the submitted Plan also included the replenishment of housing supply so that the Core Strategy housing requirement could be met, and the necessary supply of housing land maintained. Bath and North East Somerset Council was able to demonstrate an over-supply of 760 dwellings against the Core Strategy housing requirement, thereby significantly boosting the supply of housing. This varies from the review conducted by East Cambridgeshire District Council where a substantial historic undersupply (of c.2,500 dwellings) exists over the wider plan period.
- 2.14 As such, while the Inspector in that case, concluded that the Local Plan update did not generate a need to update the housing requirement across the remaining plan period, this is not relevant to the current East Cambridgeshire Local Plan SIR in light of the different circumstances and differing housing needs across these authorities.
- 2.15 Further to the above, under the SIR the Council consider that if the plan were to be modified in line with the proposed plan period of 2022 to 2031, there would be *"no material effect"* on the submitted Sustainability Appraisal (SA) and Habitats Regulation Assessment (HRA) due to the *"fundamental issue tested (the proposed housing requirement 2022-2031, and the reasonable alternatives) remain the same"*.
- 2.16 Within the Examination Topic Paper (EX.LA11), the Council acknowledge that by including only the partial update to the plan, they would not be required to reconsider or update the SA and HRA as these would remain valid. This is referred to as the *"preferred option"*. However, the Council do

recognise that, should the plan period be 15 years in line with national policy, whereby the housing requirement would also include the “backlog” from 2011, a fundamental reconsideration and full update of both the HRA and SA would be required.

- 2.17 This demonstrates that the Council is attempting to adopt an expedient approach rather than one which would be compliant with national policy.
- 2.18 In light of the above, given the reduced plan period, it is considered that the SIR is profoundly flawed through its failure to provide policy coverage for the **minimum** of 15 years as set out within the NPPF. This will result in shortcomings that will impact other areas of the Local Plan that are not to be updated which ultimately will create inconsistencies and result in a thoroughly confusing and inconsistent Local Plan.

Question 3: Delivery Shortfall in the Adopted Plan to Date

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?

- 2.19 As established above, there is no dispute that Policy GROWTH1 is a strategic policy. The Planning Practice Guidance (PPG) states that strategic policy-making authorities will need to calculate their local housing need figure at the start of the plan-making process, and that this number should be kept under review and revised where appropriate. The Council’s proposed approach seeks to effectively ‘wipe the slate clean’ and only consider housing needs going forward, not address historic undersupply. It is unreasonable and unrealistic to adopt such an approach – housing provision and requirements are ‘real world’ issues and previous failures to deliver a sufficient number of dwellings has longer-term impacts on the housing supply chain and affordability issues. A historic shortfall of c.2,500 dwellings should not just be ignored; this is a significant number of homes.
- 2.20 The PPG clearly establishes that where shortfalls in housing completions have been identified against planned requirements, local authorities should seek to identify whether there are any measures that the authority can take, either alone or jointly with other authorities, which may counter the trend. The Council has failed to deliver sufficient housing to meet its annual housing requirement since the adoption of the plan in 2011 and the Council’s assumption that this can be written off in Policy GROWTH1 by revising the housing target for previous years to match the completion figures for those years, is not only contrary to the guidance contained within the NPPF and PPG, but could also skew the result of the Housing Delivery Test.
- 2.21 The Council’s proposal to rebase the housing need contained within Policy GROWTH1 is not justified. By retrofitting the housing target for the preceding years within the adopted plan to the number of dwellings completed within those years would have the effect of removing the requirement for the Council to deliver the number of homes that had been previously planned. It will do nothing to address the historic undersupply and acute affordability issues in the district. It is therefore considered that this approach is unsound.

Question 4: Main Modifications

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

- 2.22 On review of the Main Modifications presented, it is apparent that amendments are being proposed to Policy GROWTH4. The Council has repeatedly stated that a narrow focus of the SIR, solely on Policy GROWTH1, was appropriate and justified, and that there would be no wider implications from the changes proposed. This is apparently not the case.
- 2.23 We refer to our previous Hearing Statements where it was expressed that the Council has provided no assessment of the wider implications of its proposed approach, and demonstrated a lack of

regard to Policies GROWTH2 and GROWTH4 which relate to the delivery of growth and identification of sites allocated for development. It should be widely recognised that the SIR has wider implications beyond just Policy GROWTH1.

- 2.24 The Council is not reviewing its affordable housing policy as part of the SIR and therefore is not amending the housing requirement figure. The reason given is that this is beyond the scope of the SIR (EX.LA.11, pg 4). We contend that this is inappropriate and unduly blinkered in approach. Affordable housing delivery over the last 10 years in the district has fallen well short of the 30-40% policy requirement and no justification has been provided on the Council's position that the affordability adjustment contained within the standard method sufficiently accounts for past undersupply. The reluctance of the Council to consider affordability issues - which are on the rise and continue to exceed the national average by some margin - as part of the review of housing need in the district, demonstrates the inappropriately narrow scope of the SIR.
- 2.25 The above is symptomatic of a review process with insufficient scope which we consider to be fundamentally unsound. A full Local Plan review is the only appropriate course of action in the circumstances.

3 CONCLUSION

- 3.1 On behalf of our client, we sustain our concerns outlined throughout the SIR Examination in respect of the soundness of the draft SIR Local Plan. This Hearing Statement has been produced to respond to the Inspector's Further Matters, Issues and Questions raised in response to the Council's Topic Paper.
- 3.2 Our client's position has not changed, and our conclusions and concerns remain. Local Plans and spatial development strategies are examined to assess whether they have been prepared in accordance with legal and procedural requirements, and whether they are sound. Having regard to the four tests set out within Paragraph 35 of the NPPF we comment as follows:
- Positively prepared – the Council has not fully assessed the wider implications of the proposed policy change.
 - Justified – the Council has not demonstrated that this SIR was the only course of action available, nor that it was the appropriate course given the wider implications of the proposed changes.
 - Effective – the Council has acknowledged that the proposed policy change may have wider implications but has sought to defer its obligations to a later date without sufficient justification. This undermines the effectiveness of the proposed change and highlights that the Council recognises this issue cannot effectively be assessed in isolation and will require further work.
 - Consistent with national policy – for the reasons set out within this further Hearing Statement the proposed changes are not consistent with national planning policy and guidance.
- 3.3 Accordingly, we consider that the SIR is unsound and notwithstanding the Main Modifications suggested by the Council, it stands that it has not been prepared in accordance with the national planning policy and guidance.