



EAST CAMBRIDGESHIRE
DISTRICT COUNCIL

East Cambridgeshire Local Plan – Single Issue Review (SIR) Proposed Submission Stage Response Form

PLEASE USE BLACK INK TO COMPLETE THIS FORM
Please refer to 'Guidance notes on completing the Representation Form'

From 3 May to 13 June 2022, you can make representations on the soundness and legal compliance of the proposed submission Single Issue Review of the Local Plan. **All comments must be received by 11:59pm on 13 June 2022.** Responses made at this stage will be treated as formal representations and considered by an independent Planning Inspector: late submissions are unlikely to be considered by the Inspector.

Where possible, we prefer you to use this form when submitting your comments. This allows you to type your comments next to the policy or paragraph that you want to comment on. If you need any help in completing this form, please read the guidance note available on our website which explains how to make comments and how any comments will be dealt with. Please send your completed form either via email or through the post.

PART A: YOUR DETAILS

Data Protection and Freedom of Information

All personal information that you provide will be used solely for the purpose of the consultation on the documents listed in this form. Please note that each comment and the name of the person who made the comment will be featured on our website - comments will not be confidential. Full comments, including addresses, will also be available to view on request. **By submitting this response, you are agreeing to these conditions.**

Name: Bennett Homes	Agent (if applicable):
Organisation (if applicable) :	Name: Liam Ryder
Address: c/o Agent	Address: 17 Rosemary House, Lanwades Business Park, Kentford, Suffolk.
Postcode:	Postcode: CB8 7PN
Email:	Email: [REDACTED]
Tel:	Tel: [REDACTED]
Signature: [REDACTED]	Date: 13.06.2022

We will send all correspondence by email if you provide us with your email address. If Agent details are provided, we will send all correspondence to them.

Do you wish to be notified of any of the following? (Please tick as appropriate)

The Submission of the Local Plan for independent examination:
The Publication of the Inspector's Report:
The Adoption of the Local Plan:

X
X
X

Please note your representation should cover succinctly all the information, evidence and supporting information necessary to support/justify the representation and any suggested change. **After this stage, further submissions will be only at the request of the Inspector, based on the matters and issues he/she identifies**

If you need assistance please call 01353 665555

**Please email completed forms to planningpolicy@eastcambs.gov.uk or post to:
Local Plan Consultation, East Cambridgeshire District Council, The Grange, Nutholt Lane, Ely, Cambs CB7
4EE**

East Cambridgeshire Local Plan – Single Issue Review (SIR)



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for examination.

PART B: QUESTIONS

ONE FORM SHOULD BE COMPLETED FOR EACH REPRESENTATION

Q1. To which part of the SIR Local Plan or Sustainability Appraisal (SA) does this representation relate?

Paragraph	Please see attached representation	Policy	Growth 1	SA	X
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Q2. Do you consider the following to be legally compliant?

SIR Local Plan	Yes	<input type="checkbox"/>	No	<input checked="" type="checkbox"/>	Don't know	<input type="checkbox"/>
Sustainability Appraisal (SA)	Yes	<input type="checkbox"/>	No	<input checked="" type="checkbox"/>	Don't know	<input type="checkbox"/>

Q3. Do you consider the SIR Local Plan is:

Positively Prepared	Yes	<input type="checkbox"/>	No	<input checked="" type="checkbox"/>	Don't know	<input type="checkbox"/>
Justified	Yes	<input type="checkbox"/>	No	<input checked="" type="checkbox"/>	Don't know	<input type="checkbox"/>
Effective	Yes	<input type="checkbox"/>	No	<input checked="" type="checkbox"/>	Don't know	<input type="checkbox"/>
Consistent with national policy	Yes	<input type="checkbox"/>	No	<input checked="" type="checkbox"/>	Don't know	<input type="checkbox"/>
In compliance with the Duty to Co-Operate	Yes	<input type="checkbox"/>	No	<input checked="" type="checkbox"/>	Don't know	<input type="checkbox"/>

Q4. If you answered 'No' to question 2 or 3 above, please give details below. Please be as precise as possible and follow guidance in our note 'Guidance notes on completing the Representation Form'. You can also use this box to set out your representation if you support the SIR Local Plan or SA.

Please see the attached representations. In summary, and for the reasons outlined within the attached representations, CODE considers the SIR Local Plan to be unsound, as follows:

- The SIR is unsound in its sole focus on policy GROWTH 1 and its approach to suppress the delivery of housing over the remainder of the plan period, without accounting for the substantial shortfall in provision over the first 10 years of the plan period. As highlighted in the attached representations, the SIR cannot be viewed to be positively prepared, justified, effective or consistent with national policy, and is therefore unsound.
- CODE considers the scope of the SIR should be widened to focus on additional policies to ensure the plan can positively respond to proposals for new development and provide sufficient flexibility to ensure the delivery of ECDC's full objectively assessed needs for housing. The comments of the Soham inspector clearly demonstrate the plan is currently ineffective in meeting the identified housing requirement for the district. The SIR does not appropriately seek to rectify previous substantial under delivery of housing by ensuring sufficient housing allocations to ensure that housing needs are met in full. The plan is therefore not positively prepared.
- CODE consider that the affordability uplift in the standard method calculation has not sufficiently captured the under supply over the first 10 years of the plan period. The SIR cannot be considered to be effective in significantly boosting the supply of housing over the remainder of the plan period (or over the appropriate 15-year period, as highlighted within the attached representations), nor can it be considered to be positively prepared (as the plan does not seek to meet its objectively assessed needs).
- CODE consider ECDC has not adequately conformed with the requirements of the duty to co-operate in its decision to commence a review of the adopted local plan. The Duty to Co-operate Statement does not outline any active engagement with other local planning authorities regarding the intention to commence with a partial review and it does not appear there was any opportunity for neighbouring authorities, or other prescribed bodies, to engage in how both the plan was to be reviewed and the review of the plan itself.
- The evidence presented alongside the SIR demonstrates that the SA process has not been taken into account and/or utilised in the selection of a 'preferred option'. This clearly demonstrates that the process has not been iterative or transparent, and is therefore inconsistent with the provisions of national planning policy and guidance, and contravenes the regulations in the Environmental Assessment of Plans and Programmes Regulations (2004).
- The social, environmental and economic impacts of the SA which accompanied the 2015 Local Plan (adopted April 2015) cannot be carried forward even in light of ECDC's decision to only proceed with a review of policy GROWTH 1 of the local plan. There may be further impacts associated with the decision to proceed only with a review of GROWTH 1, or with the reasonable alternatives which should have been outlined and considered in more detail at the point ECDC decided to commit to a partial review of the local plan.

THANK YOU FOR TAKING TIME TO RESPOND

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Please email forms to: planningpolicy@eastcambs.gov.uk
Or post to: Local Plan Consultation, East Cambridgeshire District Council, The Grange, Nutholt Lane, Ely, Cambs CB7 4EE

(Office only) Ref:

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- The SA, and therefore, the content of the SIR, is not positively prepared, justified or effective and the decision not to subject the SIR to SA (at the point of determining a single review was necessary) is not consistent with the policies of the NPPF. The SIR is unsound and should not be submitted for examination until these fundamental flaws have been appropriately considered, reassessed and transparently considered against the reasonable alternatives to a solitary review of policy GROWTH 1.
- As outlined in the attached representations (please see section 2.4), it is considered that increasing the plan period to 15 years, to be consistent with national planning policy and guidance is essential to assist in tackling worsening affordability in the district, together with the identification of additional allocations to ensure housing needs are met over the full plan period. The current lack of consideration of reasonable alternatives to the plan period within the SA is in conflict with the relevant provisions of the Environmental Assessment of Plans and Programmes Regulations (2004).

(Continue on a separate sheet if necessary)

Q5. If you answered 'No' to question 2 or 3 above, please set out what change(s) you consider necessary, and why, to make the SIR Local Plan or SA legally compliant or sound. It will be helpful if you are able to put forward your suggested revised wording for any policy or text. Please be as precise as possible.

Please see the attached representations.

(Continue on a separate sheet if necessary)

Q6. It is important to note that written and oral representations carry exactly the same weight and will be given equal consideration in the examination. As such, do you consider it necessary to participate at the oral part of the examination?]

☐

~~No I do not wish to participate at the oral examination~~

☒

Yes I do wish to participate at the oral examination

THANK YOU FOR TAKING TIME TO RESPOND

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Regulation 19 Representations

East Cambridgeshire Single Issue Review of the Local Plan (2015)

Bennett Homes



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1 INTRODUCTION

- 1.1 CODE Development Planners (hereafter referred to as 'CODE') have been instructed by Bennett Homes to prepare representations to the regulation 19 consultation regarding East Cambridgeshire District Council's (ECDC) Single Issue Review (SIR) of its Local Plan (2011-2031, adopted April 2015).
- 1.2 ECDC has identified its housing requirement to be out-of-date (in light of the council's local housing need figure, as calculated by the government's standard method) and requiring a review. To date, however, ECDC has refused to consider further local plan allocations, considering these to be unnecessary in light of ECDC's planned supply (which it considers to be sufficient to meet housing need over the remainder of the plan period to 2031).
- 1.3 These representations respond to the proposed amendments to the policies within the adopted Local Plan through the SIR, and to specific paragraphs included within the regulation 19 consultation document. In addition, CODE has on behalf of Bennett Homes, reviewed the supporting evidence base for the SIR, and where relevant, makes comments on these documents within this representation.



2 THE PROPOSED HOUSING REQUIREMENT (AND PLAN PERIOD)

2.1 Effectiveness of the SIR in meeting identified housing needs

- 2.1.1 CODE notes that ECDC will not welcome comments upon other policies of the adopted local plan (April 2015). This representation does not consider any specific policies in detail but does highlight the implications of ECDC's decision to proceed with a narrow review for decision making (in light of policies being viewed to be out-of-date) and plan making.
- 2.1.2 A recent planning appeal¹ considered whether policies within the adopted East Cambridgeshire Local Plan (adopted April 2015) are out of date. GROWTH 1 was agreed between parties to be out of date, however, the appellant had also questioned whether additional policies should also be considered to be out of date. In the review of the adopted local plan, ECDC has accepted that policy GROWTH 1, which identifies the overall housing requirement for the district, is out of date and therefore requires a review (although ECDC has maintained that the remainder of the local plan remains up to date).
- 2.1.3 The inspector in the Soham case, however, agreed with the appellant and reached the conclusion that policies GROWTH 2 (which provides the locational strategy for delivering the anticipated growth in the district) and GROWTH 4 (which makes specific housing allocations) are similarly out of date. Consequently, the inspector considered that the tilted balance (as contained at paragraph 11(d) of the NPPF) is engaged (as the most important policies for determining the appeal were considered to be out of date).
- 2.1.4 Whilst the inspector recognised that previous inspectors had considered policies GROWTH 2 and GROWTH 4 to be up to date, *"the decisions highlighted by the parties were now some time ago and I must consider circumstances as I [the inspector] find them now."* The inspector concludes (further to the Appellant's evidence), at paragraph 20 of the decision:
- "For this particular proposal, policies GROWTH 1, GROWTH 2 and GROWTH 4 are the most important for determining the case in that they together set out the amount and locational strategy for the delivery of housing, including restricting development outside settlement envelopes. They are all out of date for the reasons I have set out and so the Framework's presumption in favour of sustainable development [the tilted balance] applies."*
- 2.1.5 CODE considers the scope of the SIR should be widened to focus on additional policies to ensure the plan can positively respond to proposals for new development and provide sufficient flexibility to ensure the delivery of ECDC's full objectively assessed needs for housing.

2.2 The housing requirement

- 2.2.1 This representation also raises significant concerns regarding the housing requirement contained within the SIR. CODE notes the justification provided by ECDC for the housing requirement between

¹ Land to the northeast of Broad Piece, Soham, appeal reference APP/V0510/W/21/3282449, appeal allowed 11 February 2022



2011 and 2021 in paragraphs 4.6 to 4.9 of the SIR consultation document. ECDC makes reference to the guidance contained within the PPG², which states 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.”*

2.2.2 It is not disputed that for the calculation of five-year housing land supply, the standard method does not require a local planning authority to specifically address under-delivery separately when establishing the minimum local housing need figure. However, CODE have significant concerns regarding ECDC’s approach which appears to seek to suppress the delivery of new housing in the district over the remainder of the plan period, and its lack of strategy to tackle worsening affordability in the district (at the start of the plan period in 2011, ECDC’s affordability ratio was 7.92. The latest affordability ratio for 2021, published in March 2022, is 10.66).

2.2.3 CODE would make the following comments regarding the proposed housing requirement in relation to the provisions of paragraph 35 of the NPPF:

- i. CODE is not aware of any provisions in national planning policy and guidance which allows for a local planning authority to reset the housing requirement over the plan period to date, when reviewing the local plan. ECDC seeks to set its housing requirement for years 1-10 of the plan period at the level of housing delivered, which was significantly below the housing requirement over this period (please see table 1 in these representations).
- ii. At paragraph 16 of the recent Soham appeal decision, the inspector concluded *“Whilst there is no dispute that for the purposes of calculating housing land supply, the standard method should now be used and that this seeks to address past shortfalls, that does not make the hefty shortfalls against the ECLP immaterial. It is, in my view, an important indication that the ECLP has not been effective in meeting housing needs since the beginning of the plan period and casts further doubt as to whether the Council’s locational strategy can be relied upon to significantly boost housing delivery in line with the National Planning Policy Framework (the Framework).*

CODE note that the proposed housing requirement in the SIR is 599.78 dwellings per annum, an increase of 24.78 homes per annum from the existing housing requirement. The effect of this increase is the provision of an additional 223 dwellings over the course of the plan period to 2031, above that required within the adopted local plan. As outlined in the table below, ECDC underdelivered against its adopted requirement by 2,732 homes over the period 2011-2021 (see table 1 below), yet the affordability uplift only provides for an additional 223 dwellings over the remainder of the plan period. CODE consider that the affordability uplift in the standard method calculation has not sufficiently captured the under supply over the first 10 years of the plan period. The SIR cannot be considered to be effective in significantly

² PPG reference ID: 2a-011-20190220



boosting the supply of housing over the remainder of the plan period (or over the appropriate 15 year period, as highlighted within these representations), nor can it be considered to be positively prepared (as the plan does not seek to meet its objectively assessed needs).

- iii. CODE has not reviewed ECDC's five-year housing land supply report in detail, nor has it critically analysed the deliverability of sites in line with the definition in the NPPF and additional guidance contained within the PPG. CODE would, however, question ECDC's confidence that it will achieve an uplift in housing provision over and above levels recorded since the beginning of the plan period, in 2011 (with particular reference to the Soham inspector's conclusions at paragraphs 16 to 18 of the appeal decision letter).

ECDC's annual housing delivery has never met the annual housing requirement (using either the adopted housing requirement of 575 dwellings per annum, or the new local housing need figure of approximately 600 dwellings per annum). CODE presents below a record of net housing completions in East Cambridgeshire since the start of the plan period, in 2011, using data recorded within annual monitoring reports:

Table 1: net housing completions in East Cambridgeshire District since 2011

Monitoring year	Dwellings delivered (including equivalent supply from C2 older person's accommodation)	Cumulative shortfall (using adopted housing requirement of 575dpa)
2011/12	369	-206
2012/13	287	-494
2013/14	191	-878
2014/15	162	-1,291
2015/16	181	-1,685
2016/17	234	-2,026
2017/18	289	-2,312
2018/19	386	-2,501
2019/20	514	-2,562
2020/21	405	-2,732
Totals	3,018	-2,732

It is important to note the persistent failure of ECDC to meet its annual housing requirement over the first 10 years of the plan period. Whilst the new local housing need figure does not represent a significant uplift in anticipated housing delivery, it represents a higher annualised requirement. Whilst ECDC's committed supply might exceed the housing required for the five-year housing land supply period, and the remainder of the plan period, there is no guarantee that this housing will come forward as anticipated. As highlighted within the Soham appeal



decision, the SIR cannot be viewed to be effective in meeting the required provision of housing over the plan period.

- iv. It is also pertinent to note that, as a direct consequence of failing to deliver the annual housing requirement in the district, affordable housing delivery has been significantly lower than anticipated by the adopted local plan. The latest annual monitoring report in ECDC states that affordable housing completions represent just 15.3% of all housing delivered over the first 10 years of the plan period. Policy HOU3 of the adopted local plan identifies a requirement to deliver a minimum of 40% of the total number of homes to be provided in the south of the district and 30% of the total homes to be provided in the north of the district. The annual monitoring report does not disaggregate affordable housing completions for the north and south of the district; however, it is clear from the annual monitoring report that affordable housing has not been provided at a policy compliant level and within individual monitoring years, has never exceeded the requirement outlined in housing policy. Only 497 gross affordable housing completions have been delivered since the beginning of the plan period (which represents only 8% of the housing required over the first 10 years of the plan (5,750 homes in total)). If the requirement for 30% affordable housing were applied across the district as a whole, this would represent a shortfall of 1,228 affordable homes since the beginning of the plan period. If the requirement for 40% affordable housing were applied across the district as a whole, the shortfall would increase to 1,803 affordable homes. Given the split affordable housing requirement for the north and south of the district, the true shortfall figure is likely to be between 1,228 and 1,803 affordable homes.
- v. The SIR is therefore unsound in its sole focus on policy GROWTH 1 and its approach to suppress the delivery of housing over the remainder of the plan period, without accounting for the substantial shortfall in provision over the first 10 years of the plan period. As highlighted above, the SIR cannot be viewed to be positively prepared, justified, effective or consistent with national policy, and is therefore unsound. CODE consider these concerns can only be rectified by undertaking a full local plan review, which seeks to make new housing allocations to ensure the delivery of the authority's housing needs in full, whilst accommodating an appropriate plan period and uplift in delivery to account for historic under supply of housing in the district, which has had a significant negative impact on the affordability of housing in the district. In the context of worsening inflation and the price of building materials continuing to rise substantially, ECDC should be doing all that it can to tackle worsening affordability through positive plan making which seeks to respond to the significant demand for new market and affordable housing in the district. However, national policy and guidance is being used negatively to limit new housing provision substantially, the consequences of which will be deferred until the next full review of the local plan.



- vi. The consequence of not widening the scope of the partial review to include additional policies, including GROWTH 2 and 4, would be the potential for further windfall appeal sites to come forward following conclusions that the most important policies for determining those schemes are out of date (whilst GROWTH 1 might be up to date, inspectors may find that the policies to deliver the full housing needs continue to be out of date and therefore, not fit for purpose).

2.2.4 Furthermore, the inspector in the Soham case questioned whether the adopted local plan could be effective in delivering the required housing need over the plan period to 2031. At paragraph 17 of the decision, the inspector concluded:

*“Continued strict application of policy GROWTH 2 would be likely to worsen this situation [ineffectiveness of the local plan in meeting housing needs since the start of the plan period]. Whilst the general objectives of the policy to manage patterns of growth and protect the setting of towns and villages are good ones that are consistent with the Framework, **the policy can no longer be considered up to date because it can no longer be said that sufficient housing can and will be accommodated within the defined settlement envelopes.**” [Emphasis added]*

2.2.5 The inspector continued, at paragraph 18, that “...The past shortfalls in delivery against the plan requirement are indicative that the allocations are not meeting housing needs and may be insufficient. Even if the Council can currently demonstrate a deliverable housing land supply in the region it suggests against its Local Housing Need, **that does not make the long-term strategy of the ECLP any more reliable when it comes to housing delivery.**” [Emphasis added]

2.3 **Circumstances which may justify planning for a higher housing need figure than the standard method**

2.3.1 Finally, the SIR does not account for further potential changes within the district and across neighbouring authorities, including the potential development associated with the Oxford – Cambridge Arc. The PPG notes circumstances in which it would be appropriate to plan for a higher housing need figure than the standard method indicates. Examples of circumstances where this may be appropriate include *“growth strategies for the area that are likely to be deliverable, for example where funding is in place to promote and facilitate additional growth (e.g. Housing Deals)... strategic infrastructure improvements that are likely to drive an increase in the homes needed locally.”*

2.3.2 Whilst further news is awaited regarding the Oxford – Cambridge Arc, it is a clear example of a major infrastructure and housing project which may impact upon overall housing numbers in East Cambridgeshire. The SIR should therefore have flexibility built in to enable it to sufficiently respond further to any announcements from central government.

2.3.3 CODE therefore considers that the SIR cannot be viewed to be positively prepared, justified or effective, as per the provisions of NPPF paragraph 35.



2.4 The plan period

2.4.1 However, ECDC does not make reference or consider the provisions of paragraph 012 of the PPG³, which provides guidance on how plan-making authorities should apply the standard method to the overall plan period. The paragraph states 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.”*

2.5 The National Planning Policy Framework (NPPF), at paragraph 22, states that *“Strategic policies should look ahead over a minimum 15 year period from adoption, to anticipate and respond to long-term requirements and opportunities, such as those arising from major improvements in infrastructure.”* The only exception quoted in paragraph 22 is in relation to town centre development, as outlined within chapter 7 of the NPPF.

2.5.1 If ECDC's approach to identifying the housing requirement is correct, it is still considered that Policy GROWTH 1, at the point of adopting the SIR, should look ahead over a **minimum** 15-year period. The current Local Development Scheme (published April 2022) anticipates the SIR will be adopted in January/February 2023. To comply with paragraph 22 of the NPPF, the SIR should be looking ahead to at least 2038. In these circumstances, assuming ECDC has calculated its local housing need correctly, the housing requirement across the period 2023-2038 would be 9,000 dwellings (equivalent to 600 dwellings per annum, rounded up from 599.78).

2.5.2 Based upon the level of supply ECDC considers it can demonstrate between the point of adopting the SIR and the end of the plan period, it is clear that to ensure the delivery of the new housing requirement over the period to 2038 that new housing allocations would be required. CODE consider that ECDC should postpone the submission of the SIR to widen the scope of the document to include new allocations to ensure housing needs are met over the appropriate plan period.

2.6 Conclusions regarding the plan period and housing requirement

2.6.1 The SIR in its current format is unsound with regard to both the proposed plan period and the proposed housing requirement within the document. Considering the relevant provisions of paragraph 35 of the NPPF, CODE make the following observations:

- i. The SIR does not provide a strategy which seeks to meet, as a **minimum**, the area's objectively assessed needs. The strategy taken by ECDC actively seeks to suppress housing delivery in a local authority which has seen its affordability worsen significantly since the beginning of the plan period in 2011 (in 2011, ECDC's affordability ratio was 7.92, compared with 10.66 in 2021). The partial review of the adopted local plan, focussed upon policy GROWTH 1, only seeks to provide housing for a nine-year period, compared with the

³ PPG reference ID: 2a-012-20190220



minimum 15-year period stipulated by national planning policy and guidance. The SIR is there not positively prepared with regard to housing need.

- ii. The SIR cannot be considered to be effective. The partial review does not provide a sufficient mechanism to both ensure the delivery of the minimum local housing need over a 15-year period and nor does it enable new sites to come forward to meet acute market and affordable housing needs over the plan period. Furthermore, the scope of the SIR review is so narrow that other key policies, which provide guidance regarding the location of new housing, will remain out of date, meaning the plan will be ineffective in providing an up to date locational strategy for sustainably providing for the identified housing needs across the district.
- iii. The approach advocated by ECDC in the review of policy GROWTH 1 is not consistent with the NPPF. The review is not in accordance with paragraph 22 of the NPPF and ECDC has not provided any justification for deviating from the approach stipulated by national policy and guidance, other than *"it will require substantial work such as a new call for new sites, and assessing and selecting such sites for allocation in the Local Plan."* Considering the NPPF's aim to significantly boost the supply of housing, the approach undertaken by ECDC in the preparation of its partial review cannot be said to be consistent with national policy.
- iv. Finally, as outlined elsewhere in these representations, ECDC's approach to the SIR is not justified. The limited evidence base has been used to attempt to justify an approach which seeks to suppress the supply of new housing in the district to 2031 and beyond. The review of policy GROWTH 1 does nothing to rectify the worsening affordability in the district or to meet the acute need for housing over a sufficient plan period which is in accordance with national policy and guidance. The SIR is therefore not justified.



3 DUTY TO CO-OPERATE

3.1 Section 33A(2) of the Planning and Compulsory Purchase Act outlines that the duty-to-cooperate requires ECDC to “*engage constructively, actively and on an ongoing basis in any process*” relating to the preparation of their SIR. ECDC’s decision to commit to a review of only GROWTH 1 appeared to have been taken in advance of any active engagement with other prescribed bodies (including neighbouring planning authorities). This would appear to fall short of the duty to co-operate.

3.2 The PPG⁴ considers whether the duty to co-operate should apply to plan reviews and plan updates. The guidance states:

“Local planning authorities need to comply with the Duty to Co-operate when revising their development plan documents and reviewing whether they remain up to date.

Section 33A(3) of the Planning and Compulsory Purchase Act 2004 sets out the activities which bodies subject to the duty to co-operate must co-operate on. Paragraph (3)(d) of section 33A provides that such bodies will be subject to the duty when undertaking activities that can reasonably be considered to prepare the way for the preparation of development plan documents, marine plans and other local development documents. Plan reviews prepare the way for the preparation of such documents as they involve an assessment of whether policies in a plan need updating.

*Plans are required to set out strategic policies that address strategic priorities. These may include cross-boundary matters, including issues such as whether an authority is able to meet all its housing need. Given the direct implications of plan reviews in enabling such matters to be addressed through the updating of policies, **it is important that the bodies subject to the Duty to Co-operate have an opportunity to engage in both how plan reviews are undertaken and the review of the plan.**”*
[Emphasis added]

3.3 The Duty to Co-operate statement published alongside the consultation provides an overview of public engagement which commenced in March 2021 (26 March to 7 May 2021), 11 months after the decision of ECDC to commence a partial review of the adopted local plan (focussing only on policy GROWTH 1). The consultation material clearly advised that ECDC were consulting on a review of policy GROWTH 1 and “*representations seeking changes to policy wording of a Local plan 2015 policy not being consulted upon will not likely be considered*”.

3.4 In the published East Cambridgeshire Local Plan – A Second Review (April 2020), the report made reference to “*Plan-making activity by other authorities, such as whether they have identified that they are unable to meet all their housing need.*” At paragraph 3.43 of the report, it is stated that “*None have to date identified that they are unable to meet all their housing need, though it is too early in their plan-*

⁴ Does the Duty to Co-operate apply to plan reviews and plan updates, paragraph 075, reference ID: 61-075-20190723



making process for a conclusion on this to be reached. That said, there is no expectation that any of those councils will be seeking to meet some of their need in East Cambridgeshire.”

- 3.5 The report does not, however, outline any active engagement with other local planning authorities regarding the intention to commence with a partial review and it does not appear there was any opportunity for neighbouring authorities, or other prescribed bodies, to engage in how both the plan was to be reviewed and the review of the plan itself. CODE consider ECDC has not adequately conformed with the requirements of the duty to co-operate in its decision to commence a review of the adopted local plan.

4 THE SUSTAINABILITY APPRAISAL

4.1 Whether the decision to prepare a Single-Issue Review should have been subject to Sustainability Appraisal

- 4.1.1 In preparing these representations, CODE has reviewed the Sustainability Appraisal (SA) which accompanies the SIR. As a starting point, CODE considers it is important to consider the provisions of the National Planning Policy Framework (NPPF) for the preparation and review of local plans. Paragraph 32 of the NPPF states:

“The preparation and review of all policies should be underpinned by relevant and up-to-date evidence. This should be adequate and proportionate, focused tightly on supporting and justifying the policies concerned, and take into account relevant market signals.”

- 4.1.2 Paragraph 32 continues that *“Local Plans and spatial development strategies should be informed throughout their preparation by a sustainability appraisal that meets the relevant legal requirements. This should demonstrate how the plan has addressed relevant economic, social and environmental objectives (including opportunities for net gains).”*

- 4.1.3 In October 2019, ECDC considered the policies in the adopted Local Plan (April 2015) and concluded these did not require updating and remained up to date. However, in April 2020, ECDC concluded *“That its Local Plan does require to be revised, but only partially and only in respect of its strategic housing policies. Of those policies, Policy GROWTH 1 needs to be revised, because it has an out of date housing requirement.”* The issue of other housing policies requiring review (with particular reference to the conclusions of the Soham Inspector) is considered separately within this representation.

- 4.1.4 The conclusions of ECDC’s publication *“East Cambridgeshire Local Plan – A Second Review (April 2020)”* did not make reference to the need for SA, nor did it make reference to the Environmental Impact Assessment of Plans Regulations (2004).

- 4.1.5 CODE considers that ECDC’s conclusion in April 2020, that the plan only required a partial review (limited to a review of Policy GROWTH 1) should have been subject to SA. SA is an iterative process



which should be undertaken throughout the plan making process. The NPPF requires the preparation **and review** of all policies to be underpinned by relevant and up-to-date evidence. It is immediately apparent that in addition to ECDC's decision only to review policy GROWTH 1, there were at least two separate reasonable alternatives which should have been subject to SA at that time:

- A Review of the Local Plan as a whole; and
- A do-nothing scenario.

4.1.6 In addition, a SA could also have considered a further reasonable alternative, which would have been the review of all housing related policies, as accepted may be necessary at paragraph 4.2 of ECDC's conclusions in April 2020:

*"Other strategic housing policies **may also** be updated during the course of updating GROWTH 1, should that be necessary."*

4.1.7 The inspector in the Soham appeal has subsequently found policies GROWTH 2 and GROWTH 4 of the adopted local plan (2015) to be out-of-date (this is considered further in section three of this representation). This representation does not specifically comment upon GROWTH 2 and GROWTH 4 other than the conclusions of the inspector. CODE's view, as presented within this representation, is that the scope of the partial review should be widened to include these policies, or a full review should be undertaken to ensure that housing needs are met, in full, by the end of the plan period and beyond.

4.1.8 The SA Scoping Report which was consulted upon in March 2021 acknowledges at paragraph 3.3 that *"SA was carried out for the 2015 Local Plan. This Scoping Report sets the framework for the new SA for the single issue Local Plan review."*

4.1.9 In reaching these conclusions, CODE is also mindful of the guidance contained within the Planning Practice Guidance (PPG), which outlines *"What can authorities consider when determining whether a plan or policies within a plan should be updated?"*⁵

4.1.10 The PPG states *"The authority can consider information such as (but not exclusively) ... whether any new social, environmental or economic priorities may have arisen."* Paragraph 001 of the PPG⁶ states that *"A sustainability appraisal is... an opportunity to consider ways by which the plan can contribute to improvements in environmental, social and economic conditions, as well as a means of identifying and mitigating any potential adverse effects that the plan might otherwise have."*

4.1.11 The social, environmental and economic impacts of the SA which accompanied the 2015 Local Plan (adopted April 2015) cannot be carried forward even in light of ECDC's decision to only proceed with a review of policy GROWTH 1 of the local plan. There may be further impacts associated with the

⁵ Paragraph 065, reference ID 61-065-20190723

⁶ Paragraph 001, reference ID 11-001-20190722, *"What is a sustainability appraisal, and how does it relate to strategic environmental assessment?"*



decision to proceed only with a review of GROWTH 1, or with the reasonable alternatives which should have been outlined and considered in more detail at the point ECDC decided to commit to a partial review of the local plan.

- 4.1.12 The SA, and therefore, the content of the SIR, is not positively prepared, justified or effective and the decision not to subject the SIR to SA (at the point of determining a single review was necessary) is not consistent with the policies of the NPPF. The SIR is unsound and should not be submitted for examination until these fundamental flaws have been appropriately considered, reassessed and transparently considered against the reasonable alternatives to a solitary review of policy GROWTH 1.

4.2 Reasonable alternatives to the proposed plan period

- 4.2.1 In addition to the matters raised regarding the legitimacy of the decisions taken by ECDC without the benefit of SA outlined above, CODE also considers the SA to be in conflict with the SEA regulations in light of its limited consideration of reasonable alternatives (beyond those considered above).
- 4.2.2 The SA should also consider the appropriate length of the plan period within the SIR and the reasonable alternatives available. For example, the SA should consider the current plan period, to 2031, a 15-year period (as required from the point of adoption as outlined in paragraph 22 of the NPPF⁷) and a 20-year period (which would be consistent with the current plan period for the adopted local plan). Each plan period is likely to have significant environmental, economic and social impacts which should be subject to SA prior to a preferred option being identified.
- 4.2.3 As outlined in these representations (please see section 2.4), it is considered that increasing the plan period to 15 years, to be consistent with national planning policy and guidance is essential to assist in tackling worsening affordability in the district, together with the identification of additional allocations to ensure housing needs are met over the full plan period. The current lack of consideration of reasonable alternatives to the plan period within the SA is in conflict with the relevant provisions of the Environmental Assessment of Plans and Programmes Regulations (2004).

4.3 Pre-emptive conclusions within the Sustainability Appraisal

- 4.3.1 CODE is also concerned that the SA has not been prepared iteratively, in accordance with the PPG. The PPG confirms that SA is a systematic process that must be carried out during the preparation of local plans and spatial development strategies. Its role is to promote sustainable development by assessing the extent to which the emerging plan, when judged against reasonable alternatives, will help to achieve relevant environmental, economic and social objectives.
- 4.3.2 The PPG continues, *"This process is an opportunity to consider ways by which the plan can contribute to improvements in environmental, social and economic conditions, as well as a means of identifying*

⁷ "Strategic policies should look ahead over a minimum 15 year period from adoption, to anticipate and respond to long-term requirements and opportunities"



and mitigating any potential adverse effects that the plan might otherwise have. By doing so, it can help make sure that the proposals in the plan are appropriate given the reasonable alternatives. It can be used to test the evidence underpinning the plan and help to demonstrate how the tests of soundness have been met. Sustainability appraisal should be applied as an iterative process informing the development of the plan.”

4.3.3 Furthermore, paragraph 018, reference ID 11-018-20140306 states that *“The development and appraisal of proposals in plans needs to be an iterative process, with the proposals being revised to take account of the appraisal findings.”*

4.3.4 Table 2 within the SA includes *“A review of the key issues arising from the baseline data and implications for the review.”* Against each summary of objectives and sustainability requirements, ECDC has responded:

“If, as anticipated, the review only focusses on updating the housing requirement figure of Policy GROWTH 1, with no new allocations, there will be no likely implications arising, but this will be closely monitored during plan preparation.”

4.3.5 These conclusions were reached within the *“Sustainability Appraisal and Strategic Environmental Assessment of the single issue review of the 2011-2031 Local Plan Scoping Report – Final Version”*, published in March 2021. These conclusions are still presented within the regulation 19 (preferred option) version of the SIR's SA. The SA makes no reference to the other reasonable alternatives and their potential implications for the local plan, in the event the SA process identifies one of these reasonable alternatives to be a more sustainable, or broadly comparable option. This is a fundamental failure of the SA.

4.3.6 The evidence presented alongside the SIR demonstrates that the SA process has not been taken into account and/or utilised in the selection of a 'preferred option'. This clearly demonstrates that the process has not been iterative or transparent, and is therefore inconsistent with the provisions of national planning policy and guidance, and contravenes the regulations in the Environmental Assessment of Plans and Programmes Regulations (2004).



5 CONCLUSIONS

5.1 For the reasons outlined in these representations, CODE considers the SIR to be unsound, as follows:

- The SIR is unsound in its sole focus on policy GROWTH 1 and its approach to suppress the delivery of housing over the remainder of the plan period, without accounting for the substantial shortfall in provision over the first 10 years of the plan period. As highlighted in these representations, the SIR cannot be viewed to be positively prepared, justified, effective or consistent with national policy, and is therefore unsound.
- CODE considers the scope of the SIR should be widened to focus on additional policies to ensure the plan can positively respond to proposals for new development and provide sufficient flexibility to ensure the delivery of ECDC's full objectively assessed needs for housing. The comments of the Soham inspector clearly demonstrate the plan is currently ineffective in meeting the identified housing requirement for the district. The SIR does not appropriately seek to rectify previous substantial under delivery of housing by ensuring sufficient housing allocations to ensure that housing needs are met in full. The plan is therefore not positively prepared.
- CODE consider that the affordability uplift in the standard method calculation has not sufficiently captured the under supply over the first 10 years of the plan period. The SIR cannot be considered to be effective in significantly boosting the supply of housing over the remainder of the plan period (or over the appropriate 15 year period, as highlighted within these representations), nor can it be considered to be positively prepared (as the plan does not seek to meet its objectively assessed needs).
- CODE consider ECDC has not adequately conformed with the requirements of the duty to co-operate in its decision to commence a review of the adopted local plan. The Duty to Co-operate Statement does not outline any active engagement with other local planning authorities regarding the intention to commence with a partial review and it does not appear there was any opportunity for neighbouring authorities, or other prescribed bodies, to engage in how both the plan was to be reviewed and the review of the plan itself.
- The evidence presented alongside the SIR demonstrates that the SA process has not been taken into account and/or utilised in the selection of a 'preferred option'. This clearly demonstrates that the process has not been iterative or transparent, and is therefore inconsistent with the provisions of national planning policy and guidance, and contravenes the regulations in the Environmental Assessment of Plans and Programmes Regulations (2004).
- The social, environmental and economic impacts of the SA which accompanied the 2015 Local Plan (adopted April 2015) cannot be carried forward even in light of ECDC's decision to only proceed with a review of policy GROWTH 1 of the local plan. There may be further



impacts associated with the decision to proceed only with a review of GROWTH 1, or with the reasonable alternatives which should have been outlined and considered in more detail at the point ECDC decided to commit to a partial review of the local plan.

- The SA, and therefore, the content of the SIR, is not positively prepared, justified or effective and the decision not to subject the SIR to SA (at the point of determining a single review was necessary) is not consistent with the policies of the NPPF. The SIR is unsound and should not be submitted for examination until these fundamental flaws have been appropriately considered, reassessed and transparently considered against the reasonable alternatives to a solitary review of policy GROWTH 1.
- As outlined in these representations (please see section 2.4), it is considered that increasing the plan period to 15 years, to be consistent with national planning policy and guidance is essential to assist in tackling worsening affordability in the district, together with the identification of additional allocations to ensure housing needs are met over the full plan period. The current lack of consideration of reasonable alternatives to the plan period within the SA is in conflict with the relevant provisions of the Environmental Assessment of Plans and Programmes Regulations (2004).

5.2 The SIR is therefore unsound in its sole focus on policy GROWTH 1 and its approach to suppress the delivery of housing over the remainder of the plan period, without accounting for the substantial shortfall in provision over the first 10 years of the plan period. As highlighted above, the SIR cannot be viewed to be positively prepared, justified, effective or consistent with national policy, and is therefore unsound. CODE consider these concerns can only be rectified by undertaking a full local plan review, which seeks to make new housing allocations to ensure the delivery of the authority's housing needs in full, whilst accommodating an appropriate plan period and uplift in delivery to account for historic under supply of housing in the district, which has had a significant negative impact on the affordability of housing in the district. In the context of worsening inflation and the price of building materials continuing to rise substantially, ECDC should be doing all that it can to tackle worsening affordability through positive plan making which seeks to respond to the significant demand for new market and affordable housing in the district. However, national policy and guidance is being used negatively to limit new housing provision substantially, the consequences of which will be deferred until the next full review of the local plan.



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