

East Cambridgeshire District Council

Representations to the East Cambridgeshire
Local Plan –Single Issue Review of the 2015
Local Plan – June 2022

**Proposed Submission Stage (Reg 19)
consultation**

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Client

Pigeon Investment Management Limited

Our reference

PIGC3033

June 2022

Turley

 **Pigeon**
Investment Management

Executive Summary

1. These representations have been prepared by Turley for Pigeon Investment Management Ltd ('Pigeon') on behalf of Pigeon Capital Management 3 Limited and their Landowners, in response to the East Cambridgeshire Local Plan - Single Issue Review of its Local Plan – Regulation 19 Consultation (June 2022). These representations include a Legal Opinion at **Appendix 1**, by Howes Percival, which reviews the Council's approach to the preparation and execution of the Single Issue Review (SIR).
2. Pigeon welcomes the Council's acknowledgement since the First Stage Consultation that the outcome of the standard method should not be automatically converted into a housing requirement. However, Pigeon continues to have significant concerns that the Council '*see no evidence*' to justify a higher housing requirement than the standard method as part of this SIR.
3. The PPG¹ is clear that there '*may be circumstances where it is appropriate to consider whether actual housing need is higher than the standard method indicates*'. The list provided for in the PPG is not a closed list, but the Council has concluded that there is '*no fundamental economic or infrastructure investment planned for the district which could indicate a need to increase the housing requirement figure*'². Pigeon is of the view that the evidence has not been presented by the Council to substantiate this position and that through these representations there are three key areas which would suggest that a higher housing requirement should be planned for as part of this SIR.
4. **Firstly**, in order to be compliant with the NPPF, the Council should be extending the Plan period as part of this SIR to cover a **minimum 15 year period from adoption**. The NPPF is clear in paragraph 22 that Local Plans should look ahead over a minimum 15 year period from adoption. If the Council was to proceed as proposed, then there would only be approximately 8 years remaining of the Plan period, which is considerably short of the requirement. The Council is not proposing to extend the Plan period because it would require other policies in the Plan to be reviewed and updated. Pigeon is of the view that this position is not justified and is inconsistent with national policy. Such an approach risks finding the Council in a position whereby the examining Inspector finds the Plan unsound as confirmed by the Legal Opinion at **Appendix 1** of these representations.
5. **Secondly**, an individual working in East Cambridgeshire would have been required to spend the equivalent of **7.9 years'** earnings to purchase a home in the middle of the market at the start of the current Plan period, in 2011. This has since risen to more than **10.66 years'** earnings in 2020, significantly higher than the national position of **7.8 years'** earnings. This demonstrates that housing affordability in East Cambridgeshire is acute and that this is being exacerbated by the demand outstripping supply. The 2021 Housing Needs of Specific Groups³ identifies that there is a need for **215 affordable homes per**

¹ PPG Reference ID 2a-010-20201216

² East Cambridgeshire District Council (2021) East Cambridgeshire Local Plan – Single Issue Review (of its 2015 Local Plan) – Stage 1: Second consultation, paragraph 3.7

³ GL Hearn (2021) Housing Needs of Specific Groups: Cambridgeshire and West Suffolk, Table 37

annum in East Cambridgeshire. The latest Annual Monitoring Report⁴ confirms that on average **47 affordable homes have been completed annually** over the last 10 years. This equates to the **affordable need being 4x more than supply**. Put an alternative way, if 30% of all new homes provided were affordable, then in order to deliver the identified affordable housing need, the Council would need to **plan for 717 dpa**. This is clearly somewhat higher than the minimum housing requirement of 616 dpa set out in the SIR and significantly higher than the average 302 homes completed per year in the District over the last 10 years.

6. **Thirdly**, is that during the first half of the Local Plan period, East Cambridgeshire has delivered barely half the new homes that the Local Plan had intended by this point, but in contrast has **exceeded its stated job growth by 73%**. This demonstrates the strong economic growth that the District is experiencing and will create nearly **15,200 jobs by 2031** if the *'very strong'* fundamentals of the wider Cambridgeshire economy support a continuation of this trend, despite the pandemic⁵. This would be some **65% more jobs than anticipated by the current Local Plan**, notably calling into question the Council's baseless assertion that there is *'no evidence to indicate that the employment growth target is in need of updating'*⁶.
7. This third point is also set against the important context that East Cambridgeshire is in a nationally significant growth area. Furthermore, following the adoption of the Local Plan in 2015, the Council signed the **Devolution Deal** in 2017. This agreement with Government – worth some £770 million – requires partner authorities to deliver *'substantial economic growth'* and *'substantially increase housing delivery'* to meet needs, in line with targets.
8. The national requirement to plan for a minimum 15 year period from adoption of the Local Plan together with the significant affordability issues experienced by the District and the exponential economic growth which is being experienced, and set to continue, all provide the ideal circumstances for setting a housing requirement that is above the minimum local housing need identified by the standard method.
9. The Council's lack of evidence to substantiate the position that they are maintaining in that there is no evidence to suggest a higher housing requirement is needed is fundamentally flawed and if not addressed prior to submission of the SIR to the Secretary of State for examination, is at significant risk of being found unsound.
10. Pigeon would therefore strongly urge the Council to review their position before proceeding with submission of the SIR for examination, to review economic and housing growth holistically and over an extended Plan period to ensure that this review of the Local Plan is found sound and delivers the required jobs and housing for its residents.

⁴ East Cambridgeshire Authority's Monitoring Report (AMR) 2020-21 (December 2021), Table 6

⁵ Cambridgeshire and Peterborough Combined Authority (2021) Combined Authority Annual Report and Business Plan 2021/22, p5

⁶ East Cambridgeshire District Council (2022) East Cambridgeshire Local Plan – Single Issue Review (of its 2015 Local Plan) – Regulation 19 report, p4

1. Introduction

- 1.1 These representations have been prepared by Turley for Pigeon Investment Management Ltd ('Pigeon') on behalf of Pigeon Capital Management 3 Limited and their Landowners, in response to the East Cambridgeshire Local Plan - Single Issue Review of its Local Plan – Regulation 19 Consultation (June 2022). They include a legal Opinion at **Appendix 1**, by Howes Percival of the Council's approach to the preparation and execution of the Single Issue Review.
- 1.2 Turley has previously submitted representations on behalf of Pigeon and their Landowners to the Council's First Stage and Second Stage Consultations on the Single Issue Review (SIR) in 2021 and February 2022.
- 1.3 Pigeon continue to welcome the Council's acknowledgement since the First Stage Consultation that the outcome of the standard method should not be automatically converted into a housing requirement. This shift brings greater consistency with national guidance, which emphasises that the standard method provides only '*a minimum starting point in determining the number of homes needed in an area*' and clearly accepts that '*actual housing need*' will sometimes be higher⁷ when local circumstances are taken into account.
- 1.4 Pigeon nonetheless remains concerned that despite this acknowledgement, the Council '*sees no evidence*' to justify a higher housing requirement⁸. Such a stance is considered to be wholly unfounded as set out within these representations, yet it is on this basis that the Council has decided to continue with the proposed changes to the Local Plan 2015 as set out in the previous First and Second Stage Consultations.
- 1.5 Pigeon would therefore like to take the opportunity to re-affirm and update the concerns that they expressed to the First and Second Stage Consultations. Pigeon maintain that there is undeniable evidence that the Council should be planning for economic growth within the District in parallel with their housing growth to ensure that these two strategic policy areas are brought forward holistically and informed by one another, rather than in isolation.
- 1.6 In order to achieve this and to deliver a review to the Local Plan which can be found sound at examination, Pigeon continue to advocate that the following changes are made to the Plan:
- That the Council should ensure the review of the Plan sets out a housing requirement up to 2037/38 to ensure that this looks forward at least 15 years from adoption in accordance with paragraph 22 of the NPPF;
 - That undeniable circumstances exist for the Council to consider planning for more than the minimum housing requirement including;

⁷ PPG Reference ID 2a-010-20201216

⁸ East Cambridgeshire District Council (2021) East Cambridgeshire Local Plan – Single Issue Review (of its 2015 Local Plan) – Stage 1: Second consultation, paragraph 3.7

- The location of the District within a strategic growth area, including the Cambridge to Norwich Tech Corridor, for the sustainable delivery of housing and economic growth;
 - Worsening affordability with the equivalent of 7.9 years' earnings needed to purchase a home in the middle of the market in 2011, rising to some 10.66 years earnings in 2021;
 - Delivering on average over the last 10 years, 47 affordable homes per annum, set against an identified need of 215 affordable homes per annum;
 - Only delivering an average of 52% of the adopted housing requirement over the first 10 years of the Plan, but exceeding the identified jobs growth by 73% in the same period;
 - A rate of job growth between 2011 – 2019 that was 90% higher than policy expectations; and,
 - 26% more jobs existed in 2019 than 2011 but only 6% more homes.
- The Council needs to review both parts of Policy GROWTH 1 to ensure that the strategic housing and economic growth for the District support one another and are aligned with the ambitions of the strategic growth areas;
 - In addition to reviewing Policy GROWTH 1, the Council also needs to review Policy HOU 3 in light of changes to their affordable housing policy as well as to ensure that sufficient affordable housing is delivered for local residents;
 - The Council needs to undertake a Strategic Housing and Employment Land Availability Assessment to inform their approach to the SIR and to publish the evidence base to support this SIR;
 - That these matters need to be considered urgently as part of the SIR given the immediacy of the issues in the District. To dismiss these until the next Local Plan would result in worsening affordability; increasing shortfall of both market and affordable housing; on-going unsustainable commuting patterns and a risk of businesses withdrawing from the area due to accessibility to a limited workforce;
 - That the Council demonstrates that it has undertaken active co-operation with its neighbouring authorities under the Duty to Cooperate requirements to discuss strategic issues and establish whether East Cambridgeshire will need to accommodate any unmet housing or other needs from neighbouring authorities;
 - The Council needs to review the programme for producing the SIR as 2.5 years is considered to be disproportionately long, given the limited scope of the SIR.;
 - That the Sustainability Appraisal has not been carried out in accordance with the legislation and that given the number of concerns expressed at the First and Second Stage Consultation to the Plan period, has failed to assess the extension of the Plan period to 15 years as a reasonable alternative; and

- For transparency, the Council should provide a consultation website where the representations made to the Regulation 18 and 19 consultations can be made available to the public and members of the Council.
- 1.7 In accordance with Paragraph 11a of the NPPF, Local Planning Authorities should positively seek opportunities to meet the development needs of their area. The recommendations set out in these representations will therefore ensure that the SIR has the flexibility and resilience to adapt to changes both in the local market and the wider regional economy.
- 1.8 Pigeon would be pleased to discuss any aspect of these representations in more detail if this would be of assistance to the Council and we look forward to engaging positively with the Council and other stakeholders in the ongoing preparation of the SIR.

2. Proposal 1 – Scope of Changes

- 2.1 The Regulation 19 Consultation Document confirms that the Council intends to proceed as previously proposed in the First and Second Stage Consultations, limiting this Single Issue Review (SIR) to alterations to Policy GROWTH 1 and specifically only the housing requirement for the District.
- 2.2 The Council remains of the view that matters pertaining to economic growth, emerging statutory planning and transport policy, and updating of other relevant parts of the Local Plan such as affordable housing and environmental policies are unnecessary and should be part of a future full Local Plan review. No timescale has been set for when this future full Local Plan review will occur. Simply that it will do so when more is known about the future national planning reforms. The East Cambridgeshire Local Development Scheme April 2022⁹ made no reference to any review of the full Local Plan.
- 2.3 Pigeon do not support this approach and would continue to encourage the Council to embark on a review of housing and economic growth comprehensively as part of this review, rather than in isolation or in years to come when the challenges faced will be far greater. Taking a comprehensive approach now will enable the Council to plan housing and employment growth accordingly to meet the challenges faced by the District and its rapidly increasing population, in parallel to identifying when relevant infrastructure to support this growth will be required
- 2.4 Within the Sustainability Appraisal and Strategic Environmental Assessment made available during the First Stage Consultation, the Council recognised that *'the District is now a favoured business location in its own right. Employment rates are higher than the national average, with key sectors including construction, agriculture, and professional/technical services. Despite increases in the number of jobs in the District over the last decade, there are high levels of out-commuting (44% of the working population) to jobs in the Cambridgeshire area. A very high proportion of local businesses employ fewer than 10 people'*¹⁰.
- 2.5 It further recognised that *'In recent years, East Cambridgeshire has experienced considerable population and housing growth due to its location within a growth area. In particular, the success of the Cambridge economy has had a profound effect as the relative affordability of housing, compared to Cambridge, has stimulated rapid population growth in East Cambridgeshire. This has meant a significant increase in the level of out-commuting and pressures on local house prices. The pace of growth has slowed but the district remains the fastest growing in Cambridgeshire'*¹¹.

⁹ Approved at Full Council on 21 April 2022

¹⁰ East Cambridgeshire District Council (March 2021) Sustainability Appraisal and Strategic Environmental Assessment of the Single Issue Review of the 2011-2031 Local Plan, paragraph 2.4

¹¹ East Cambridgeshire District Council (March 2021) Sustainability Appraisal and Strategic Environmental Assessment of the Single Issue Review of the 2011-2031 Local Plan, paragraph 2.8

- 2.6 Whilst such references were removed from the subsequent versions of the Sustainability Appraisal and Strategy Environmental Assessment¹², it does still form part of the '*Detailed Spatial Portrait for East Cambridgeshire*' within the latest AMR (December 2021) and as such is considered to provide an accurate representation of the District in 2021/22.
- 2.7 Given the proximity of East Cambridgeshire to Cambridge, it has benefited from the success of the Cambridge economy which has stimulated rapid population growth in the District. Its excellent rail connections to Cambridge, Peterborough, Norwich, Stansted Airport, Birmingham and London has further fuelled this growth in the last decade.
- 2.8 Managing this population growth comes with its challenges; the need to provide sufficient housing, the need to manage economic growth to provide job opportunities, particularly in higher skilled sectors and to mitigate the high levels of out-commuting that the District currently experiences.
- 2.9 Furthermore, since the adoption of the Local Plan, a new southern bypass has been delivered around Ely, a new railway station opened at Soham in 2021 together with other significant transport infrastructure improvements planned. These include £22.4 million in new funding secured to upgrade railway capacity at Ely, the ongoing development of a business case for improving the A10, which could be completed by 2028 and is supported by the Council and a study to identify scope to improve A142 from Chatteris to Snailwell.
- 2.10 This demonstrates that the District has significant potential to sustainably develop further and that this needs to be supported by a housing and employment growth strategy that responds to the wider strategic context and the immediate urgency to address the exponential economic growth that the District is experiencing at present. The creation of jobs and ability to come back stronger after the pandemic, supported by appropriate housing growth should be key priorities for this Council in this SIR and to secure these opportunities at a time when the neighbouring authorities are also preparing emerging Local Plans is appropriate.
- 2.11 Therefore, and as set out in further detail in our response to **Proposal 4** (Housing Requirement) below, Pigeon disagree with the Council's position that there is no evidence to demonstrate that there is economic growth occurring within the District that needs to be accommodated as part of this SIR.
- 2.12 The Council state in the Consultation Responses Summary to the Second Consultation that 'we do not have evidence to indicate that the employment growth target needs updating'¹³. Yet there is no justification or explanation as how this conclusion is arrived at. In the Council's latest Annual Monitoring Report (AMR) (December 2021) it identifies at paragraph 2.29 and Table 11, that no monitoring of completed employment floor space has taken place since 2017/18. Whilst it is understood that such monitoring is not a legal requirement of an AMR, Pigeon is not aware that there is any other evidence

¹² East Cambridgeshire District Council (December 2021) (May 2022) Sustainability Appraisal and Strategic Environmental Assessment of the Local Plan to 2031

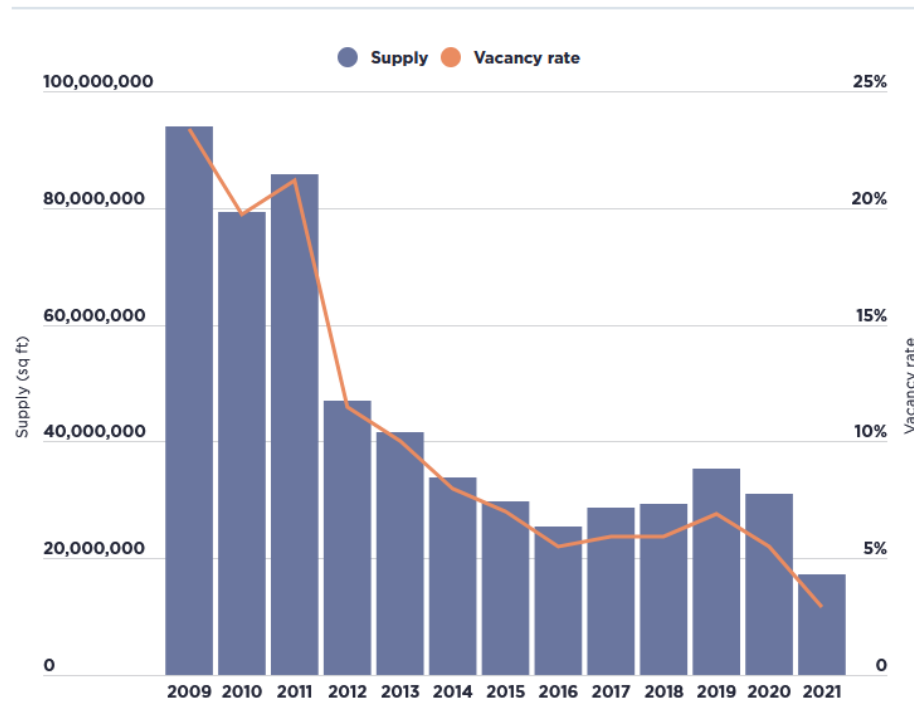
¹³ East Cambridgeshire District Council Consultation Report March 2022 Consultation Responses Summary Issue 1 ECDC Response

publicly available to substantiate the position that the Council has taken with regard to assessing their supply of employment land.

2.13 Furthermore, given this absence of monitoring for at least 4 years and over a period when employment requirements have significantly changed, Pigeon question whether the anticipated supply of employment land meets market demand and has reasonable prospects of being delivered within the remaining Plan period, or if the sites referred to have a history of not being brought forward. As the Council is aware, this makes a considerable difference and should also be considered further through an up-to-date Strategic Housing and Employment Land Availability Assessment (SHELAA) before reaching a conclusion on whether it should be reviewed as part of this SIR.

2.14 The latest Big Shed Briefing by Savills (January 2022) identified that 2021 was another record breaking year for the take up of B8 floorspace and that the vacancy rate was at its lowest ever recorded (2.9%) across the country.

Supply and vacancy reach a new low



Source: Savills Research

2.15 Whilst it is accepted that this is only one part of the employment market, it is widely recognised that the pandemic has seen a change in working practices and that the demand for office floor space has also significantly changed. As such, Pigeon would suggest that the data the Council is relying upon to substantiate their position on the scope of changes required for the SIR is significantly outdated and unjustified. The Council proposes that the matter be left to be addressed in a full Local Plan review for which there is no timetable for the preparation of an evidence base let alone the Plan itself. This may lead to the Plan being found unsound at examination.

2.16 Pigeon therefore remain firmly of the view that the Council needs to review Policy GROWTH 1 holistically to ensure that the strategic housing and economic growth for the District are harmonious and support one another and that they are also aligned with the strategic growth ambitions of the wider growth areas in order for the Local Plan review to be found sound at examination.

3. Proposal 2 – Plan Period

- 3.1 Despite clear and convincing justification, in line with Planning Practice Guidance and Policy, the Council has rejected the proposal to extend the Plan period to cover a minimum 15 year period. It would appear that this decision has been taken because such a proposal would require a full review of the Local Plan, with other policies needing to be reviewed and updated. Yet, a neighbouring authority of East Cambridgeshire: Forest Heath District Council (now part of West Suffolk Council) correctly extended their Plan period to accord with the NPPF requirement when they conducted a SIR into their strategic housing policy (CS7) in 2019 and the legal opinion at **Appendix 1** confirms this approach together with references to further examples at paragraph 27.5.
- 3.2 There was a shift in national policy between 2012 and 2019, which was that in 2019, the NPPF stated that Local Plans should look ahead over a minimum 15 year period from adoption, rather than being drawn up over an appropriate timescale, preferably a 15-year time horizon, as per the 2012 NPPF. The 2019 requirement for a minimum 15 year period was retained in the latest update of the NPPF in July 2021 with the justification at paragraph 22 that this helped authorities *‘to anticipate and respond to long-term requirements and opportunities, such as those arising from major improvements in infrastructure’*. It also identified that *‘where large scale developments such as new settlements or significant urban extensions were proposed, policies should look further ahead (at least 30 years)’*. Whilst the latter is not proposed within this SIR for East Cambridgeshire, the inclusion of this new requirement at paragraph 22 of the NPPF identifies the government’s policy direction, which is that authorities need to be considering their development needs and the implications of this on infrastructure provision and delivery over the long term, not the short term. Therefore, the approach that East Cambridgeshire are proposing is not supported by Pigeon because it would be inconsistent with national policy and guidance on this matter and would clearly be out-of-date from the outset, if the SIR was adopted as proposed by the Council as confirmed by the legal opinion at **Appendix 1**.
- 3.3 Pigeon is of the view that not only are the Council proceeding with a Plan review that is in clear conflict with the requirements of the NPPF, but that by failing to extend the Plan period to a minimum of 15 years, they are also missing a window of opportunity to align themselves with neighbouring authorities such as Fenland, Greater Cambridge and West Suffolk, if they wait for a full review of their Local Plan in the years to come. These neighbouring authorities are actively preparing their emerging Local Plans and the opportunity is now to secure necessary cross boundary infrastructure to support future housing and economic growth for the benefit of East Cambridgeshire residents. Further commentary on the matter of Duty to Co-operate is set out in **Proposal 6** below.
- 3.4 The NPPF is clear that strategic policies, which GROWTH 1 is such a policy, should look forward a minimum of 15 years from adoption and as such the Council’s proposal not to amend the Plan period is fundamentally unsound. Pigeon therefore consider it necessary for the proposed amendments to GROWTH1 set out the housing requirement, taking into account local circumstances, for East Cambridgeshire up to at least 2037/38.

4. Proposal 3 – Site Allocations

- 4.1 The Council continue to propose that there is no requirement for any further site allocations in the Local Plan as a consequence of the SIR. Paragraph 3.5 of the Second Stage Consultation Document states that *‘the Council considers it can comfortably exceed the quantum of new housing requirement arising from the SIR’ and therefore no new allocations are necessary’*.
- 4.2 Pigeon would suggest that this view continues to be rather premature and inward facing given that the Council has not prepared a robust evidence base, including publishing an updated SHELAA. Simply ignoring the important strategic planning and economic context of the District and arriving at this conclusion, which has not been informed by robust evidence is not in line with either the NPPF or the PPG.
- 4.3 Pigeon continue to be of the view that taking into account the above factors means that the Council may need to seek an additional quantum of sites and variety of sites, including small and medium sized ones, to complement the delivery of Sustainable Urban Extensions (SUEs), which, given their infrastructure requirements and lead in times, will take longer to start delivering any homes on site. This is to ensure that the Council is less likely to find themselves in the position they were prior to 2019/20, when the authority were on average delivering only 290 homes of their 575 annual requirement i.e., only 50%.
- 4.4 Whilst East Cambridgeshire has passed the 2021 housing delivery test, it still failed to deliver 100% of the housing required over the past 3 years, which it should be noted is less than the proposed housing requirement set out in the SIR. Within Cambridgeshire, East Cambridgeshire jointly delivered the lowest quantum of homes with Fenland District Council:

Authority	2021 HDT Result
Cambridge City	133%
East Cambridgeshire	95%
Fenland	95%
Huntingdonshire	152%
South Cambridgeshire	145%

- 4.5 Whilst it is recognised that the standard method factors past under-delivery as part of the affordability ratio, hence there being no specific requirement to address it separately, the Council’s persistent under-delivery of housing, both prior to 2015, but also since the adoption of the Plan is a relevant consideration in respect of the context of the performance of the Plan and housing delivery.
- 4.6 So whilst the Council pertain to have a supply of 8,179 homes in the Plan period set against a housing requirement of 5,398, there is some doubt as to whether these sites will come forward in the way that the Council envisage. Therefore, Pigeon is of the view that to ensure that the minimum housing requirement is met during the later years of the Plan period, this SIR should be identifying site allocations that will help the District reach at least 100% of their requirement, if not more, like their neighbouring authorities.

- 4.7 Furthermore, as Pigeon have set out within these representations, in order to meet the immediate needs of their residents, where there is a sizeable under-delivery of affordable homes; significant affordability issues; a strong demand for commercial floorspace and a skilled workforce; all within a growth area which is nationally recognised and supported by Government to deliver sustainable housing and economic growth, means that there are local circumstances which identify the Council should be planning for more housing than the minimum local housing need and as such, should be looking to secure further site allocations.
- 4.8 In recent months, the Environment Act has been passed and within that a requirement for sites to make provision for at least 10% biodiversity net gain. Whilst Pigeon support this requirement, it must be acknowledged that incorporating this provision on-site, in the absence of any adopted frameworks to enable off-site provision, will have an impact on the number of dwellings that can be accommodated on site allocations contained within the 2015 Local Plan. Therefore, the Council is likely to find that the site allocations they are relying upon to deliver approximately 8,000 new homes in the remaining Plan period will in fact deliver less due to the need to accommodate other policy requirements. In order to compensate for this, Pigeon is of the view that this further supports the position that the Council should look to secure further site allocations to deliver the required number of homes.
- 4.9 Pigeon continue to strongly urge the Council to re-consider their approach before the submitting the SIR for examination.

5. Proposal 4 – The Housing Requirement

- 5.1 Pigeon continue to welcome the Council’s acknowledgement that the outcome of the standard method should not be automatically translated into a housing requirement, where it originally – in the Stage 1 consultation – described a *‘standard method for calculating a housing requirement’* that does not exist in those terms¹⁴. This shift ensured alignment with national guidance, which emphasises that the standard method provides only *‘a minimum starting point in determining the number of homes needed in an area’* and clearly accepts that *‘actual housing need’* will sometimes be higher¹⁵.
- 5.2 Pigeon nonetheless remain extremely concerned that the Council believes there to be *‘no compelling evidence’* to justify a higher housing requirement¹⁶. Such a stance is considered to be wholly unfounded, speaking more to a lacking evidence base than a lack of evidence per se.
- 5.3 The Council suggests, for example – with reference to official guidance on the circumstances in which a greater need for housing could exist, which has been wrongly interpreted as a closed list¹⁷ – that there is *‘no fundamental economic or infrastructure investment planned for the district which could indicate a need to increase the housing requirement figure’*¹⁸. This is a surprising position to take, however, in an area that has signed a Devolution Deal with Government – worth some £770 million, to be invested in exchange for *‘substantial’* economic growth and housing delivery¹⁹ – and forms part of a wider region that has long been believed to have the potential for *‘transformational growth’*²⁰. It notably contrasts with the emerging approach of the neighbouring Greater Cambridge authorities, who are rightly anticipating a greater need for housing than suggested by the standard method having identified that simply aligning with the latter – in the face of strong job growth supported by ongoing investment – would *‘risk increasing the amount of longer distance commuting into Greater Cambridge, with the resulting impacts on climate change and congestion’*²¹.
- 5.4 The Council has argued that the effect of any transformational growth is *‘uncertain at present’* and *‘may not be known for some time’*, referring also to delays in producing a Spatial Framework for the so-called Oxford-Cambridge Arc and questioning whether this will even proceed at all²². This should not necessarily detract though from the clear

¹⁴ East Cambridgeshire District Council (2021) East Cambridgeshire Local Plan – Single Issue Review (of its 2015 Local Plan) – Stage 1 consultation, paragraph 3.5

¹⁵ PPG Reference ID 2a-010-20201216

¹⁶ East Cambridgeshire District Council (2022) East Cambridgeshire Local Plan – Single Issue Review (of its 2015 Local Plan) – Proposed Submission Stage (Reg 19) consultation, paragraph 3.7

¹⁷ PPG Reference ID 2a-010-20201216. *‘Circumstances where this may be appropriate include, **but are not limited to...***’ (our emphasis)

¹⁸ East Cambridgeshire District Council (2022) East Cambridgeshire Local Plan – Single Issue Review (of its 2015 Local Plan) – Proposed Submission Stage (Reg 19) consultation, paragraph 3.7

¹⁹ HM Government (2017) Cambridgeshire and Peterborough Devolution Deal, p3 and p8

²⁰ HM Government (2021) Planning for sustainable growth in the Oxford-Cambridge Arc: an introduction to the Oxford-Cambridge Arc Spatial Framework, paragraphs 1.9 and 1.16

²¹ Greater Cambridge Shared Planning (2021) Greater Cambridge Local Plan: First Proposals, p26

²² East Cambridgeshire District Council (2022) East Cambridgeshire Local Plan – Single Issue Review (of its 2015 Local Plan) – Proposed Submission Stage (Reg 19) consultation, paragraph 3.8

evidence of housing delivery lagging far behind targets in this wider area that has created considerably more jobs than planned²³, with this being as true of East Cambridgeshire as it is of anywhere in the sub-region. Over the last decade, the District has delivered barely half of the new homes that the existing Local Plan had intended by this point but in contrast exceeded its stated job growth target by some 73%, as shown by Table 5.1.

Table 5.1: Housing Provision and Job Growth in Plan Period to Date (2011-20/21)

	Annual target	Actual provision, average per annum	Planned growth delivered
Housing ²⁴	575	302	52%
Jobs ²⁵	460	796	173%

Source: Council monitoring; Local Plan; Business Register and Employment Survey

5.5 The exceedance of the job growth target means that East Cambridgeshire has already, in the space of only ten years, delivered more than three quarters (78%) of the additional jobs targeted over two decades. It is on course to create nearly 15,200 jobs by 2031 – some 65% more jobs than anticipated by the current Local Plan – if the ‘very strong’ fundamentals of the wider Cambridgeshire economy support a continuation of this trend, despite wider economic headwinds²⁶. The Council suggests that it does ‘not have evidence to indicate that the employment growth target is in need of updating’²⁷ but this simply suggests an unwillingness to consider the evidence rather than it not existing, as the Council appears to have conceded having previously been firmer in stating that there was ‘no evidence’²⁸.

²³ HM Government (2021) Planning for sustainable growth in the Oxford-Cambridge Arc: an introduction to the Oxford-Cambridge Arc Spatial Framework, paragraph 1.16

²⁴ East Cambridgeshire District Council (2022) East Cambridgeshire Local Plan – Single Issue Review (of its 2015 Local Plan) – Proposed Submission Stage (Reg 19) consultation, paragraph 4.8. This confirms that 3,018 dwellings per annum were completed between 2011 and 2021, equivalent to circa 301.8 dwellings per annum on average

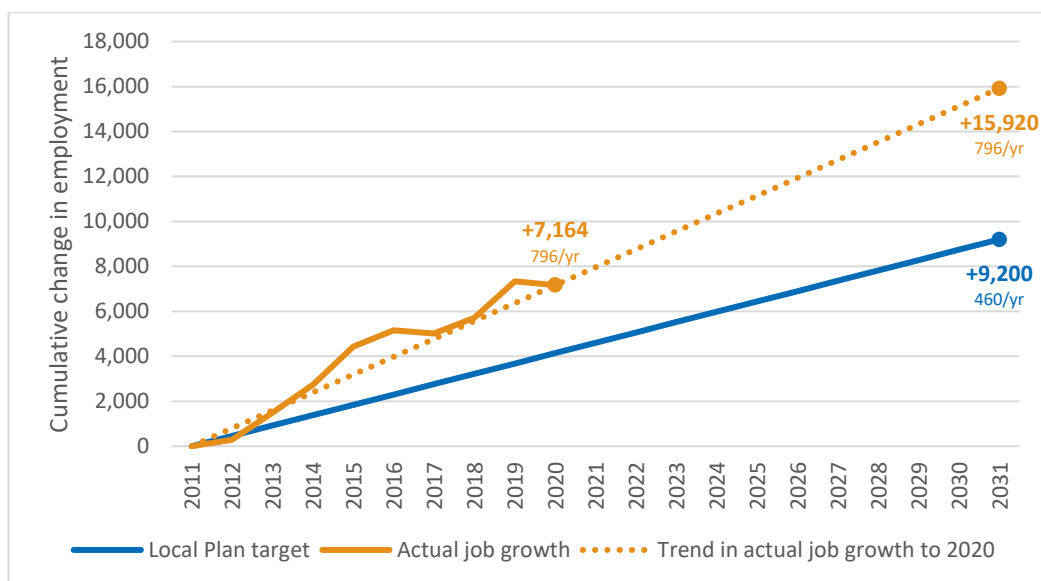
²⁵ ONS (2021) Business Register and Employment Survey. Note that this currently only runs to 2020, unlike housing delivery which is available to 2021

²⁶ Cambridgeshire and Peterborough Combined Authority (2021) Combined Authority Annual Report and Business Plan 2021/22, p5

²⁷ East Cambridgeshire District Council (2022) East Cambridgeshire Local Plan – Single Issue Review (of its 2015 Local Plan) – Second Consultation Report, p3

²⁸ East Cambridgeshire District Council (2021) East Cambridgeshire Local Plan – Single Issue Review (of its 2015 Local Plan) – Stage 1 consultation report, p3

Figure 5.1: Actual Employment Growth vs. Policy Target (2011-20/31)



Source: East Cambridgeshire District Council; ONS; Turley analysis

5.6 With the job growth target having been originally based on employment forecasts, it is of note that such divergence from even ‘state-of-the-art’ forecasts has been a recurring trend throughout Cambridgeshire and Peterborough, in a sign of their fundamental limitations²⁹. This was discovered through a comprehensive Independent Economic Review, completed in 2018, which also notably found that ‘the levels of planned housing [in Cambridgeshire and Peterborough] are **insufficiently high** to accommodate the existing, let alone anticipated growth in the economy’³⁰ (our emphasis). While that study recommended the setting of new and higher housing targets, potentially as much as 66% above the minimum need now implied by the standard method³¹ but ‘at the very least adding on accumulated backlog’³², the Council’s proposal to completely disregard past underperformance and only plan for the minimum figure produced by the standard method – continuing to simplistically claim that this already accounts for past undersupply³³ – does not represent positive planning and is not justified.

5.7 The Council is clearly aware that it has failed to implement the recommendations of the Independent Economic Review, and indeed has previously attempted to dismiss the significance of its findings by suggesting that it has only made ‘recommendations, with no legal status that must be followed’³⁴. The taking of such an attitude towards objective evidence is extremely concerning and is considered to cause conflict with the NPPF

²⁹ Cambridgeshire and Peterborough Independent Economic Review (2018) Final Report, p68-69

³⁰ *Ibid*, p12

³¹ *Ibid*, p69. This suggests that ‘it might be necessary to build in the range of 6,000 – 8,000 houses per year over the next 20 years’, and this range is between 24% and 66% higher than the minimum annual need for 4,826 homes implied across Cambridgeshire and Peterborough by the standard method as of December 2021

³² *Ibid*, p69

³³ East Cambridgeshire District Council (2022) East Cambridgeshire Local Plan – Single Issue Review (of its 2015 Local Plan) – Proposed Submission Stage (Reg 19) consultation, paragraph 4.6

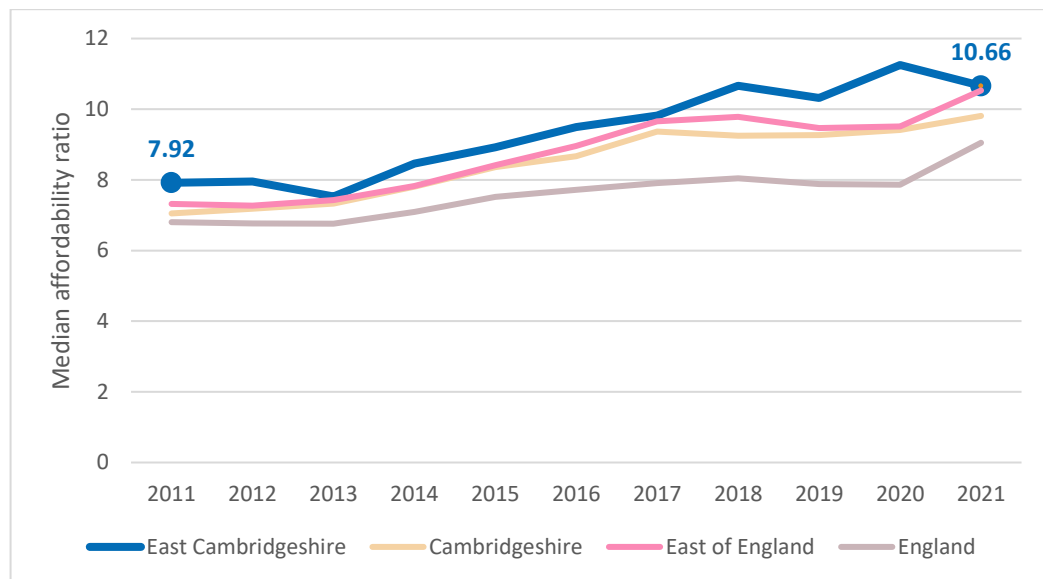
³⁴ East Cambridgeshire District Council (2021) East Cambridgeshire Local Plan – Single Issue Review (of its 2015 Local Plan) – Stage 1 consultation report, p3

which requires all policies to be ‘underpinned by relevant and up-to-date evidence’³⁵. It likewise indicates that the Council is making no attempt to ‘help create the conditions in which businesses can invest, expand and adapt’, nor to ‘address potential barriers to investment, such as inadequate...housing’ despite these similarly being requirements of the NPPF³⁶. This threatens to only undermine the Government’s wider growth ambitions, as articulated in Build Back Better³⁷.

Affordability/Affordable Housing Policy

5.8 Such an approach – in an economically buoyant area – is likely to only exacerbate an already worsening imbalance between housing supply and demand, which is making housing in East Cambridgeshire increasingly unaffordable. While an individual working in East Cambridgeshire would have been required to spend the equivalent of 7.9 years’ earnings to purchase a home in the middle of the market at the start of the current Plan period, in 2011 – even then relatively high compared to Cambridgeshire, the East of England and the country as a whole, as shown by Figure 5.2 – this has since risen to some 10.66 years’ earnings³⁸. A slight improvement over the last year should not distract from this long-term worsening, with the current ratio in East Cambridgeshire still the second-highest on record.

Figure 5.2: Change in Median Affordability Ratio (2011-21)



Source: ONS

5.9 The rising cost of purchase will have inevitably been a factor driving the evidenced need for affordable housing, with the Council having collaborated with its neighbours to commission a study – simply titled “Housing Needs of Specific Groups” – that found there

³⁵ MHCLG (2021) National Planning Policy Framework, paragraph 31

³⁶ *Ibid*, paragraphs 81 and 82c

³⁷ HM Treasury (2021) Build Back Better: our plan for growth

³⁸ ONS (2021) Housing affordability in England and Wales: 2020, house price to workplace-based earnings ratio, Tables 1c and 5c

to be a need for some 215 affordable homes per annum in East Cambridgeshire³⁹. This is more than four times the 47 such homes completed annually since 2011, suggesting that recent delivery must be significantly boosted if this need is to be met in full. Indeed, if simplistically assumed for illustration that 30% of new homes are affordable⁴⁰, meeting this need in full would require the provision of some 717 dwellings per annum. This is around 20% above the minimum need currently suggested by the standard method.

- 5.10 The Council is understood to have been encouraged, during the Stage 1 consultation, to consider planning for a greater number of homes overall in order to boost the delivery of much-needed affordable homes. It appeared to flatly reject this suggestion, however, claiming that to do so would amount to *'double counting'* the affordability uplift applied in the standard method. Such a simplistic interpretation completely ignored the clear and distinct statement in the PPG that *'an increase in total housing figures...may need to be considered where it could help to deliver the required number of affordable homes'*⁴¹.
- 5.11 Ultimately, it appears that the Council has still failed to meaningfully consider the prospect of a higher housing requirement, despite having once again insisted that it has *'carefully'* considered the comments received during two rounds of consultation, when a *'vast majority'* disagreed with its proposed approach⁴². It again simply claims that it *'disagrees with the suggestions'*, continuing to offer little in the way of new evidence to justify its stance⁴³.
- 5.12 Pigeon has repeatedly encouraged the Council to comply with national policy by undertaking a proper evidence-based assessment of housing need which incorporates a robust forecast of the local economy, accounting for the impact of existing growth strategies and planned infrastructure investment. They explained how this should have been used to determine whether a greater need for housing is likely to arise in these circumstances, relative to the minimum figure generated by the standard method. A preference was expressed for this evidence to have been developed at the strategic level, covering the entirety of Cambridgeshire and Peterborough, and with such an assessment still conspicuously absent it is extremely disappointing that the scope of the aforementioned report on the "Housing Needs of Specific Groups"⁴⁴ – recently produced for this area plus neighbouring West Suffolk – was not widened to simultaneously consider the overall need for housing in this manner, rather than simply relying on a standard method that has known limitations.
- 5.13 It is equally disappointing that the Council did not take the opportunity to collaborate with the Greater Cambridge authorities, who commissioned what appears to be detailed

³⁹ GL Hearn (2021) Housing Needs of Specific Groups: Cambridgeshire and West Suffolk, Table 37

⁴⁰ 30% used as it represents the upper end of the affordable housing requirement under the revised policy requirements, following adoption of the viability evidence base of the now withdrawn Local Plan, but it also represents the lower end of the affordability requirement under Policy HOU 3 as adopted in 2015 and where through the Council's own admission, delivery has fallen far short of this requirement.

⁴¹ East Cambridgeshire District Council (2021) East Cambridgeshire Local Plan – Single Issue Review (of its 2015 Local Plan) – Stage 1 consultation report, p3; PPG Reference ID 2a-024-2019220

⁴² East Cambridgeshire District Council (2022) East Cambridgeshire Local Plan – Single Issue Review (of its 2015 Local Plan) – Second Consultation Report, p7 and p12

⁴³ *Ibid*, p7

⁴⁴ GL Hearn (2021) Housing Needs of Specific Groups: Cambridgeshire and West Suffolk

evidence on future economic growth and its implications for housing need⁴⁵. This study notably concluded, in the context of the points raised above on the disconnect between job growth and housing need, that the latter will likely be higher than suggested by the standard method where a reasonable range of job growth is to be sustainably accommodated⁴⁶. It also raised the prospect of a displacement of additional housing need into East Cambridgeshire, depending on the level of housing and employment growth to be planned for in Greater Cambridgeshire, stating that:

“...up to 141 dpa would have to be provided in areas outside of Greater Cambridge to house the additional Greater Cambridge workforce if commuting remained unchanged. It is assumed that this additional demand for housing is likely to arise in those areas with the strongest commuting patterns with Greater Cambridge at present i.e., East Cambridgeshire (22%) and Huntingdonshire (19%)”⁴⁷

- 5.14 This further highlights the importance of the Council possessing a comparable evidenced-based understanding of the relationship between job growth and housing need, to ensure that any need beyond the level suggested by the standard method is fully taken into account.
- 5.15 Pigeon continue to firmly believe that, by failing to commission let alone respond to such evidence, the Council is at risk of repeating and indeed exacerbating the failings of the current Local Plan, arguably making the situation even worse by proposing what could be a 22% reduction in the amount of new housing that would be provided over the entire plan period⁴⁸. This will only lead to ever-worsening conditions for those needing a home locally, stifled business investment and increasingly unsustainable commuting patterns.
- 5.16 In addition, given the passage of time since the adoption of the Local Plan in 2015 some development management policies are now out of step with up-to-date evidence. This is particularly so in relation to the provision of housing for groups with specific housing requirements which is identified in the NPPF at paragraph 60 alongside the need to provide a sufficient amount and variety of land in meeting the Government’s objective of significantly boosting the supply of homes.⁴⁹
- 5.17 In a recent appeal for a retirement village in the district, the Council itself acknowledged that there is a significant need for affordable housing⁵⁰. The Inspector in their decision made clear that despite the Council being able to demonstrate a five-year supply of

⁴⁵ GL Hearn, SQW and Cambridge Econometrics (2020) Greater Cambridge Employment Land and Economic Development Evidence Study; GL Hearn (2020) Greater Cambridge Local Plan: Housing and Employment Relationships

⁴⁶ *Ibid*, paragraph 1.9 includes the conclusion: ‘Across the whole study area, the analysis suggests that 1,996 homes per annum would be required to support the Central economic scenario, and a higher figure of 2,549 for the Higher scenario. Both of these figures are above the need derived from the Standard Method which is for a minimum of 1,743 homes each year.’

⁴⁷ *Ibid*, paragraph 1.16

⁴⁸ The Council is understood to be waiting for confirmation of completions in 2021/22 before finalising its proposed housing requirement, but indicates – in its proposed amendments to Policy GROWTH 1 – that ‘the figure will likely be around or just under 9,000’. A figure of 9,000 dwellings would be 22% lower than the existing requirement for 11,500 dwellings

⁴⁹ MCHLG (2021) National Planning Policy Framework, paragraph 60

⁵⁰ APP/V01510/W/21/3282241 7th April 2022 163-187 High Street Bottisham

overall housing land this did not reduce the importance placed on the Council's *'persistent and meaningful under-delivery of affordable homes over the past 10 years'*.

- 5.18 The Inspector also drew attention in their decision to NPPF policy at paragraphs 60 and 62 that addressing the needs of groups with specific housing requirements is a key part of national planning policy.⁵¹
- 5.19 The Council is urged to take the opportunity now to address the serious shortfalls in affordable housing and range of housing bringing the Local Plan in line with national policy.

⁵¹ MCHLG (2021) National Planning Policy Framework, paragraph 60 and 62

6. Proposal 5 – Broad Locations

- 6.1 The Council has confirmed that following the First and Second Stage Consultations, their view is that there is no need to significantly amend the text within the Local Plan at paragraphs 3.5.5 – 3.5.7 concerning reference to Broad Areas for housing in Soham and Littleport. There is no intention to further define these areas as formal allocations in this SIR and that through the text changes proposed, the Council has removed any assumed supply from these Broad Areas during the Plan period up to 2031, because there is no need to rely on them to meet the identified housing requirement.
- 6.2 In the Consultation Statement, the Council has responded, in the same way as for the First Consultation and state that there was *'a varied and mixed response to this issue'* but with *'no strong evidence to amend the approach or status of these areas'*, the decision has been made to keep these areas unaltered.
- 6.3 Pigeon disagree with this approach and from the Council's summary of responses provided to the First Stage Consultation, consider that other respondents were of the view that these areas should be reconsidered as a means of delivering additional housing for the District in the latter stages of the Plan period. Whilst the Council is of the view that they have an excess supply of housing up until 2031 and beyond, this is based upon a housing requirement which Pigeon consider is unsound and does not take into consideration the future economic growth of the District and the severe affordability issues that plague it as set out against Proposal 4 above. It is quite clear that Pigeon is not alone in this view and that others consider that the Council needs to undertake a more comprehensive review of their housing requirement, which in turn may alter the position taken on the Broad Areas for housing.
- 6.4 Paragraph 23 of the NPPF identifies that *'broad locations for development should be indicated on a key diagram, and land-use designations and allocations identified on a policies map. Strategic policies should provide a clear strategy for bringing sufficient land forward, and at a sufficient rate to address objectively assessed needs over the plan period, in line with the presumption in favour of sustainable development.'*
- 6.5 Whilst the Broad Locations are identified on key diagrams within the 2015 Local Plan on pages 32 and 33, they are absent from the adopted Policies Map 2015 as are land-use designations and allocations within these Broad Locations.
- 6.6 This may be a point that the Council would like to take the opportunity to review as part of the SIR as well as in the context of new infrastructure such as the new railway station at Soham having opened in 2021, which identifies the settlement as a highly suitable and sustainable location to deliver further housing and economic growth for the District.
- 6.7 The Council refers to the recent appeal decision on land north east of Broad Piece Soham⁵² The Council concludes that the Inspectors expectation was that the Broad Areas would deliver housing within the plan period to 2031. The Council therefore maintains that as before the Broad Areas would be retained as set out in the Local Plan with the identification of the specific site boundaries to be left to the full Local Plan

⁵² Appeal ref: APP/V0510/W/21/3282449

review. Pigeon have highlighted in previous consultations that this is not a satisfactory approach given the indicative nature of the Broad Areas and the lack of any timetable for the Local Plan review.

- 6.8 In addition, the proposed new wording (ref 6) in the supporting text at 3.5.6 of the SIR is concerning. It is now made explicit that until the next Local Plan review 'the principle of development coming forward on the Broad Areas is now established'. This effectively allocates the Broad Areas, with no defined boundaries, for development in the same manner as a site allocation but without any of the essential robust scrutiny to establish these are the most appropriate sustainable and deliverable sites in the district.
- 6.9 Whilst its connections to the wider area are not as favourable as Soham and the housing market is weaker, it is recognised that Littleport is within the top three settlements to deliver housing and economic growth for the District. As such, Pigeon would suggest that the same approach be adopted here as with Soham and that specific deliverable sites are identified, rather than broad areas.
- 6.10 Furthermore, Pigeon reiterate that the Council should consider opportunities for housing growth at Ely and in the south of the District, within villages that have good connectivity to Cambridge and access to job opportunities. Through the Greenway Projects in this area, which will be delivered by the Greater Cambridge Partnership, significant improvements will be made to off road cycle routes, which will facilitate this mode of travel as a feasible alternative to the car. This provides the opportunity to link villages on the edge of Cambridge with Cambridge North and Central Stations and the City Centre via the Chisholm Trail. Furthermore, given the land values in this area, there may be the opportunity for higher levels of affordable housing to be delivered in these locations, to assist the Council with making up of its historic under delivery and address acute affordability issues in these locations.

7. Proposal 6 – Consequential Changes

- 7.1 Whilst not strictly a consequential change but given that the Second Stage Consultation document provides no other opportunity to comment on these matters, Pigeon would like to express their on-going concerns regarding the Council's approach to their Duty to Cooperate and this time, the approach taken to the Sustainability Assessment.

Duty to Cooperate

- 7.2 The Council has published a revised Duty to Cooperate Statement (May 2022) alongside this consultation. In reality, this Statement is rather light on the activities that have been undertaken to meet the legislative requirements. Within the Statement there is a single table (Table 2) which lists a summary of comments received from the Prescribed Bodies during the Second Stage Consultation. A significant number of the Prescribed Bodies are recorded as having '*no comments received*'. The Statement seems to suggest that no follow up dialogue or conversations have been had with these Bodies. Previously a very brief Statement of Common Ground was to be prepared but now no Statement of Common Ground is to be produced at all'
- 7.3 As set out in the Legal Opinion at **Appendix 1** of these representations, it is questionable whether this approach taken by the Council demonstrates the 'active' cooperation required by the 2004 Act. From what Pigeon has seen, it is considered that they have not.
- 7.4 The Council has stated in the Consultation that they have not been approached by neighbouring authorities to accommodate some of their housing need. However, without this evidence being made publicly available and confirmed by all neighbouring authorities, it is difficult to comment further, given the fact that a Statement of Common Ground will not now be prepared as per the requirements of paragraph 27 of the NPPF.
- 7.5 As set out in **Appendix 1** (paragraph 13.7), the PPG makes clear that the Duty to Cooperate relates to the preparation of the Plan and cannot be rectified post-submission. Therefore, if the Inspector examining the SIR finds that the duty has not been complied with, they will recommend that the SIR is not adopted, and the examination will not proceed further. The duty is not simply to have a single dialogue or discussion with the neighbouring authorities. The 2004 Act places a requirement that Councils demonstrate an '*active and on-going process of co-operation*' with the neighbouring authorities. At paragraph 21 of **Appendix 1**, it identifies that Sevenoaks District Council was found by the examining Inspector to not have undertaken such engagement, and as a consequence the Plan was found unsound.
- 7.6 To ensure that the examining Inspector can find this Plan sound, Pigeon would strongly suggest that the Council review their Duty to Co-operate processes immediately so that this legal requirement can be addressed prior to the submission of this Plan for examination. Otherwise, Pigeon is of the view that there is a significant risk the Plan could be found unsound at examination.

Sustainability Assessment

- 7.7 A Sustainability Appraisal and Strategic Environmental Assessment of the Local Plan to 2031 (December 2021) (SA) has been produced, presumably by the Council – author unknown. The SA assesses four options;
- *Option 1:* Housing requirement derived from Government Standard Method. Consequently, no additional allocations or additional growth arising.
 - *Option 2:* No policy, rely on national policy.
 - *Option 3:* Provide for higher level of growth than the Government’s standard method, likely meaning new allocations and additional growth arising.
 - *Option 4:* Provide for a lower growth than the Government’s standard method. Consequently, no new allocations or additional growth arising.
- 7.8 Options 1, 2 & 4, all of which would not require any additional allocations or additional growth are considered to have ‘*no likely implications arising*’ on key sustainability issues as set out in Table 2 of the SA.
- 7.9 Pigeon do not agree that with the suggestion that by not allocating any sites or allowing for additional growth means that there will be no environmental, social or economic implications. As set out within these representations, Pigeon has identified that the Council has painted a portrait where there are high levels of economic growth being experienced; that due to a worsening imbalance between the supply and delivery of housing – affordability is a significant issue and that high levels of out-commuting are leading to issues of air quality and traffic congestion. This is the situation if the Council proceeded as per their adopted Plan.
- 7.10 To suggest that by simply following the standard method, this would not result in any implications on the key sustainability issues including Environment & Pollution; Inclusive Communities and Economic Activity is fundamentally flawed and will only serve to exacerbate the existing situation which the District find themselves in.
- 7.11 Whilst the SA finds Option 3 does score positively on some aspects when compared to the preferred Option 1, such as greater housing choice, investment and the creation of more employment options, it scores negatively on the environment, because the assumption has been made that any additional growth would need to be provided for on greenfield rather than brownfield sites. What the SA fails to consider at all is the possibility of avoiding or mitigating any negative effects through the application of the Development Plan as a whole and that development may have a positive impact on environmental matters such as the requirement to now provide biodiversity net gain on-site or facilitating opportunities for the public to access and appropriate wildlife/open spaces.
- 7.12 Finally, the SA has failed to assess the alternative of extending the Plan period to 15 years and the implications that this would have on the key sustainability issues. This should be tested and considered as a reasonable alternative given the level of response in the First Stage Consultation by responders to this proposal.

- 7.13 Pigeon is of the view that the SA fundamentally contradicts the evidence that the Council has presented themselves and the responses provided to the First Consultation. To look at the housing requirement in isolation and to take the standard method calculation without considering the local circumstances for the District, as set out against Proposal 4, means that the Council is at significant risk of the SIR being found unsound and that the key issues raised in the Sustainability Appraisal will not be satisfied in the way that the Council suggest.

Transparency of Information

- 7.14 The Council is conducting a formal review process of their Local Plan. To facilitate this and make it a transparent, open and accessible process, Pigeon would expect the Council to have set up a Consultation Portal where consultation responses can be made available online. At present only a summary of responses is available in Council Consultation Response. Respondent can only view the full representations by visiting the Council offices. Whilst it is not a legal requirement of plan-making to do so, it is certainly best practice and a tool that most other local planning authorities make use of when preparing any type of review of their Local Plan. Pigeon would strongly encourage the Council to arrange this for future consultations of the SIR.

Changes in legislation introducing Class E⁵³

- 7.15 The change to the Use Classes Order since the adoption of the Local Plan in 2015 has been ignored in the proposed amendments. Reference is made at proposed change ref 5 to Use Class B1 which no longer exists.

⁵³ Town and Country Planning (Use Classes) (Amendment) (England) Regulations 2020

8. Conclusion

- 8.1 On behalf of Pigeon, these representations together with the legal opinion at **Appendix 1** have concluded that in order for this Local Plan Review to be found sound at examination, the Council needs to produce and make publicly available, a robust evidence base to inform the decisions and approach that have been adopted.
- 8.2 Whilst Pigeon welcome the Council's acknowledgement that the outcome of the standard method should not be automatically converted into a housing requirement there are a number of matters that Pigeon consider need to be reviewed prior to the production of the Regulation 19 Consultation, to include:
- A review of the Council's approach to their Duty to Cooperate with neighbouring authorities and that they can satisfy themselves that they have met the requirement to actively co-operate with these authorities and relevant bodies;
 - A review of the Sustainability Appraisal and the methodology adopted to assess each of the options and the assumption that if no new housing allocations are introduced, that there will not be any impact. Furthermore, that in light of previous representations that a 5th option is included as a reasonable alternative to be assessed, which is that the Plan period should be extended;
 - That the Plan period be extended so that it covers a minimum 15 year period from adoption as set out in the NPPF and PPG to ensure the Plan is justified and consistent with national policy;
 - To produce or make publicly available, the evidence base to demonstrate that given the historic suppressed delivery of affordable housing and better than anticipated jobs growth in the first half of the Plan period, that there are no exceptional circumstances for considering a housing requirement that is more than the minimum set by the standard method and as a result to review Policy GROWTH 1 holistically to ensure appropriate strategic housing and economic growth for the District which support one another and are aligned with the ambitions of the strategic growth areas and HOU 3 to reflect changes to the Council's affordable housing policy;
 - To undertake a Call for Sites process to enable the consideration of further site allocations to ensure that taking into account delivery of on-site biodiversity net gain requirements and the historic poor delivery of housing in the District, that the Council has sufficient sites to deliver the required number of homes, which if the evidence base supports, may also be raised to accommodate the expected jobs growth and enable delivery of affordable homes to meet the identified housing need; and
 - To set up a consultation portal with the evidence base supporting this Single Issue Review and where representations to the Regulation 18 and 19 can be made publicly available.

- 8.3 Pigeon firmly believe that a failure to commission and respond to a proper evidence base would be to repeat and indeed exacerbate the failings of the current Local Plan in this regard. This would result in ever-worsening conditions for those needing an affordable home locally, stifle business investment and result in increasingly unsustainable commuting patterns. An evidence-based assessment should incorporate a robust forecast of the local economy, recognising the existing growth strategies and infrastructure investment. This will form a basis to determine the extent to which these circumstances will generate a greater need for housing in the District than implied as a minimum by the standard method.
- 8.4 Pigeon is firmly of the view that the Council needs to review Policy GROWTH 1 holistically to ensure that the strategic housing and economic growth planned for the District are harmonious and support one another and that they are also aligned with the strategic growth ambitions of the wider growth areas.
- 8.5 The SIR provides the opportunity to encourage on-going business investment within the District in a sustainable way that delivers market and affordable homes alongside job opportunities for all sectors, but particularly those in higher skilled roles, which the District presently fail to attract and build back a stronger and more resilient economy following the events of the past year.
- 8.6 Pigeon would be pleased to discuss any aspect of these representations in more detail if this would be of assistance to the Council and we look forward to engaging positively with the Council and other stakeholders in the ongoing preparation of the SIR.

**Appendix 1: Legal Opinion by Howes Percival –
June 2022**

LEGAL OPINION

on behalf of Pigeon Investment Management Limited
relating to the Single Issue Review of East Cambridgeshire District Council's
2015 Local Plan (Regulation 19 Consultation)



Flint Buildings
1 Bedding Lane
Norwich
NR3 1RG

Ref: JZM/220462.13

Introduction

- 1 You have instructed us to provide advice to Pigeon Investment Management Ltd (“**Pigeon**”) on the approach that East Cambridgeshire District Council (“**ECDC**”) are taking in relation to its Single Issue Review of its 2015 Local Plan (“**SIR**”).
- 2 This opinion has been prepared following the Regulation 19 consultation of the SIR. It is provided further to the opinion provided on 2 February 2022 in response to the Regulation 18 consultation and has been updated accordingly.

Summary opinion

- 3 From the limited information still available¹ we cannot fully establish the level of co-operation ECDC has had with those relevant bodies ECDC are required to engage with. As a result, we still have serious doubts as to whether ECDC has complied with the statutory duty to cooperate. We maintain, based on the information available, it has not.
- 4 Further, if ECDC has only co-operated in the manner set out in their May 2022 Duty to Co-operate Statement, it is now late for ECDC to engage in a compliant level of co-operation. The duty to co-operate cannot be complied with retrospectively – it would be pointless exercise.
- 5 It seems here that, rather unfortunately, ECDC has fallen into the same trap as that suffered by Sevenoaks District Council recently. We consider that submission of the SIR following the Regulation 19 consultation should inevitably lead to a finding that the duty to cooperate has not been met and the SIR is consequently unsound. ECDC would, in that instance, be forced to withdraw the SIR from examination.
- 6 ECDC’s approach in limiting the scope of the SIR, and failing to ensure that it facilitates planning for a 15 year period from the adoption of any update to policy GROWTH 1, is clearly contrary to the requirements of the Framework. This approach also starkly diverges from approaches taken by other local planning authorities who have carried out similar focussed reviews of their development plans in recent years.
- 7 It is clear to us that ECDC have not provided adequate reasons for their decision to update GROWTH1 in line with the minimum figure produced by the Government’s standard methodology. This is particularly so in the face of up-to-date evidence as to

¹ Duty to Cooperate Statement – May 2022

need (and indeed a higher need than that provided for in the current local plan), and of course significant recent infrastructure investment in Soham and Ely; the 2017 Devolution Deal; the Cambridge to Oxford Arc; and the Cambridge to Norwich Tech Corridor. Such “*exceptional circumstances*” exist in our view to warrant departure from Standard Method.

- 8 We also maintain that the Sustainability Appraisal supporting the SIR is flawed both procedurally and in substance.

Relevant factual background

- 9 On 17 October 2019 ECDC concluded a review of its 2015 Local Plan and found that it did not need to be updated at that time.

- 10 ECDC carried out a second review of its 2015 Local Plan in April 2020. This review concluded that the 2015 Local Plan was “*pre-dominantly but not entirely in conformity with national policy*” (being the 2019 version of the National Planning Policy Framework (“**Framework**”) at that time). This second review highlighted “*non-conformity*” in respect of affordable housing policy, objectives for promoting sustainable transport, emphasis on good design and biodiversity requirements.

- 11 In the April 2020 review ECDC:

11.1 acknowledged the changes made to housing requirement calculations and the introduction of a standard method of calculating local housing need by Government as a starting point for this.

11.2 acknowledged that the “*redistribution*” of homes across the Cambridgeshire Housing Market Area was “*no longer valid*” as the Peterborough Local Plan (2019) no longer accommodates housing need from Cambridgeshire, including East Cambridgeshire.

11.3 concluded that the housing requirement figure in its 2015 Local Plan was no longer up-to-date as it was based on an outdated method of calculation and relied on the redistribution of homes to Peterborough which is no longer being taken forward.

11.4 concluded Local Plan policy GROWTH2 which deals with spatial distribution of growth did not require updating and that it was just policy GROWTH1 which required updating. It was said:

“However, if, during the course of reviewing GROWTH1 it becomes apparent that the scale of allocations in the 2015 Local Plan, combined with allocations in Neighbourhood Plans and permissions on non-allocated sites, would be insufficient to meet the requirement of an updated GROWTH1, then it may be necessary for additional allocations (or broad locations) to also be brought forward alongside the updating of GROWTH1. However, preliminary research indicates this is unlikely to be necessary.”

12 At a meeting on 22 October 2020 ECDC's Full Council agreed to commence preparation of a partial update to the 2015 Local Plan (i.e. the SIR). Paragraph 3.26 of the report for this meeting set out that the update *“will progress on the basis of the new housing requirement figures, which is likely to result in no new allocations being required”*.

Opinion as to the lawfulness of ECDC's approach

The duty to co-operate

13 Legal framework:

13.1 Pursuant to section 33A of the Planning and Compulsory Purchase Act 2004 (“**2004 Act**”) and Regulation 4 of the Town and Country Planning (Local Planning) (England) Regulations 2012 (“**2012 Regulations**”) ECDC has a duty to co-operate with other bodies when preparing development plan documents such as an update to the 2015 Local Plan. These bodies include other local planning authorities, the Environment Agency, English Heritage, Natural England, the Mayor of London, the Civil Aviation Authority, Homes England, relevant clinical commissioning groups, the NHS Commissioning Board, the Office of Rail and Road, Transport for London, highway authorities, the Marine Management Organisation, the local enterprise partnership and the local nature partnership.

- 13.2 Section 33A(7) of the 2004 Act requires ECDC to have regard to Government guidance on how the duty to co-operate is to be complied with.
- 13.3 Paragraph 27 of the Framework requires statements of common ground to be prepared and maintained between strategic policy-making authorities (such as ECDC) which should be “*publically available throughout the plan-making process to provide transparency*”.
- 13.4 Section 33A(2)(a) sets out that the duty to co-operate requires ECDC to “*engage constructively, actively and on an ongoing basis in any process*” relating to the preparation of the SIR.
- 13.5 This exercise requires a “*rigorous examination of those documents and the evidence received so as to enable an Inspector to reach a planning judgment on whether there has been an active and ongoing process of co-operation*”² (emphasis added).
- 13.6 Whilst discharging the duty to co-operate is not reliant on securing a particular substantive outcome from the co-operation, the duty is not simply a duty to have a dialogue or discussion. The requirements of section 33A(2)(a) must be demonstrated by the activities comprising the co-operation; compliance of which is a matter for the Inspector examining a plan³.
- 13.7 As the National Planning Practice Guidance (“**PPG**”) makes clear, as the duty to cooperate relates to the preparation of the plan it cannot be rectified post-submission, so if the Inspector examining the SIR finds that the duty has not been complied with they will recommend the SIR is not adopted and the examination with not proceed further⁴.
- 13.8 Separate from the duty to co-operate, part of the test for soundness in paragraph 25 of the Framework states that plans should be based on “*effective joint working on cross-boundary strategic matters that have been dealt with rather than deferred*”.

² *R (on the application of Central Bedfordshire Council) v Secretary of State for Communities and Local Government* [2015] EWHC 2167 (Admin)

³ Section 20(5)(c), 20(7)(b)(ii) and 20(7B)(b), 2004 Act

⁴ Paragraph: 031 Reference ID: 61-031-20190315; *Samuel Smith Old Brewery (Tadcaster) v Shelby District Council* [2015] EWCA Civ 1107

- 14 ECDC published an updated “*Duty to Cooperate Statement*” (May 2022) (“**DCS**”). This updates the previous statement of December 2021.
- 15 Again, the only information that this statement provides is an indication that certain bodies (set out in Table 2 of the DCS) were consulted as part of the first round of consultation on the SIR between 26 March 2021 and 7 May 2021, and what appears to be a second, identical, round of consultation between December 2021 and February 2022.
- 16 Table 2 highlights that a number of the prescribed bodies did not provide any comments to this first round of consultation. Most of those same bodies did not provide any comments on the second round of consultation and no detail has been provided as to the extent of any further engagement taken place.
- 17 At this stage, it is in our view – at best – highly questionable as to whether the DCS demonstrates the “*active*” co-operation required by the 2004 Act. From what we have seen thus far, we consider it clearly does not given the limited detail continued to be provided through the DCS.
- 18 It is relevant that the latest version of the Strategic Housing Market Assessment (“**SHMA**”) for Cambridgeshire and West Suffolk was issued in October 2021. Given the lack of detail in the DCS it is also unclear whether ECDC has adequately engaged with the relevant prescribed bodies on the implications of the SHMA.
- 19 ECDC has “*determined that there is no rationale for preparing and consulting on any Statement of Common Ground for this SIR*”. We consider such conclusion cannot be justifiable in a situation whereby the precise level and detail of engagement and cooperation is unknown based on the contents of the DCS, let alone whether ECDC has engaged “*constructively, actively and on an ongoing basis*”⁵.
- 20 Given, a) the lack of engagement by a number of the prescribed bodies to date; b) the failure to progress any statements of common ground; and c) on the basis of the information publically available, only two requests for comments on the SIR by these bodies from ECDC, we consider the duty to cooperate has not been met. It is simply too late to address these matters now to influence the content of the preparation of the SIR and such matters cannot be corrected post submission of the SIR for examination.

⁵ As required by Section 33A (2) of the 2004 Act.

21 This was the fundamental concern of the examining Inspector who found that Sevenoaks District Council had not adequately undertaken constructive engagement with neighbouring authorities and as a consequence lawfully found the plan to be unsound⁶.

22 Particularly, on the basis of the information available:

22.1 it does not appear that there was any engagement between ECDC and the prescribed bodies before ECDC committed to the update of its 2015 Local Plan being limited only to policy GROWTH1 (and not, for example, GROWTH2 or HOU3); and

22.2 it seems the only opportunity for prescribed bodies to comment on ECDC's approach to date has been during the first consultation which ended in May 2021 and the second consultation that ended on 7 February 2022:

22.2.1 This is relevant as ECDC has made it clear that representations in response to the SIR should be limited to the proposed update to policy GROWTH1 in its 2015 Local Plan only.

22.2.2 ECDC have continued to make this clear through the consultation documents by confirming "*representations seeking changes to policy wording of a Local Plan 2015 policy not being consulted upon will not likely be considered*".

22.2.3 Consultees also continue to be reminded again at section 6 as to the narrow scope of the consultation:

"As a reminder, we are not seeking views on any other aspect of the 2015 Local Plan, and we are not seeking any suggested new allocation sites."

22.2.4 Throughout the SIR consultation, at all stages, the scope of comments that prescribed bodies (and all consultees and interested parties) may offer is extremely narrow. Consequently, we question whether this approach facilitates constructive engagement as required by section

⁶ *Sevenoaks District Council v Secretary of State for Housing, Communities and Local Government* [2020] EWHC 3054 (Admin)

33A(2)(a) of the 2004 Act or, separately in relation to soundness, effective joint working on cross-boundary strategic matters.

The substance of the SIR

23 Legal framework:

- 23.1 Local planning authorities have a legal requirement to review their local plan policies at least every five years from their adoption⁷. This review must be in accordance with section 23 of the 2004 Act.
- 23.2 Paragraph 33 of the Framework imposes a policy requirement to review policies in local plans at least once every five years and update these as necessary.
- 23.3 It sets out that such a review should take into account changing circumstances affecting the area, or any relevant changes in national policy, explaining that relevant strategic policies will need updating at least once every five years *“if their applicable local housing need figure has changed significantly; and they are likely to require earlier review if local housing need is expected to change significantly in the near future”*.

24 The following paragraphs of the Framework are relevant to the SIR:

- 24.1 Paragraph 22 requires strategic policies to *“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”* (our emphasis).
- 24.2 Paragraph 23 requires strategic policies to provide a *“clear strategy”* for bringing sufficient land forward, and at a sufficient rate, to address objectively assessed needs over the plan period, in line with the presumption in favour of sustainable development.
- 24.3 Paragraph 25 confirms that plans are “sound” if they are:

⁷ Town and Country Planning (Local Planning) (England) Regulations 2012, Regulation 10A and section 17 of the 2004 Act

- a) *Positively prepared – providing a strategy which, as a minimum, seeks to meet the area’s objectively assessed needs; and is informed by agreements with other authorities, so that unmet need from neighbouring areas is accommodated where it is practical to do so and is consistent with achieving sustainable development;*
- b) *Justified – an appropriate strategy, taking into account the reasonable alternatives, and based on proportionate evidence;*
- c) *Effective – deliverable over the plan period, and based on effective joint working on cross-boundary strategic matters that have been dealt with rather than deferred, as evidenced by the statement of common ground; and*
- d) *Consistent with national policy – enabling the delivery of sustainable development in accordance with the policies in this Framework and other statements of national planning policy, where relevant.*

- 24.4 Paragraph 31 of the Framework requires reviews of policies to be “*underpinned by relevant and up-to-date evidence*” which is adequate, proportionate, focused tightly on supporting and justifying the policies concerned, and take into account relevant market signals.
- 24.5 Paragraph 61 provides “*that to determine the minimum number of homes needed, strategic policies should be informed by a local housing need assessment using the standard method in national planning guidance – unless exceptional circumstances justify an alternative approach which also reflects current and future demographic trends and market signals. In addition to the local housing need figure, any needs that cannot be met within neighbouring areas should also be taken into account in establishing the amount of housing to be planned for” (our emphasis).*
- 24.6 Paragraph 62 requires the size, type and tenure of housing needed for different groups in the community to be assessed and reflected in planning policies.
- 24.7 Paragraph 66 means that strategic policy-making authorities like ECDC should establish a housing requirement figure for their whole area, which shows the extent to which their identified housing need (and any needs which cannot be met within neighbouring areas) can be met over the plan period.

- 24.8 Paragraph 67 is clear that strategic policy-making authorities should have a clear understanding of the land available in their area through the preparation of a strategic housing land availability assessment.
- 24.9 Paragraph 68 requires plan policies to identify a supply of specific, deliverable sites for years one to five of the plan period and specific, developable sites or broad locations for growth for years 6 – 10 and, where possible, for years 11 – 15 of the plan.
- 24.10 Paragraph 74 requires strategic policies (such as GROWTH1) to include a trajectory illustrating the expected rate of housing delivery over the plan period.
- 25 The PPG provides the following guidance on plan reviews:
- 25.1 The Framework is clear that strategic policies should be prepared over a minimum 15 year period and a local planning authority should be planning for the full plan period⁸.
- 25.2 Local authorities may need to gather new evidence to inform their review. The Government expects authorities to have due regard to the duty to co-operate when undertaking a review to assess if policies need updating.⁹
- 25.3 Updates to a plan or certain policies within it must follow the plan-making procedure; including preparation, publication, and examination.¹⁰
- 26 The PPG also provides the following guidance on assessing housing need:
- 26.1 The Framework expects the Government's standard method for assessing local housing need to be used to identify the minimum number of homes expected to be planned for. The standard method identifies a minimum annual housing need figure, not a housing requirement figure.¹¹
- 26.2 The use of the standard method is not mandatory and if it is felt that circumstances warrant an alternative approach that may be used.¹²

⁸ Paragraph: 064 Reference ID: 61-064-20190315

⁹ Paragraph: 068 Reference ID: 61-068-20190723

¹⁰ Paragraph: 069 Reference ID: 61-069-20190723

¹¹ Paragraph: 002 Reference ID: 2a-002-20190220

¹² Paragraph: 003 Reference ID: 2a-003-20190220

26.3 There may be circumstances where it is appropriate to consider whether actual housing need is higher than the standard method indicates including (but not limited to):

26.3.1 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);

26.3.2 strategic infrastructure improvements that are likely to drive an increase in the homes needed locally;

26.3.3 an authority agreeing to take on unmet need from neighbouring authorities, as set out in a statement of common ground; or

26.3.4 where previous assessments of need (such as a recently-produced Strategic Housing Market Assessment) produce a significantly greater figure than the outcome from the standard method.¹³

27 The plan period:

27.1 The Framework is clear that strategic policies should to look ahead over a minimum 15 year period from adoption. This is to anticipate and respond to long-term requirements and opportunities, such as those arising from major improvements in infrastructure. Indeed, the Framework states that where larger scale developments such as new settlements or strategic extensions to settlements are part of a strategy the policy should be set within a vision that looks further ahead for at least 30 years to take into account the likely timescale for delivery.

27.2 This requirement is a marked difference from the 2012 version of the Framework against which the 2015 Local Plan was examined prior to its adoption which only required local plans to be “*drawn up over an appropriate time scale, preferably a 15-year time horizon*” (emphasis added). The 2012 version of the Framework did not require a mandatory minimum 15 year local plan period from adoption as the latest version of the Framework does.

¹³ Paragraph: 010 Reference ID: 2a-010-20201216

- 27.3 ECDC's SIR does not propose that the update to GROWTH1 would cover such a 15 year period from the adoption of that update.
- 27.4 Pigeon have already commented through their responses to the first and second consultation on the SIR that Forest Heath District Council extended their plan period to accord with this 15 year requirement when they conducted their own single issue review in 2019. This, we consider, is clearly the correct approach.
- 27.5 The need to extend the plan period when reviewing strategic policies has also been recently recognised by both Tamworth Borough Council¹⁴ and South Kesteven District Council¹⁵ by way of further examples. ECDC's approach in not updating its plan period through the SIR is clearly contrary to the manner in which these local planning authorities addressed this issue as required under the Framework.
- 27.6 Indeed, the failure to allow for a 15 year plan period from the point that any update to GROWTH1 is adopted would make the updated policy inconsistent with the requirements of the Framework and out-of-date from the outset if the SIR was adopted as envisaged by ECDC. As a result, we remain seriously doubtful that any examining Inspector would find ECDC's approach to retain their current plan period sound.
- 27.7 Even if ECDC's approach was found sound, the updated GROWTH1 may be susceptible to arguments that it is out-of-date from the outset given its inconsistency with the clear requirement of paragraph 22 of the Framework.
- 27.8 If rolling the plan period forward as required by the Framework necessitates ECDC planning for further housing allocations then this is a nettle that ECDC simply must grasp.
- 27.9 In our view ECDC's current approach of ignoring the need for its strategic policies to plan for a 15 year period from adoption would mean that the SIR is in clear conflict with the requirements of the Framework and should not be found sound as a result.

¹⁴ http://www.tamworth.gov.uk/sites/default/files/planning_docs/Local-Plan-Review-2020.pdf

¹⁵ <http://www.southkesteven.gov.uk/CHttpHandler.ashx?id=26857&p=0>

28 Use of the Government's standard methodology as a housing requirement figure:

- 28.1 As summarised above, the Framework requires policy reviews to be “*underpinned by relevant and up-to-date evidence*”, that Government's standard methodology for calculating housing need only gives a minimum number of homes (and an alternative approach may be used in exceptional circumstances) and that the size, type and tenure of housing needed for different groups in the community should be assessed and reflected in planning policies.
- 28.2 The PPG also makes clear that the figure given by the standard methodology is not a housing requirement figure and there may be circumstances where it is appropriate to consider whether actual housing need is higher than the figure produced by the standard methodology.
- 28.3 ECDC's DCS mentions in Table 1 that “*the latest version of the SHMA was published in 2021*”. However, the SHMA is not referred to at any other point in the second consultation document produced by ECDC or in any of ECDC's responses to the first round of consultation on the SIR.
- 28.4 Given the requirements of the Framework it is striking that ECDC do not appear to have taken the SHMA into account in reaching its proposed housing requirement figure for the SIR. In addition, ECDC have not given any reasons for this apparent failure to have regard to the SHMA in the preparation of the SIR.
- 28.5 In addition, it does not appear that the SIR has been informed by up-to-date evidence relating to the size, type and tenure of housing needed for different groups in the community as required by the Framework.
- 28.6 Previous representations submitted by Pigeon in response to the first and second consultations on the SIR highlighted ECDC's failure to have proper regard to relevant up-to-date evidence and changes in circumstance such as significant recent infrastructure investment in Soham and Ely, the 2017 Devolution Deal, the Cambridge to Oxford Arc and the Cambridge to Norwich Tech Corridor.

- 28.7 In our view, it is not enough for ECDC to simply ignore such evidence on the basis that the SIR is proposed to be limited to an update to policy GROWTH 1 only.
- 28.8 Even if the SIR remains limited in this way, the update of GROWTH1 should not be considered in a policy vacuum and its interaction with other policies of the 2015 Local Plan and the Framework should be taken into account in any assessment of whether ECDC's proposed update is sound.
- 28.9 For example, if ECDC's proposed update of GROWTH1 fails to plan for an adequate number of new dwellings to facilitate the delivery of the level of affordable homes required in the district of East Cambridgeshire (by reference to current policy HOU 3, the evidence base which supported the emerging local plan which ECDC withdrew from examination in February 2019 and up-to-date housing need, viability and housing land availability evidence, for example) then that is relevant to whether ECDC's proposed update to GROWTH 1 is sound.
- 28.10 For the reasons set out above, ECDC's approach to the SIR appears contrary to the need for the SIR to be underpinned by relevant and up-to-date evidence.
- 28.11 In addition, given the SIR does not appear to be underpinned by such evidence we question how an Inspector on examination could reasonably conclude that ECDC's SIR is sound under the requirements of paragraph 25 of the Framework.
- 29 ECDC's approach to its housing trajectory:
- 29.1 Paragraph 74 of the Framework requires strategic policies (such as GROWTH1) to include a trajectory illustrating the expected rate of housing delivery over the plan period and paragraph 68 requires plan policies to identify a supply of specific, deliverable sites for years one to five of the plan period and specific, developable sites or broad locations for growth for years 6 – 10 and, where possible, for years 11 – 15 of the plan.
- 29.2 The Court in *Compton Parish Council v Guildford BC* [2019] EWHC 3242 (Admin) commented on housing trajectory as follows:

“The housing trajectory is important; it is required by NPPF [47] to illustrate the expected rate of housing delivery, showing when sites may come on stream, how much each is expected to produce each year of production, and when they are expected to cease production. This enables a planning authority to show whether it has or lacks a five-year housing land supply, what sites may be brought forward to cope with any shortfall, and how the rolling 5 year supply can be maintained over the plan period. This is concerned therefore with the delivery of the housing requirement.”

- 29.3 Through the SIR, ECDC's proposed update to GROWTH1 sets out a 10 year forward trajectory for the years 2021 to 2031.
- 29.4 The SIR simply fails to provide for the 15 year trajectory set out in paragraph 68 of the Framework and does not provide reasons for why this might not be possible.
- 29.5 In addition, the SIR does not provide any detail on the anticipated delivery of dwellings in years 1 – 5 or years 6 – 10 to meet ECDC's housing requirement.
- 29.6 For the reasons set out above, we do not consider the SIR satisfies the requirements of the Framework as to its housing trajectory.
- 29.7 As a passing observation, we also note that from the documents we have reviewed, it does not appear ECDC responded or provided further evidence in response to the following concern as it promised¹⁶:

“In order to provide the necessary clarity as to delivery expectations and supply across the plan period an annualised trajectory should be included as part of the review of the local plan”.

“The last bullet point is agreed with, and whilst such information is already provided (in our annual Five Year Land Supply Report publication), it is agreed that a simple graph could provide greater ‘snapshot’ clarity of that year on year forecast growth. It will be provided as part of the next round of consultation.”

¹⁶ Second Consultation Report – March 2022: Issue 4, final bullet and ECDC's corresponding response.

The Sustainability Appraisal

- 30 Paragraph 32 of the Framework sets out that local plans should be informed throughout their preparation by a sustainability appraisal that meets the relevant legal requirements.
- 31 Legal framework:
- 31.1 The SEA Directive (2001/42/EC) deals with requirements in respect of environmental issues that have to be taken into account in relation to plans and programmes and are in turn applied within the UK via transposing regulations.
- 31.2 Article 5 of the SEA Directive requires environmental reports to be prepared in which the likely significant effects on the environment of implementing the plan or programme, and reasonable alternatives taking into account the objectives and geographical scope of the plan or programme are identified, described and evaluated.
- 31.3 Article 6 requires a draft plan or programme of the environmental report to be made available and the public must be given an early and effective opportunity within appropriate time frames to express their opinion on the draft plan or programme and the accompanying environmental report before the adoption of the plan or programme or its submission. Article 6 also requires consultation with certain bodies (set out in Regulation 4 of the 2004 Regulations referred to below).
- 31.4 The environmental evaluation of alternatives must be on a comparable basis to the evaluation of the preferred option.
- 31.5 The SEA Directive is transposed into domestic law by the Environmental (Assessment of Plans and Programmes) Regulations 2004 ("**2004 Regulations**").
- 31.6 Regulations 4, 5, 12 and 13 of the 2004 Regulations require consultation with Historic England, Natural England and the Environment Agency, including on the scope and level of detail of any environmental report.

31.7 Regulation 12 of the 2004 Regulations requires an environmental report to identify, describe and evaluate the likely significant effects on the environment of the following:

31.7.1 implementing the plan or programme;

31.7.2 reasonable alternatives taking into account the objectives and the geographical scope of the plan or programme.

31.8 It is alternative ways of meeting the objectives of a plan which are the focus of SEA, not alternative objectives¹⁷.

31.9 However, as a result of consultation on the SA new information may be forthcoming that might transform an option that was previously judged as meeting the objectives into one that is judged not to do so, and vice versa.¹⁸

31.10 What is required in a given case by way of reasonable alternatives will inevitably depend on the circumstances of the case. However, the absence of any submissions relating to an alternative is a relevant consideration as to the lawfulness of failing to consider an alternative/alternatives (i.e. to help establish that there were alternatives which could and should have been referred to and, if rejected) reasons given for that).¹⁹

31.11 The SEA Directive requires the relevant decision-maker to provide reasons why all of the options covered by the SEA process were selected for that process. It is anticipated that the preferred option and reasonable alternatives would have been selected because the decision-maker considers they are capable of meeting the relevant objectives and the SEA Directive requires the decision-maker to explain why – which requires consideration of why those options were selected but also why other options were not.

31.12 Regulation 12 goes on to require the environmental report include the information referred to in Schedule 2 of the 2004 Regulations taking account of current knowledge and methods of assessment, the contents and level of detail

¹⁷ *R (Buckingham County Council and Others) v Secretary of State for Transport* [2013] EWHC 481 (Admin)

¹⁸ *R. (on the application of Friends of the Earth England, Wales and Northern Ireland Ltd) v Welsh Ministers* [2015] EWHC 776 (Admin)

¹⁹ *Holiday Extras Ltd v Crawley BC* [2016] EWHC 3247 (Admin); *Ashdown Forest Economic Development LLP v Wealden District Council* [2016] Env LR 2

in the plan or programme, the stage of the plan or programme in the decision-making process and the extent to which certain matters are more appropriately assessed at different levels in that process in order to avoid duplication of the assessment.

32 ECDC have published a Sustainability Appraisal (May 2022) (“SA”) alongside the Regulation 19 consultation on the SIR.

33 The SA concludes:

“In summary, the outcomes of the SA show that the preferred policy option contained in this final consultation version of the SIR of the Local Plan will have a neutral effect. This is because it will not result in any new development sites / growth than committed to already, nor does it attempt to prevent any growth coming forward that is already committed.”

34 The SA assesses four options as follows:

34.1 Option 1: Housing requirement derived from Government Standard method. Consequently, no additional allocations or additional growth arising.

34.2 Option 2: No policy, rely on national policy.

34.3 Option 3: Provide for a higher level of growth than the Government’s standard method, likely meaning new allocations and additional growth arising.

34.4 Option 4: Provide for a lower growth than the Government’s standard method. Consequently, no new allocations or additional growth arising.

35 The approach taken to the SA

35.1 The SA concludes that Option 1 is preferred as this is more closely aligned to national policy than the other options and the SA finds that overall this option would have “no negative or positive impact”²⁰.

35.2 This appears to be predicated on the fundamentally flawed assumption that not introducing any new housing allocations and actually reducing the number of dwellings planned for delivery between 2011 and 2031 in East Cambridgeshire

²⁰ SA – paragraph 8.2.

would not have any impact because it would not require any further development and would be in line with a minimum housing need figure generated by the Government's standard methodology. This approach simply ignores any potential negative social and economic impacts of failing to respond to worsening affordability or unsustainable commuting patterns in the district, for example.

- 35.3 In addition, this approach seemingly does not take into account recent evidence such as the SHMA or changes in circumstance such as recent infrastructure investment in Soham and Ely.
- 35.4 However, the SA scores Option 3 positively on some aspects when compared with Option 1 due to Option 3 providing greater choice in housing, investment and the creation of more employment opportunities. The SA finds that Option 3 would generally have negative effects on the environment and resources especially on undeveloped land as more greenfield sites will have to be used.
- 35.5 The SA appears to assume that any additional growth that would be facilitated by Option 3 would be on greenfield sites rather than previously developed land and does not appear to acknowledge that development may have a positive impact on environmental matters such as providing for biodiversity net gain (particularly given this is expected to become a legislative requirement within the next two years) or facilitating opportunities for the public to access and appreciate wildlife/wild places.
- 35.6 In addition, the SA appears to entirely ignore the possibility of avoiding or mitigating any negative effects on the environment through application of development management policies and/or policies in the Framework.
- 35.7 In this regard the SA also fails to set out all of the information listed at Schedule 2 of the 2004 Regulations as required by Regulation 12, including measures envisaged to prevent, reduce and as fully as possible offset any significant adverse effects on the environment of implementing the plan or programme. This information could, for example, have been relevant to conclusions drawn in relation to Option 3.
- 35.8 The SA also fails to acknowledge the potential negative economic impacts of failing to provide for a greater level of growth than the minimum figure provided

by the Government's standard methodology which have previously been expressed by Pigeon in its response to the first consultation on the SIR in May 2021 such as worsening affordability or unsustainable commuting patterns.

35.9 Indeed, given the view expressed in the October 2020 report for ECDC's Full Council where it was decided to proceed with an update to policy GROWTH1 only (i.e. that this will progress on the basis of the minimum figure derived from the Government's standard methodology) it is perhaps questionable whether ECDC have properly considered whether any of the reasonable alternatives are preferable to Option 1.

35.10 This is particularly so when the SA for most of the objectives in respect of each option considered have simply said, "*Policy option is not relevant to this objective*"²¹ when clearly, in most – if not all – cases, the objective is absolutely relevant and should have been properly considered and assessed.

35.11 For the reasons set out above, we consider the approach that ECDC have taken to the SA remains flawed.

36 The assessment of reasonable alternatives in the SA

36.1 The SA fails to assess the alternative of extending the plan period to 15 years from the date of the adoption of any update to policy GROWTH1 to provide for the same level of year on year growth (in terms of annual housing requirement) as set out (as a minimum) in the Government's standard methodology but over the period required by the Framework for strategic policies.

36.2 It appears to us that given the concerns we have expressed above as to ECDC's failure to extend its plan period that this is an alternative which can properly be considered as reasonable. Indeed, this is particularly so given this option was referred to by consultees in response to the first stage consultation on the SIR.

36.3 The SA should have taken this option into account as a reasonable alternative. It did not and as a consequence the SA should not be considered to be robust and sound.

²¹ See in particular SA, Appendix B.

37 We also note that paragraph 4.1 of the SA sets out that “*there is no scope*” to arrive at any nationally derived local housing need figure other than the one derived by the Government’s standard formula. This statement seemingly ignores the fact that the Government’s standard methodology is an assessment of minimum (not maximum) housing need which does not set a housing requirement and in any event can be departed from in the manner set out in paragraph 61 of the Framework.

The implications of ECDC’s current approach to the SIR on development management

38 As we have set out above, given our concerns as to compliance with the duty to co-operate, the substance of the SIR (and particularly the failure to plan for a 15 year period from the adoption of the SIR) and the flawed SA we are doubtful that the SIR in its current form would be recommended for adoption by an Inspector following examination.

39 However, in the event that the SIR in its current form was adopted it appears that this would be out-of-date from the outset given that it would fail to plan for the 15 year period required by paragraph 22 of the Framework. This would allow those looking to promote unallocated sites for development in East Cambridgeshire to argue that ECDC’s development plan is inconsistent with the Framework and should be given reduced weight as a result pursuant to paragraph 219 of the Framework. In addition, in such circumstances it may also be argued that ECDC’s development plan is out-of-date so that the tilted balance in paragraph 11 of the Framework should apply²².

40 In its previous consultation responses on the SIR, Pigeon identified a number of potentially negative impacts from failing to plan for an increased number of dwellings in the SIR, failing to update more than just policy SIR and/or failing to plan for a 15 year period from the adoption of the SIR. This includes negative social and economic impacts of failing to respond to worsening affordability or unsustainable commuting patterns in the district, for example.

41 It is also the case that ECDC continue to lose valuable ground now by failing to begin their call for sites process at this stage. ECDC are only looking for the SIR (and their development plan) to cover the period to 2031 and will in any event have to embark

²² E.g. *Gladman Developments Ltd v Daventry District Council* [2016] EWCA Civ 1146 (paragraph 40)

on such a call for sites exercise in the next few years anyway in order to begin preparations for a development plan to cover the period from 2031 onwards.

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