

MATTERS AND QUESTIONS FOR EXAMINATION

These are the only questions upon which the Inspector now invites comment – all existing representations will be taken into account and should not be expanded. Representors should only answer those questions relating to the subject of their original representation(s), but the councils should answer all the questions.

The questions primarily concern legal compliance and the National Planning Policy Framework's (NPPF) soundness criteria which require the Plan to be positively prepared, justified, effective and consistent with national policy.

Note: The Inspector trusts that all participants will approach the Examination in a positive, pragmatic and pro-active fashion, and not react defensively. If modifications need to be made to ensure a sound and legally compliant outcome then please suggest them. Many of the questions are merely requests for information from the councils and are not criticisms.

Matter 1 – Legal requirements

Issues and Questions

1. Whether the part JCS complies with the legal requirements in the production of the Sustainability Appraisal (SA)

- 1.1. In the light of the councils' response in SDJCS 7 and 8, would representors explain exactly what parts of the High Court Judgement and Court Order have the councils not complied with?
- 1.2. In the light of the councils' response in SDJCS 7 and 8, would representors say whether all the reasonable alternatives been identified with the reasons for their selection? Is there any other evidence that representors, in the light of the councils' responses, want to place before me to help me decide whether these are reasonable alternatives?
- 1.3. In the light of the councils' response in SDJCS 7 and 8, would representors say that the selected reasonable alternative sites' assumptions are correct in terms of housing numbers likely to be delivered?
- 1.4. In the light of the councils' response in SDJCS 7 and 8, have the significant environmental effects of the reasonable alternatives been correctly assessed?
- 1.5. Does the SA clearly set out (page 79 onwards in SDJCS 3.2) the reasons for the selection of the JCS NEGТ submitted proposal (Alternative 1), and the reasons why the other reasonable alternatives were not chosen? If not, why not?
- 1.6. Is it correct that the selection of the submitted JCS proposal Alternative 1 has been assessed in the SA report as being partly dependant on the delivery of the Northern Distributor Road (pages 62, 63 and 80 of SDJCS 3.2)? Is this realistic (see 3.4.11 last bullet and 4.11.23)?
- 1.7. SDJCS 15 says that the NPPF's presumption in favour of sustainable development is not stated explicitly in the JCS. However, the NPPF says (paragraph 15) that Local Plans should be based upon and reflect the presumption in favour of sustainable

development, with clear policies that will guide how the presumption should be applied locally. This is legally a local plan (albeit one which is an addition to an existing plan) and the PINS model policy wording has not been used. My present inclination is that the model wording should be included as a modification to policy 10. Are there any convincing reasons why this should not be done? And should such a policy only apply to the content of this plan and not to the remainder of the adopted JCS?

2. Whether the Duty to Co-operate has been satisfied

- 2.1. What references are made in the three councils' Annual Monitoring Reports to the Duty (as required in Regulation 34(6) of the 2012 Local Planning Regulations)?
- 2.2. Have any meetings with the members (as opposed to officers) of the adjoining LPAs and the Regulation 4 prescribed bodies taken place as I cannot find them in SDJCS 16?
- 2.3. Do the councils and representors consider that the Duty on this Plan (which is but a part of the JCS) has been applied on an ongoing basis, actively and constructively so far as the preparation of this part JCS is concerned? If not, why not, bearing in mind the councils' responses to the representations made on the Duty? Please note that parish councils are not prescribed bodies.

3. Whether the public consultation processes have been correctly carried out

- 3.1. In the light of the councils' response in SDJCS 7, exactly what is wrong with the councils' public consultation procedures? What legislation or Statement of Community Involvement do they fail to comply with and why?

4. Whether the Aarhus Convention is applicable

- 4.1. In May 2005, the UK Government agreed to implement the Aarhus Convention. Aarhus has three main themes: *Access to information* – public bodies should provide information and respond to requests for it, and this is primarily implemented in the UK through the Environmental Assessment of Plans Regulations 2004; *Public participation* – the agreement sets out minimum requirements for public participation in various kinds of environmental decision making; *Access to justice* – the UK relies on existing judicial review procedures. My initial finding, therefore, is that as the Aarhus Convention has been implemented in the UK through domestic legislation, any alleged failure in its implementation is a matter for the courts, and not for me. Even so, what is the problem, and what do the parties think I should or can do about it? Is this in effect another way of saying that the plan has not complied with UK legislation?

Matter 2 – The implementation of the submitted JCS proposals

Issue and Questions

1. Whether policy 10's proposals and associated text for employment and housing are positively prepared, justified by the evidence, consistent with national policy, and effective

- 1.1. Please provide me with a copy of the Annual Monitoring Report 2011-2012 produced by the GNPD on behalf of all three councils. When will the 2012-2013 Annual Monitoring Report be available – in time for the May examination hearings?
- 1.2. Given the delay in bringing forward the NEGTT, are the housing delivery figures in the JCS Appendix 6 Housing Trajectory correct? For example, has Rackheath started delivering homes in 2011/12 as stated (is this not a commitment if they are built?)? And will the remainder actually start delivery in 2014/15?

- 1.3. Will the NDR be built in time (in part or in whole?) to meet the projected housing delivery dates and numbers in the Trajectory?
- 1.4. What is the status of the application for 3,500 homes in North Sprowston, submitted in October 2012? How does this fit into the Housing Trajectory?
- 1.5. Does the above indicate more than a "slight variance" in the Housing Trajectory? Is it of sufficient significance to warrant amending the Trajectory to reflect reality to date?
- 1.6. Given the above, and the allowance for smaller sites in the JCS, is the submitted JCS flexible enough to deal with any changing circumstances (JCS para 7.17 and table), even though funding for part of the NDR is now more certain?
- 1.7. Exactly what limited capacity in numbers is there for the delivery of homes ahead of the NDR? Is it as the 7.17 table or as the North Sprowston planning application or other?
- 1.8. NPPF paragraph para 48 allows for windfall sites to be included in the housing supply figures provided there is compelling evidence they will continue to come forward. Are the councils' now arguing in SDJCS 14 that windfalls should be included in the submitted and adopted JCS, thus taking the housing numbers up to 42,000, which would be at the higher end of the range set out in its Table 1?
- 1.9. I have some concerns over the technical justification for the SHMA's range of estimates (H11) set out in SDJCS 14: namely, the inclusion of a 2006 affordable housing 'backlog' (does this form part of the total housing need, and is not added to it?) and the increase in market housing numbers solely in order to provide more affordable homes (which are but one segment of the housing market and should not be the determinant of overall housing need or numbers). Please would the councils comment on this, bearing in mind the Government's 'Practice Guidance' on SHMAs and the NPPF's requirement to meet objectively assessed needs based on household and population projections.
- 1.10. Please would the councils provide me with relevant updates to SDJCS 14 once the new Government household formation figures are produced (expected imminently) and the East of England Forecasting Model is updated (Spring 2013, if done annually?).
- 1.11. Given the above SDJCS 14 points, does the housing forecast in SDJCS 14 provide a robust and justified evidential basis for the scale of the proposed development in policy 10?
- 1.12. Is there an up-to-date evidence base document setting out the need for the 25 hectares of employment land as proposed in policy 10?
- 1.13. Does the area indicated in Appendix 5 of the submitted JCS represent a justified and realistic 'area of search' within which areas sufficient to accommodate the various components of the proposed growth triangle can be found?
- 1.14. Does the submitted JCS provide sufficient strategic guidance for achieving a single co-ordinated approach to the future planning of this large area with its multiple ownership and complex infrastructure issues?
- 1.15. What is the councils' evidence-based response (I have seen that in SDJCS 8) to the concerns raised about the impact of traffic from the submitted JCS policy 10 proposals' traffic on Wroxham and the A1151 Wroxham Road? Please would the councils tell me where to find the evidence which lies behind their statement that "overall the growth in the NEG is not *predicted* to have a significant impact"?
- 1.16. What are the councils' detailed response (rather than the generalised policy based answer in SDJCS 8) to the concern raised by the RSPB in its representation about the delivery of the Broads Buffer Zone Scheme? If it is in the evidence, please direct me to it.

- 1.17. Is the information contained in the latest version of the Local Investment Plan and Programme (LIPP), particularly that in Table 11.1, reflected in the Infrastructure Framework in Appendix 7 of the JCS for the policy 10 proposals? If not, should it?
- 1.18. In the light of NPPF paragraph 173 onwards, please would the councils provide me with the necessary information to assess the financial viability of the proposals in policy 10. The information should be provided bearing in mind the advice set out in the "*Viability Testing Local Plans*" document of June 2012 by the Local Housing Delivery Group, which is available on:
<http://www.nhbc.co.uk/NewsandComment/Documents/filedownload,47339,en.pdf>.
- 1.19. Should any of the 'gaps' and 'suggested indications' on page 96 onwards of the SA report (SDJCS 3.2) be incorporated in the Appendix 8 Monitoring Framework of the JCS? If so, what?
- 1.20. What are the two sets of parallel dotted grey lines on the first plan of the Policies Map of the Growth Triangle in SDJCS 4.1?

David Vickery – 1 March 2013