Matter 1 – Overview

Issue 1.1

1. We set out our detailed concerns regarding the unjustified targets, flawed process, and unsupported conclusions in our Statements on Issues 3 and 6.

2. We consider that the Sustainability Appraisal (SA) of the Strategic Land Allocation (SLA) is flawed in that it was conducted on the basis of providing 2,500 homes to the south east of the existing urban area, not the 4,800 homes necessary to meet the housing requirement of the South East Plan.

3. Further, with regard to the evaluation of alternatives in the SA and as outlined in our previous representations, the proposed amendment to the Strategic Land Allocation has not been subject to SA within the assessment of reasonable alternative sites – option MKSA4 included sites SR1, SR2, SR3 and our Client, The Fairfield Partnership’s land, the western parcel of MKSA4 (referred to hereafter as the TFP land). It did not include SR4, as now proposed; SR4 was assessed as part of option MKSA6, but this option excluded sites SR1, SR2 and SR3. There has therefore been no comparison of the proposed allocation versus the alternative offered by MKSA4 (including the TFP land) and as a result, there is no indication of the sustainability advantages or disadvantages of including site SR4, which is physically divorced from the remainder of the Proposed Amendment land, as compared to including the TFP land. In summary, it is considered that the proposed SLA allocation does not reflect, to the extent that in parts it ignores, the findings of the SA process.

4. The NPPF states that sustainable development has economic, social and environmental roles (para. 7). These roles must be balanced, and the Core Strategy cannot be found sound if it prioritises any one of them too highly at the expense of the others.

5. The SA of the proposed reduction in housing provision plays down the social and economic consequences of the reduction in affordable housing (see SA Objective 3 - the SA estimates approximately 1,500 fewer affordable homes will be built) by commenting that these homes would probably not have been built anyway, as the overall growth figures were unrealistic. Firstly, this is an evasion of the true issues at stake, i.e. there is no proper consideration of how such a large reduction in affordable homes might affect those in need of suitable accommodation; and secondly, the assumption that higher housing numbers could not be delivered is erroneous (see our Statement in relation to Matter 3).

6. The SA (Objective 5) notes that the affordability of housing will be negatively affected by a reduction in the supply of housing. This will mean a worsening of the affordability of housing in the long-term, leading to a number of adverse social and economic consequences, including increasing the number of households in need of affordable housing (whilst the supply of this housing decreases) and making it even harder for first time buyers to enter the market, leading to a general stagnation in the market as a whole.

7. The SA notes that the Strategic Land Allocation (SLA) will not now be large enough to support a new secondary school, leading to adverse impacts on schooling and educational attainment; and further that the SLA will also not now include an
employment allocation, with negative impacts on job opportunities and the Borough’s economic performance.

8. The SA gives what we consider to be an unreasonable summary of the overall consequences of the reduction in housing numbers, focusing strongly on the minor beneficial environmental effects, while playing down the significant adverse social and economic consequences: the environmental benefits of preserving intensively farmed land with little ecological value seem to have been given undue weight when considered against the adverse social and economic effects.

Issue 1.2

9. As we have commented separately with regard to Matter 3, the proposal to reduce the Borough’s housing requirement by 13,000 dwellings fails to accord with guidance in the NPPF requiring the Plan to meet housing needs. The proposed reduction in housing numbers would take the target further away from the level of housing need indicated in the SHMA.

10. Similarly, the decision-making process, as explained through the SA, appears to be inconsistent with the fundamental principles of the NPPF, by incorrectly prioritising minor environmental benefits over major adverse social and economic consequences (see Issue 1.1 above).

Issue 1.3

11. The Core Strategy fails to meet the strategic development needs of the area, by seeking to reduce the level of development below that required by the South East Plan, whilst making no other attempt to objectively assess needs.

12. The proposals set out in the draft Core Strategy are based on unjustified targets, a flawed process, and unsupported conclusions.

Issue 1.4

13. The Core Strategy fails to conform to the South East Plan’s requirements with regard to overall housing provision and cross-boundary development, whilst making no other attempt to objectively assess the sub-regional and wider context or need.

14. It further fails to take account of the housing needs identified in the SHMA (see below). We consider that the failure to plan for sufficient housing will have serious economic and social consequences.

Issue 1.5

15. The Core Strategy fails to provide any guidance on the way in which development may be brought forward in a co-ordinated manner with any other local authority. Instead, it has simply been amended in an attempt to avoid cross-border co-operation.
Issue 1.6

16. The Council have sought to argue, in their various responses to the Inspector’s pre-examination questions, that their proposal to reduce the housing target by over 13,000 dwellings, when compared to the South East Plan target, is essentially a minor change in the context of the SE Plan's overall requirements, as it represents ‘only’ a 15% reduction in the housing requirement. They also argue, in their response to the Inspector’s Note ID/6, that the question of whether the Core Strategy is in general conformity with the SE Plan, is a matter of planning judgement and not legal reasoning.

17. The Council's Pre-Submission draft Core Strategy included a housing target slightly in excess of the SE Plan target. However, the Revised Submission Draft Core Strategy changed this target, effectively reducing it by more than 13,000 dwellings. The decision to revise this target was taken shortly after the Secretary of State for Communities and Local Government announced his intention to revoke Regional Plans. The issue was considered by Full Council on 8th June 2010, following a letter from the Secretary of State to Chief Planning Officers on 27th May 2010, and prior to the official announcement of the abolition of Regional strategies by the Secretary of state, on 6th July 2010. The Council resolved at this meeting to oppose the housing development proposed in the SE Plan in Aylesbury Vale, and the SE SDA.

18. This decision to change the housing target, which flows from the deletion of the SW Development Area and the SE SDA, is therefore clearly related to the SOS’s intention to revoke Regional Plans. It is therefore also logical to conclude that the Council did not feel able to propose these lower housing figures until the requirement for the Core Strategy to be in general conformity with the SE Plan had apparently been removed. This also implies that the Council's planning judgement at the time was that to have undertaken this change sooner, when the SE Plan was still in place, would have resulted in the Core Strategy failing to be in conformity.

19. The Revised Submission Draft Core Strategy states (page iv) ‘In reviewing the emerging Core Strategy, the Council has been guided by the following principles… The Core Strategy should be ‘refreshed’ to take into account the revocation of the South East Plan. This includes the removal of regional housing targets which, in the light of recent and current market conditions, are regarded as unachievable by 2026’. (Our emphasis) This further underlines the link between the revocation of the SE Plan and the change in the housing target.

20. The Council's ‘Updated Housing Technical Paper’, document ID/9 (March, 2012) explains (para. 1.2) ‘The HTP was produced to support and justify the Council’s decision to revise its Core Strategy housing target to make it more realistic and deliverable. The Council’s view is that the housing target included in the Core Strategy Revised Proposed Submission (October 2010) remains relevant and appropriate, and that activity in the housing market over the last two years continues to support the Council’s position… As such, the background to as to why the Council altered its housing target to deliver 28,000 homes over the plan period (2010-2026) remains as per the HTP of February 2011’. (Our emphasis)

21. We have provided Counsel’s opinion on the need for the Plan’s housing targets to be consistent with those set out in the SE Plan. This opinion notes the Court of Appeal
judgement by Sullivan LJ, in R (CALA homes (South) Ltd v. Secretary of state for Communities and Local Government [2011] EWCA Civ 639, which stated:

“It would be unlawful for a local planning authority preparing, or a Planning Inspector examining, development plan documents to have regard to the proposal to abolish regional strategies” See para [24].

22. We note that the Council have ignored this aspect of the judgement when discussing it in their response to the Inspector’s Note ID/6.

23. We have also noted that the Secretary of State recently commented¹, in relation to the housing target for Aylesbury Vale District that 'The Secretary of State agrees that, at present, the SEP housing figure remains the only reliable evidence regarding need in this area.'

24. Given the judgements referred to above, it is surprising that the Council is still maintaining that a housing figure of around two-thirds is 'appropriate'. The proposed housing provision greater than 13,000 dwellings less than that required by the SE Plan, and this aspect of the Core Strategy is therefore not in conformity with the requirements of the SE Plan, and is not lawful.

25. Similarly, the resultant dropping of proposals for housing in adjoining local authority areas, required by the SE Plan, is not in conformity with its requirements.

26. Rectification of these issues would require an increase of the overall housing figure to that in the SE Plan, or in light of the publication of the NPPF, the even higher figure identified by the SHMA, and the reinstatement or reconsideration of housing within adjoining local authority areas. We have made more detailed submissions in this regard in our statement concerning Matter 3.

Issue 1.7

27. If the SE Plan is to be abolished, then guidance must (still) be taken from the NPPF. The NPPF states (para. 47) that Local Planning Authorities should ‘use their evidence base [i.e. their SHMA – NPPF, para. 159] to ensure that their Local Plan meets the full, objectively assessed needs for market and affordable housing in the housing market area’.

28. The Council’s SHMA identifies the need for the provision of 3,280 dwellings per year, yet the Council has, in the Core Strategy, decided that a much lower figure, of around half the SHMA figure, is justified as ‘the housing requirement identified in the SHMA is not considered to be deliverable’ (Revised Submission Draft Core Strategy, page iv, para. d), albeit only ‘in the short term’.

29. The Core Strategy is therefore considered to be in direct conflict with national policy. Rectification of this issue would require a substantial increase in the housing provision proposed to bring the figures in line with the needs identified in the SHMA.

¹ In relation to an appeal by O & H (Q6) Ltd, on land south of Newton Leys, Drayton Road, appeal reference APP/J0405/A/11/2152198/NWF, 19 January 2012
Issue 1.8

30. In order to be positively prepared, the Local Plan must:
   • meet the Borough’s ‘objectively assessed development and infrastructure requirements’; and
   • meet unmet requirements from neighbouring authorities ‘where it is reasonable to do so and consistent with achieving sustainable development’.

31. The proposal to reduce the housing number dramatically means that the Plan will not be capable of meeting the objectively assessed development needs, as noted above.

TW/734/JD
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