Response to the Inspector’s Question sent on the 13 June 2012

This paper has been prepared in response to the Inspector’s question sent on the 13 June 2012. The paper seeks to address issues relating to the sustainability appraisal (SA) and specifically the ‘so called retrospective justification of the overall housing provision and strategic land allocation’ (Section One), and the ‘key points of legal compliance for an SA that have been highlighted by the legal judgments in the Forest heath and Greater Norwich cases (Section Two). These are supported by Section Three which sets out a summary of the SA process addressing the stages at which decisions were made, the SA evidence that informed the decisions and the opportunities that were available to comment.
Summary of response

1. The SA process and the ‘retrospective justification of the housing provision and the strategic land allocation

The SA and decision making process for the Core Strategy have run effectively in parallel through all stages of the Core Strategy. The change in the overall housing figure between the Feb 2010 Core Strategy and the October 2010 version, was appraised in the SA Addendum October 2010 (Submission Document B107).

The strategic land allocation (of the former strategic reserve sites in the Local Plan) however, required further work and this was undertaken in the Sustainability Appraisal of Reasonable Alternative Sites (SARAS) (Submission document B 110) published in January 2011. Public consultation on the SARAS occurred between June and July 2011 and this led to a change to the allocated site which was considered and agreed by the council on 13 September 2011.

2. Key points of legal compliance highlighted in Forest Heath and Greater Norwich judgments

In light of the Forest Heath judgment the council consulted on the SARAS in June 2011. The outcome influenced the final decision of the council in September 2011 to proceed with the Submission Core Strategy (October 2010) with a revised allocation and in so doing made a change to that allocation to improve the sustainable qualities of the proposal. The public consultation provided people with the opportunity to comment on the subsequent information and ensured no one has been prejudiced in the process. The council revisited its earlier decision to approve the allocation in the October 2010 Core Strategy.

3. Stages at which decisions were made, the SA evidence that informed the decision with details and opportunities for comment

This is set out in the table on page 6.
1. **Retrospective Justification**

1.1 The Core Strategy has been informed by sustainability appraisal (incorporating the requirements of the SEA Directive) throughout the plan-making process.

1.2 Section Three of this response sets out the stages at which decisions were made based on the SA process and demonstrates that the sustainability appraisal has never sought to retrospectively support a chosen strategy. Indeed, the SA process, in the SA Addendum [Submission Document B107], highlighted issues with the amended strategy contained in the Revised Proposed Submission Core Strategy [Submission Document B133]. This led to a change to the strategic allocation as explained below.

1.3 The original housing target in the February 2010 Pre-Submission version of the Core Strategy [Submission Document B109] was considered by the Council to be undeliverable and a new, realistic and deliverable target set. The implications of this change in the target have been appraised and the Addendum identified both positive and negative effects of a lower housing target.

1.4 The Addendum was also critical of the Strategic Reserve Area (SRA) allocation which led to alternatives being appraised and ultimately the allocation being amended to improve its sustainability as agreed at the Council meeting held on 13 September 2011. At that meeting the Council took a decision\(^1\) to proceed with the examination of the Core Strategy following the amendment to the strategic allocation. This was taken in light of the findings of the sustainability appraisal process and supporting evidence papers.

1.5 Each stage of the sustainability appraisal has been published for public consultation with the most recent Addendum (2) [Submission Document B138] being published alongside the Strategic Site Selection Report [Submission Document B139] to provide stakeholders with an opportunity to influence the final allocation.

2. **Key points of Legal Compliance**

2.1 The Sustainability Appraisal Addendum (2) contains a summary of where the SA process has met the requirements of the SEA Directive [Submission Document B138, paragraph 1.5].

2.2 With specific reference to the Forest Heath and the Greater Norwich cases, the Council is satisfied that these do not alter its position regarding legal\(^1\)

\(^1\) [http://cmis.milton-keynes.gov.uk/CmisWebPublic/Meeting.aspx?meetingID=9696]
compliance, as shown by the stages outlined in Section Three of this response.

2.3 In Forest Heath, the key issues raised were regarding compliance with the SEA Directive and the need to identify to the public the reasonable alternatives to the chosen policy, the reason for ruling out alternatives and that the plan and sustainability appraisal should operate together.

2.4 In addition to these, in the Greater Norwich case, the key issue related to the reasons as to why different alternatives were considered and the reasons they were not selected.

2.5 The key questions for the Council can therefore be summarised as:

• Have the plan and the SA operated together?
• Have the reasons for identifying alternatives been set out?
• Have the alternatives been made available to the public?
• Have the alternatives been assessed on an equal basis?
• Have the reasons for ruling out alternatives been set out?

2.6 Up to the February 2010 Pre-Submission Core Strategy [Submission Document B109], the plan-making process and the sustainability appraisal had run in parallel with options being considered for directions of growth from the outset and the sustainability appraisal informing the plan.

2.7 The Revised Proposed-Submission Core Strategy of October 2010 [Submission Document B133] was accompanied by a sustainability appraisal [Submission Document B106] that appraised the chosen strategy. However, the Council had identified that the reasonable alternatives had not been considered formally through the appraisal process. This led to the production of the Sustainability Appraisal of Reasonable Alternative Sites (SARAS) [Submission Document B110]. To address issues arising from the Forest Heath case, the SARAS was published for public consultation in June 2011.

2.8 This was followed by the Sustainability Appraisal Addendum (2) [Submission Document B138] produced alongside the Strategic Site Selection Report [Submission Document B139] that clearly influenced the plan, as evidenced by a change in the strategic allocation.

2.9 The Sustainability Appraisal Addendum sets out the process of arriving at a new option for a housing target. The SARAS and the Sustainability Appraisal Addendum (2) both set out the criteria used in identifying the alternative sites. Consultation on the SARAS afforded the opportunity for additional sites to be promoted for inclusion in the assessment. The Addendum (2) sets out the reasons why sites were not considered to be reasonable alternatives.
2.10 Public consultation has been undertaken at all stages. Where the alternatives to the Strategic Reserve Areas allocation had not been consulted on, this was remedied through the publication of the SARAS report and the Addendum (2) providing opportunity to comment and shape the alternatives considered.

Have the alternatives been assessed on an equal basis?

2.11 All of the alternative sites were assessed together in the Addendum (2) against the same sustainability objectives and the revised housing target was appraised as a direct comparison with the original Pre-Submission Publication Core strategy target in the SA Addendum. The SARAS report included directions for growth that had previously been ruled out to ensure the appraisal was fair and consistent. Therefore alternatives have been considered on an equal basis.

Have the reasons for ruling out alternatives been set out?

2.12 The October 2010 Addendum sets out the process the Core Strategy underwent [Submission Document B107, paragraphs 2.1 – 2.3] and the key changes requiring appraisal [Paragraph 4.3]. This includes referencing the Council decision of the 14 September where the rationale for changes was set out. This included a justification for not delivering the South East Plan housing target or a higher figure of the Strategic Housing Market Assessment as it was considered undeliverable.

2.13 The Addendum (2) [Submission Document B138, paragraphs 5.6 – 5.9] makes the reasons for ruling out the alternative sites clear by repeating the conclusions of the Strategic Site Selection Report so it was possible for consultees to know the reasons for rejecting alternatives. The Addendum (2) includes clear cross referencing to the Strategic Site Selection Report which itself was informed by the sustainability appraisal process.

3. Summary of Sustainability Appraisal Process

3.1 The table below sets out the stages of the sustainability appraisal against the stages at which decisions were made on the Core Strategy with a more detailed summary of the process below. The summary also highlights the opportunities for comment. This shows that no-one has been prejudiced by the events or the sequence of events as evidenced below.
<table>
<thead>
<tr>
<th>Date</th>
<th>Decisions</th>
<th>Core Strategy Documents</th>
<th>Sustainability Appraisal</th>
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</thead>
<tbody>
<tr>
<td>Feb 2006</td>
<td></td>
<td></td>
<td>MK 2031 Sustainability Appraisal (SA) Scoping Report (Submission document B18)</td>
</tr>
<tr>
<td>June 2006</td>
<td>Cabinet: 27/06/06 – approve consultation on MK Growth Strategy</td>
<td>MK Growth Strategy</td>
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<tr>
<td>Jul 2006</td>
<td></td>
<td></td>
<td>MK 2031 Sustainability Appraisal (Submission document B18)</td>
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<tr>
<td>Oct 2006</td>
<td>Delegated Decision: 10/11/06 – approve consultation on Issues and Options</td>
<td>Core Strategy</td>
<td>SA Scoping Report 5 weeks consultation (Submission document B3)</td>
</tr>
<tr>
<td>Dec 2006</td>
<td>Cabinet: 26/06/07 – approve consultation on Preferred Options</td>
<td></td>
<td></td>
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<tr>
<td>Sep 2007</td>
<td>Council: 12/01/2010 – approve consultation on Pre-Sub Core Strategy</td>
<td>Preferred options</td>
<td>Sustainability Appraisal Report &amp; Technical Documents 1 to 3, 6 weeks consultation (Submission document B106)</td>
</tr>
<tr>
<td>Feb 2010</td>
<td>Pre-Submission Version</td>
<td></td>
<td>Submission Sustainability Appraisal &amp; Technical Document 4, 6 weeks consultation (Submission document B106)</td>
</tr>
<tr>
<td>Sep 2010</td>
<td>Council: 14/09/10 – approve Revised Proposed Sub Core Strategy for consultation</td>
<td>Revised Proposed Submission Version</td>
<td>Sustainability Appraisal Addendum, 6 weeks consultation (Submission document B107)</td>
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<tr>
<td>June 2011</td>
<td></td>
<td></td>
<td>Sustainability Appraisal of Reasonable Alternative Sites, 6 weeks consultation (Submission document B110)</td>
</tr>
<tr>
<td>Sep 2011</td>
<td>Council: 13/09/11 – confirm proceeding with sub of Core Strategy</td>
<td>Strategic Site Selection Report</td>
<td>Sustainability Appraisal Addendum (2), 6 weeks consultation (Submission document B138)</td>
</tr>
</tbody>
</table>
3.2 The MK2031 Sustainability Appraisal [Submission Document B18] appraised the directions of growth for MK and informed the South East Plan process. Six options for the directions of growth were identified along with two further options raised through the consultation process (Submission Document B18, paragraph 1.32).

3.3 The MK2031 Sustainability Appraisal concluded that ‘Options 1 and 3 offered the most potential to meet the SA objectives’ (Submission Document B18, paragraph 9.33).

South East Plan

3.4 The South East Plan concurred with the MK2031 appraisal work that the south east and south west of Milton Keynes were the most suitable directions for growth, and identified two Strategic Development Areas, one to the south west (wholly within Aylesbury Vale) and one to the south east (partly within Central Bedfordshire).

Core Strategy

Sustainability Appraisal Report (September 2007)

3.5 Following the production of the Sustainability Appraisal Scoping Report [Submission Document B3] the Preferred Options Sustainability Appraisal Report [Submission Document B106] was produced. The Sustainability Appraisal Report appraised the policies of the Core Strategy Preferred Options Paper [Submission Document B2]. Given that the MK2031 study was a significant piece of work that informed the production of the Core Strategy, and that the South East Plan included Strategic Development Areas to the south east and south west of MK, it was considered unnecessary to re-appraise the options through the Core Strategy Sustainability Appraisal.

3.6 Where appropriate, the findings of the Growth Strategy Sustainability Appraisal report were incorporated into the Council’s own Sustainability Appraisal report, in order to provide a comprehensive overview of how sustainability issues have been considered.

3.7 The Council approved the Preferred Options paper in June 2007. The Preferred Options paper and accompanying Sustainability Appraisal were published for six weeks consultation in September 2007.

Sustainability Appraisal Report (February 2010)

3.8 The February 2010 Sustainability Appraisal Report [Submission Document B106] considered the changes to the Core Strategy that were made between the Preferred Options paper and the production of the Pre-Submission Publication document and identified changes where the effects would require further sustainability appraisal [Submission Document B106 paragraph 14.7].

3.9 Amongst the matters that required further appraisal was the growth strategy. As a result of the publication of the final South East Plan, the housing numbers had changed from those in the Milton Keynes Preferred Options
document. It was considered appropriate to assess the implications of the change. For consistency with earlier assessments, the sustainability objectives of the MK2031 sustainability appraisal were used in the appraisal. Strategic Development Areas to the south west, south east and east of the M1 motorway were all appraised [Submission Document B106 Paragraph 14.18 and Technical Document 4 Appendix 18] as well as the overall growth strategy.

3.10 The appraisal had similar conclusions to those of the MK2031 Sustainability Appraisal, in that the strategy for growth in the Pre-Submission Core Strategy would generally have negative environmental impacts but positive social and economic impacts [Submission Document B106 Paragraph 14.20, and Technical Document 4 Appendix 18].

3.11 The Council approved the Pre-Submission Core Strategy in January 2010 and the Core Strategy and accompanying Sustainability Appraisal were published for six weeks consultation in February 2010.

Sustainability Appraisal Addendum (October 2010)

3.12 On 8 June 2010, the Council resolved to halt and refresh the Core Strategy. On the 14 September 2010 the Council approved a Revised Proposed-Submission Core Strategy [Submission Document B133] with a new housing target of 1,750 per annum. Given the reduction in the housing numbers, reference to the South West SDA was deleted and the South East SDA allocation was removed. Instead, the Strategic Reserve Areas from the Adopted Local Plan were allocated for a maximum of 2,500 homes to meet the revised housing target.

3.13 In response to these decisions, an appraisal of the reduction in numbers and the land allocation was undertaken in the Sustainability Appraisal Addendum [Submission Document B107].

3.14 Given that the rationale for the review of the Core strategy was that the South East Plan figure was no longer deliverable, appraising a strategy that could not be delivered and ran counter to the rationale for the review was not considered to be a reasonable alternative. However, the rationale was also that Milton Keynes was to remain ‘open for business’ and not say ‘no’ to growth, and therefore a lower figure than that proposed would not have represented a reasonable alternative. The process of determining a revised housing target is addressed within the Addendum [Submission Document B107 Paragraphs 2.1 - 2.3 and 4.3].

3.15 In line with guidance [Submission Document B107 Paragraphs 4.1 and 4.2], it was considered that the change in the housing number could have effects that should be appraised. The Addendum identified the significant effects

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5 http://www.pas.gov.uk/pas/core/page.do?pageId=152696
arising from the Revised Proposed Submission Core Strategy when compared to the Pre-Submission version [Submission Document B107 Appendix 2].

3.16 The appraisal concluded that in terms of the overall housing provision, a lower housing target would have positive impacts in relation to the environmental objectives, whilst having negative impacts in relation to some of the economic and social objectives [Submission Document B107 paragraph 4.9 and Appendix 2]. Given the number of environmental objectives, it is to be expected that environmental impacts would be predominant. However, the appraisal did highlight that there would be negative social and economic impacts, particularly around the delivery of affordable housing and in maintaining economic growth.

3.17 In terms of the strategic allocation of the SRAs, the SA Addendum appraised the new allocation and concluded that it performed poorly against the sustainability objectives. Given the assessment was based on the need for a strategic allocation, the sustainability of the allocation was undermined by its dispersed nature [Submission Document B107 paragraph 4.10, and Appendix 3].

3.18 The SA Addendum and Revised Proposed-Submission Core Strategy were published for six weeks public consultation in October 2010.

Sustainability Appraisal of Reasonable Alternative Sites (January 2011)

3.19 Having appraised the changes to the strategy it was considered that there were reasonable alternatives to the allocation of the Strategic Reserve Areas. Previous appraisal work for MK2031, the South East Plan and the Core Strategy had been based on larger development areas that may have ruled out potential sites that could have accommodated a lower level of housing (2,500 dwellings). Appraising options to the south east alone would not have allowed for all sites to be assessed on an equal basis and so all directions around the urban area were considered.

3.20 Given this the Sustainability Appraisal of Reasonable Alternative Sites (SARAS) [Submission Document B110] was produced to assess the reasonable alternatives to the allocation of the Strategic Reserve Areas. The SARAS report appraised sites capable of delivering approximately 2,500 dwellings and considered sites in directions of growth previously ruled out thorough MK2031, the South East Plan and the Core Strategy so as to allow an equal comparison of their sustainability.

3.21 A list of criteria was developed to guide the appraisal of sites [Submission Document B110, paragraph 2.2]. The criteria reflected the objectives and geographical scope of the plan by aiming to identify sites within Milton Keynes administrative area, adjoining the city and capable of meeting the housing requirement through a strategic allocation in the Core Strategy.
3.22 In total nine options [Submission Document B110, page 2] for a strategic allocation of 2,500 dwellings were identified. The SARAS also included the SRA appraisal for comparison.

3.23 The SARAS report concluded that development to the south east of the city was the most sustainable option due to the relatively low environmental impact. It also reaffirmed that a single site as opposed to a fragmented allocation provided benefits in meeting the SA objectives [Submission Document B110, paragraph 4.1].

3.24 The SARAS report was submitted to the Inspector with the Revised Proposed Submission Core Strategy in March 2011 without public consultation.


Sustainability Appraisal Addendum (2) (September 2011)

3.26 In light of comments received, the SARAS report was updated and additional sites that were put forward through the June 2011 consultation and that met the criteria [Submission Document B138, paragraph 3.2] were included in the Sustainability Appraisal Addendum (2) [Submission Document B138]. In total two new sites (MKSA 10 and MKSA 11) were included in the appraisal and five were ruled out with reasons given for why they were not considered [Submission Document B138, paragraph 3.9].

3.27 The Addendum (2) restated the conclusions of the SARAS report that development to the south east was the most sustainable location for growth.

3.28 In parallel with, and informed by, the sustainability appraisal work, a Strategic Site Selection Report [Submission Document B139] was produced to consider other issues, constraints and opportunities for the alternative sites. This provided an opportunity to consider the most appropriate allocation in light of the sustainability appraisal and all other evidence including consultation responses. The Strategic Site Selection Report concluded that the Strategic Land Allocation was the most appropriate allocation.


3.30 On the 13 September 2011 the Council amended the previous allocation and made the ‘Strategic Land Allocation’ in line with the recommendations of the Strategic Site Selection Report.

3.31 The revised allocation was then published for 6 weeks consultation from the 28 September to the 9 November 2011.