



1 Springhill SHIFNAL Shropshire TF11 8FA

Tel: 07976 080813

Email: andy@advance-planning.co.uk

Erewash Core Strategy Review

Programme Officer – Miny Schofield

By email only

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Examination Hearing Statement Matters 1, 3, 4, 5 and 7 - Seabridge Developments Ltd

Introduction

This Hearing Statement is submitted on behalf of Seabridge Developments Limited, which has a Promotion Agreement with the landowners in respect of a suitable, sustainable, available and deliverable, medium sized potential housing site, on the south side of Derby Road, Draycott. The land is identified in the SHLAA as Site 498 and SGA30 in the Strategic Growth Area Assessment.

Records will reveal that we submitted representations dated 17 April 2020, 7 May 2021 and again on 5 May 2022 for our client, in respect of the consultations on the Draft Options for Growth, the Revised Growth Options and Publication Version of the Plan, respectively.

Our client was disappointed that their previous representations did not result in the Council making positive changes to the Core Strategy Review (“CSR”) which is now Submitted for Examination. In our view, the CSR fails the test of soundness set out in the NPPF on the basis that it has not been positively prepared; it is supported by a paucity of credible evidence; it is not effective; and it is inconsistent with national policy.

These views appear to be shared by the new administration in the Borough which tabled a motion to withdraw the CSR from Examination prior to an 11th hour intervention from the Secretary of State.

It should be noted that that the Council's responses to the Inspector's Initial Questions provided clarity on the Council's approach in a number of areas which had previously been unclear given the lack of an adequate evidence base to justify its decision making at earlier stages of the process. We deal below with certain of the Council's responses which highlight its failings in preparing the CSR.

We elaborate further below in the context of each of the Hearing Matters to which we have been invited to attend. Inevitably, there is cross-over between each of the Hearing Matters, but we have sought to avoid repetition where possible. By way of example, the lack of substantive independent Green Belt Assessment to determine the appropriateness and locations for release having regards to the 5 main purposes of the Green Belt is an issue for Matter 4, but is plainly very relevant to the legal compliance of the CSR under Matter 1, given the need for Green Belt release to be fully evidenced and justified in accordance with paragraph 140 of the NPPF. Similarly, the lack of an independent Landscape Sensitivity Assessment to assess all available sites, is a major failing in the preparation of the CSR and adds to our overall concerns about the quality and appropriateness of the Sustainability Assessment (SA), which is relevant to Matter 1.

General Comments

Our statement below must be considered in the context of systemic under-delivery of housing in the Borough over a sustained period, with the Council accepting it has failed to meet the Housing Delivery Test in every year since its adoption. The Council was only able to demonstrate a 3.43 years housing supply in its most recently published Monitoring Report, although this is well out of date. We suggest that this has been largely due to the Council failing, over more than one Plan period, to identify sufficient housing allocations of varying sizes and instead, seeking to rely mainly on the redevelopment of the former Stanton Ironworks site and small-scale windfall development. Stanton Ironworks has been considered for redevelopment for many years but has not been delivered.

Matter 1 – Procedural and Legal Requirements

The Plan should provide strategic policies and proposals that look ahead a minimum of 15 years from adoption. Given that the plan will only be adopted in 2024 at the earliest, it should be extended to 2039, or even 2040 and the housing provisions should be increased accordingly.

The Council appears to have failed to satisfy its Duty to Co-operate, as evidenced by the relevant submissions and Statements of Common Ground submitted by neighbouring authorities. Meaningful cross-boundary engagement is particularly pertinent in respect of the proposed allocation sites at Acorn Way (Strategic Policy 1.3) and Land North of Spondon (Strategic Policy 1.4). The Council and its neighbouring authorities are plainly at odds on key issues relating to these strategically important sites. Derby City Council's (**DCC**) SoCG is clear that DCC considers that those sites are unsustainable, despite sustainability being the cornerstone of the Council's decision to allocate them. DCC and the Derby HMA are also clear that those sites should (whether in part or whole) be delivered to meet the needs of Derby City and not the population of Erewash – see further below.

If the Council has failed to satisfy its Duty to Co-operate, that is an irremediable failing that renders the plan unsound.

There is a general paucity of robust evidence to support the CSR and the Council's decision-making process at each stage. The absence of clear evidence to support its decision making and appraisal of alternative options, calls into question the Council's plan-making process, which we maintain has failed to fully assess all reasonable opportunities and options for growth in the Borough.

Matter 3 – The Spatial Strategy

The spatial strategy is fundamentally flawed and is not supported by appropriate robust evidence.

There is a lack of clarity as to how the spatial strategy was determined and allocations identified. It would appear that the Council settled on a development strategy and then moulded the evidence to support that strategy at the expense of other potential options.

As a consequence, the Sustainability Assessment (SA) does not properly assess the extent to which the emerging plan, when judged against reasonable alternatives, will help to achieve relevant environmental, economic and social objectives.

The spatial strategy is not positively prepared and results in insufficient land being allocated to meet identified needs. Certain of the allocations that are proposed are in the wrong locations in relation to the needs of the population of Erewash, which they are intended to meet.

Not Positively Prepared

The Council has through the CSR, identified significant needs which it does not properly plan to meet. These include c.700 homes in the Long Eaton Urban Area, c.1,400 homes in the Ilkeston Urban Area and 350 in the Rural Area. The Council has justified the lack of allocations to meet these needs, on the basis that it can manage delivery of these homes speculatively. This is an astonishing omission that can only lead to the conclusion that the CSR has not been positively prepared. The following are relevant to this conclusion:

- The Borough is heavily constrained by the Green Belt and the CSR is predicated on there being insufficient land in the Borough to meet its housing needs without releasing Green Belt. Given that conclusion, it seems highly unlikely that c.2,500 homes could be delivered outside of the Green Belt, otherwise at least some of that of that land should be allocated now, in lieu of planned Green Belt release. The Council is relying on speculative applications to meet a very significant need and, even allowing for some windfall sites, it can sensibly be concluded that at least some of that speculative development will be in the Green Belt. Relying on speculative applications in this manner is entirely at odds with the CSR being positively prepared and contrary to the principle established in paragraph 140 of the NPPF that Green Belt boundaries should only be altered via the preparation or updating of plans
- The English planning system is supposed to be “plan led”; and
- The Council has a record of chronic under-delivery, yet now purports to be able to rely on past delivery as evidence of its ability to deliver almost 2,500 houses speculatively.

These issues are compounded by the inevitable lack of deliverability of the larger allocated sites during the plan period, see below.

Flawed/Lacking Evidence Base

The Council is clear that the CSR is intended to only meet the Borough’s own needs and not those of any neighbouring authorities. Of particular relevance here are Derby City and Nottingham City, the development boundaries of which, immediately adjoin the Borough’s western and eastern boundaries respectively.

Having determined that Green Belt release was inevitable to meet the needs of the Borough, the Council undertook a Sustainability Appraisal (SA). The SA resulted in the Council adopting a sustainability based growth strategy which ranked the sustainability of sites in the Green Belt in accordance with the following hierarchy: (i) Extensions of the conurbations into the Green Belt; (ii) Extensions of the town into the Green Belt; (iii) Extensions of the villages into the Green Belt; (iv) New settlements in the Green Belt. This hierarchy has driven the Council's decision-making in identifying allocation sites and the SA is therefore of fundamental importance to the CSR.

The SA was, however, fundamentally flawed as it failed to account for the geographical context of the Borough and its boundaries and the housing needs the CSR was planning to meet. The SA was predicated on a number of generic questions and the Council has failed to recognise that those questions and its answers to them, lead to illogical results which undermine its entire strategy.

The SA scored sites favourably where they constituted extensions of the existing conurbations. Logically, such sustainability scores can only be predicated on the future residents of any proposed development utilising the facilities and infrastructure of, and commuting (whether for work or school) into, the conurbation which the relevant development sites would extend. This is borne out in the questions and the Council's answers thereto, as part of the SA. By way of example, when appraising site SGA1 – Acorn Way and SGA26 - Land South of Spondon Wood, both were scored favourably in a number of areas by explicit reference to their location in relation to the city of Derby and its facilities and infrastructure.

The abject failure of the SA to reconcile the sustainability of extensions to the conurbations and the needs any such developments are intended to meet, can lead to only two possible conclusions, either:

- A. The SA (and the entire CSR based thereon) is fundamentally flawed because it fails to recognise that the residents of any developments on the edge of Derby will actually be residents of Erewash Borough, as an obvious consequence of the development meeting Erewash's needs. Therefore, contrary to the SA and the questions and answers which underpin the Council's scoring matrix, those residents will be travelling into the Borough to access services, for work etc. and not into Derby. Given such sites are as far removed geographically from the Borough's main conurbations to the east as it is possible to be, those sites cannot be considered more sustainable than the intervening large villages which the Council has discounted.

In fact, to access the main towns to the east of the Borough any residents of the proposed allocations on the edge of Derby would have to travel through many of villages that the Council has discounted on sustainability grounds; or

- B. Those allocations are sustainable as scored in the SA because (as suggested by Derby City Council, the Derby HMA and the Council in the SA itself), they can only sensibly be considered to be meeting the needs of Derby City. If that is the case, then the Council's strategy is fundamentally unsound and the Council needs to find additional sites to provide for the Borough's consequently unmet need of 800 homes.

The Borough Council cannot play it both ways, but either way, the failure to recognise the potential for conflict between sustainability *per se* and the needs being met, is a glaring omission in the context of the Borough and its population. Consequently, the CSR is fundamentally undermined and fails the test of soundness on the grounds that it is not based on robust and credible evidence and is neither appropriate or effective.

Further, the Council has pursued a strategy of assessing and allocating "strategic" sites based on an entirely arbitrary threshold of 200 units. The Council has, in effect, automatically discounted many sites (and indeed areas), particularly small and medium sized ones, without any sound justification to evidence why this decision was made, or indeed, why it was the correct approach/other approaches were discounted. This is particularly concerning given the lack of supporting evidence as to the ability of infrastructure to support such large scale developments and the deliverability issues inherent in allocating large sites. (see evidence below).

As a direct consequence, the CSR does not provide for a balanced spatial strategy that properly meets the needs of all parts of the Borough, including the larger settlements in the rural area. It also does not provide a balanced mix of housing sites, including small and medium sized allocations that re capable of being delivered quickly, which is particularly important given the chronic under-delivery of housing over many years and the over-reliance on larger sites with long lead in times, see below.

Matter 4 – the Green Belt

The proposed Green Belt release is not supported by a robust, independent, objectively assessed review of the Green Belt throughout the Borough. Instead, the Council appears to have selected allocation sites predominantly on the basis of its flawed SA (see above), and then carried out a very high-level comparison of those sites by reference to the 5 purposes of the Green Belt. In our experience, such an approach is highly unusual and flawed. The Council's strategy for releasing Green Belt ought to have been driven by the identification of those sites whose release would cause the least harm to the purposes of the Green Belt. The approach taken by the Council plainly fails to satisfy the requirement of paragraph 140 of the NPPF to fully evidence and support any Green Belt release.

Matter 5 – The Housing Requirement/Overall Housing Provision

The Plan should provide strategic policies and proposals that look ahead a minimum of 15 years from adoption. Given that the plan will only be adopted in 2024 at the earliest, it should be extended to 2039, or more perhaps appropriately, 2040 and the housing provisions should be modified, accordingly.

The Standard Method for calculating housing need as referred to in the NPPF is only the starting point – the bare minimum requirement. Account should also be taken of, for example: the need for more affordable housing; the need for choice and flexibility; and the provision of a sufficient buffer to allow for previous and future non-delivery, especially to allow for increased provision in the early part of the Plan to recognise the inevitable delays in bringing large sites to the market.

The CSR is overly reliant on large sites which will not deliver in the plan period. *Lichfields' Start to Finish report, 2nd Edition*, which is supported by robust delivery data, concludes that on average, schemes of over 500 dwellings take between 5.0 and 8.4 years from application validation to the first home being delivered. Based upon this data, even if applications were validated in respect of all allocated sites on the day the CSR was adopted, only two sites: Land north of Spondon (200 units) and Land north of Cotmanhay (250 units), could potentially deliver in the first 5 years of the plan. On that basis, the CSR is not capable of meeting the Borough's annual need over the first 5-year period and it will exacerbate the already chronic under-deliver of housing in the Borough. In this context, the CSR cannot be considered positively prepared, effective, or consistent with national policy.

It is strongly maintained that the CSR needs to allocate small and medium sized sites that can be delivered quickly and that much of this provision can and should be directed to the larger rural settlements, including Draycott.

The obvious benefits of identifying medium sized sites in particular; is that they can be assimilated into the built-up framework of a settlement more readily and also have manageable impacts upon local services and infrastructure, whilst making a meaningful contribution to housing delivery, especially in the short-term.

Please also see our comments in Matter 3 above as to whether the allocations of 800 units on the edge of Derby can sensibly be considered to meet the needs of the Borough of Erewash.

Matter 7 Housing Land Supply

Please see relevant comments in relation to Matter 5, above.