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CHARTERED TOWN PLANNERS

6 October 2017

Forest Heath District Council

Examination of the Site Allocations Local Plan: Response to the Schedule of Matters and Issues for the Examination.

Matter 2- Basis for the Plan

In response to Matter 2 we make the following points on behalf of our client, Merlion Capital, focusing our response on the most relevant issues to our position which are questions 2.1, 2.2, 2.3, 2.4 and 2.5. On behalf of our client we are promoting land at Station Road, Mildenhall, for a residential-led development.

2.1 What methodology was used for site selection and are the criteria clear, justified and robust?

Response

We assume that the key part of the Council's site selection methodology is as set out within the Sustainability Appraisal prepared by AECOM as we have not seen any other published information, apart from the SHLAA.

Whilst the methodology generally looks reasonable (albeit with some exceptions), the application of this methodology has been flawed and it has been applied inconsistently.

Firstly, it is unclear what weight has been given to the Government's priority of encouraging the effective use of brownfield land. This is a strategic matter which should form the basis of the Council's site selection process.

There are inaccuracies and inconsistencies in how the sites have been assessed – with regard to our site, it has a red in the SA for flood risk, meaning that it has been assessed as being within Flood Zone 3 – but comparing the site against the flood map for planning published by the Environment Agency shows that the site being promoted is factually in flood zone 1, rather than 3 <https://flood-map-for-planning.service.gov.uk/summary/571007/274046>

Whilst we have sought to raise this with the Council, they have not taken this key issue on board.

The site has also been given an amber score for landscape – again this is inaccurate and full information has been included within the Landscape Assessment that was provided with our representations.

The Council has not taken on board technical evidence provided by land owners and developers regarding their sites. Instead they have relied on their own evidence, which as can be seen from Appendix IV of the SA is incomplete. The evidence is also, in cases, patchy and not sufficiently detailed to properly appraise the sites.

Using more detailed evidence for the sites would have been helpful for the Council in being able to make a proper consideration about the issues raised. In our specific case, the technical evidence provided has been prepared using robust and defensible methodology, but professionally qualified technical consultants.

In our client's case, the evidence provided has addressed the issues raised through the SA work and should therefore change the outcome. We have experience of working with many different local authorities across the country and are aware that the SA should be a fully iterative part of the Local Plan process, updated for each key stage as a greater granularity of data becomes known, and therefore being able to properly inform plan conclusions.

We are concerned that despite the regulation 19 consultation being a key regulatory part of the process, the Council has not properly taken the responses into account or considered whether the Plan needed changes as a result of these responses. The Plan was submitted

very close to the closing date for the regulation 19 consultation and we remain concerned about this in terms of whether or not they have followed the correct process in terms of properly considering the representations.

The Regulation 19 Consultation Statement is light touch and just skirts over the representations that have been made. It does not adequately respond to the issues raised through the consultation on behalf of our clients. We therefore conclude that the Council has not done the work properly at this key stage of the process.

2.2 Are the locations identified for development the most appropriate location when considered against all reasonable alternatives?

Response

There is a logic to the general locations for development, which is set out within the Core Strategy Single Issue Review. These general locations for development are the most sustainable locations within the District.

However, we do not agree that the quantum of development directed to each settlement or that the sites selected for development are necessarily the most appropriate locations when considered against the reasonable alternatives.

We share the Inspectors concerns expressed in writing on 5 October 2017 regarding the balance of the distribution of housing between the Market Towns and the key Service Centres. The Market Towns should be the key focus for development in the District and should therefore accommodate a higher proportion of the overall development.

We raised deliverability issues in our Regulation 19 response in relation to the following sites in Mildenhall. In particular, SA4 (a) land west of Mildenhall on the basis of land ownership and consequent complexities of delivery; SA5 (b) which cannot come forward until the Mildenhall hub project is delivered; SA6 (b) on the basis of its complex site history and SA6 (c) where we identified further concerns with deliverability. We have demonstrated that our clients site is, however, available and deliverable and can make a timely contribution to boosting the housing numbers for the market town of Mildenhall.

Given that we have shown above that the SA is not fully accurate (specifically in regard to our own site) we conclude that the selected sites are not justified in terms of the available

evidence, nor consistent with national policy and the Plan is therefore unsound on these two grounds.

In order to rectify this unsoundness, the Council needs to properly consider all of the evidence that is now available, including all the representations from the Regulation 19 stage, and re-appraise the sites through the SA.

2.3 Are the suggested rates of planned housing development realistic and achievable when considered in the context of the previous rates of development and economic position?

Response

No. The suggested rates of housing development are not realistic and do not reflect the complexities of the site's land ownership and the number of issues that still have to be resolved. We have assessed the up to date housing land supply position which has a baseline date of 31 March 2017.

Further to this, a number of sites without planning permission and without current applications are included within the 5-year supply. To give an example site SA6c (land at Philips Close and Grassland off Leaders Way and Sefton Way) is a proposed allocation in an as yet unexamined plan for 117 units. The land supply position shows the site as delivering 40 houses during 2018/19. This is completely unrealistic, particularly as there are unresolved archaeological issues.

Additionally, site SA10 (a) (land north of Acorn Way) is a proposed allocation for 350 dwellings, with no firm allocation and no planning application. Despite this uncertainty, the Council has included the site within the 5-year housing land supply to start delivering in 2019/20. Given the necessary infrastructure provision to deliver a site of this scale, this is once again a completely unrealistic position.

Equally site SA12 (a) (land south of Burrell Road and west of Queens View is a proposed allocation for 205 dwellings. Again, this is without a planning application and has not yet been subject to the Examination process. Yet the Council has included it within the 5-year housing land supply in the first 5 years. Despite the significant infrastructure that will need to precede this site and the lack of any planning application, the Council forecast this to deliver during 2019/20.

SA4(a) is the land west of Mildenhall which includes the Mildenhall Hub site. That is expected to start to deliver within the 5-year period (during 2020/21) despite the significant

uncertainties regarding the ownership and delivery of the site which are covered in full in our response to Matter 4 and therefore not repeated here.

Other sites included within the 5-year housing land supply only have outline consents.

In terms of the previous rates of development, the Council has under delivered in 5 out of the last 10 years and should therefore accept that it does have a record of persistent under-delivery and embrace a 20% buffer to add flexibility into the numbers. They have also made unrealistic assumptions within their 5-year housing land supply trajectories. For example, the housing trajectory table in the 2014/15 AMR forecast that 340 dwellings would be completed in 2015/16, whereas in reality only 188 dwellings were completed. There are many other examples of where the Council has been very over optimistic, perhaps demonstrating a lack of real understanding of the workings of the development industry.

It is relevant that the housing delivery has only been 1,655 between 2011 and 2017. This is an annual average of only 276 dwellings. This needs to rise to a minimum average of 343 dwellings per annum to meet the 6,800-dwelling requirement set out in the submission plan which is a significant increase. Between 2015 and 2017 only 532 dwellings have been completed, falling 148 short of the target of 680 which should have come forward.

As set out in our representations to the regulation 19 consultation, this figure of 340 should be seen very much as a minimum, given our concerns about the Council's approach to the Duty to Cooperate and the need to take into account the objectively assessed housing need for the whole of the Housing Market Area, rather than working purely at the District level. We note that issues around the Duty to Cooperate will be examined as part of Matter 1 – Legal Requirements.

There is also a need to add more flexibility into the housing provision to ensure that the numbers are achieved. The SALP currently only allocates housing to just about cover the figure of 6,800 which is not an appropriately positive approach. We also note that not all of the previous Local Plan (1995) allocations came forward which raises questions about the robustness of the Council's site selection process (might move this). There is therefore a significant degree of doubt about whether the development industry is able to deliver this higher level of housing numbers within Forest Heath.

We also draw the Inspectors attention to the current Government Consultation paper which sets out proposals for a standard methodology for calculating local authorities' housing need. This paper includes an annex which shows what the annual housing requirement

would be for each local authority area if the methodology is introduced. For Forest Heath District Council, this table shows an increase to an annual average of 367 dwellings. Whilst we accept that this is a draft figure, it would be prudent for the Council to include further allocations to ensure the necessary flexibility going forward - and to avoid the need for an early review.

The sensible approach would be to distribute the additional figures to the most sustainable locations within the District such as Mildenhall, to sites that have been demonstrated as clearly deliverable in terms of their supporting evidence, such as land at Station Road, Mildenhall. We note that our client's site is highlighted in the SA as an 'omitted site' meaning that has been a particular focus of attention and is therefore a sensible choice to include within the plan.

2.4 How have the transportation and infrastructure requirements of the site allocations been taken into account? Has it been demonstrated that there is a reasonable prospect that planned infrastructure will be delivered within the timeframe envisaged? Will this delivery of infrastructure be sufficient to support the anticipated rate of development?

2.5 How have issues concerning viability been addressed, in order to ensure that there is a reasonable prospect that the sites identified will come forward for development during the plan period? Please provide a clear explanation as to what methodology has been used to assess viability.

Response

A draft Infrastructure Delivery Plan was published alongside the submission plan. However, this does not include any timescales or provide costings. It is therefore basically a wish-list and not sufficiently detailed to demonstrate whether the proposed development, within the proposed locations can be delivered within the timescales set out in the plan.

This also raises questions about viability. Much of the infrastructure is proposed to be at least partially funded via developer contributions. However, the Council has not introduced the Community Infrastructure Levy, no timescale has been sets out for its introduction and

the ability to use Section 106 agreements has been vastly scaled back. It is unclear whether development will be viable with the degree of contributions that may be expected.

The list of projects is also very general. There is no information about which projects are priorities and are necessary to enable development to be started. In most cases, contributions will be needed from a number of developers and it is unclear once again how this will affect delivery and viability.

Much of the necessary infrastructure for Mildenhall is set out as being considered as part of the Mildenhall Hub project, which is likely to significantly delay that project going forward.

In our experience, it is unusual for an Infrastructure Plan to be so light touch. There is much work to be done to make this a sufficiently robust document to show that the allocations in the plan can actually be delivered.

In terms of viability, a whole plan viability study has been carried out, we note that this takes into account the need for on-site infrastructure, but it does not assess specific sites, instead dealing with scenarios based on different sizes of sites. This does not give sufficient detail to assess whether or not the plan is viable. Whilst the methodology used in the viability study is not particularly clear, it looks as if the consultants have used typical section 106 contributions achieved in the past to inform the conclusions. However, given the scale of the infrastructure requirements that will be needed to deliver the new development, this is not a sufficiently robust approach.

In terms of transport, we have seen a cumulative impact study which was carried out in August 2016. Again, this is light touch and does not detail or cost the improvements that it has identified as necessary to deliver the proposed allocations. Instead it makes recommendations about further study that is needed to deliver the recommended mitigation. This links back to deliverability – can the proposed housing allocations genuinely be viably delivered.

Conclusion

Based on our responses to the above questions, we consider that the Plan has considerable soundness issues. There is no certainty that the sites identified are justified, effective or

deliverable choices. The Council's site selection process has not been sufficiently robust. Their approach to meeting their housing numbers is weak, without enough flexibility. The Council therefore needs to make additional allocations to ensure that the Plan can be found sound.

A justified and effective choice would be to include our client's site at Station Road in Mildenhall. We have demonstrated through our regulation 18 and 19 representations that the Council's assessment of the site is incorrect, and have provided the necessary technical studies to support these conclusions. Whilst we do not repeat these representations here, we draw them to the Inspector's attention and ask that proper consideration is given to the inclusion of our client's site within the Plan.

