

Reference ID 1118740

Larkfleet Homes

# Huntingdonshire Local Plan Examination

Matter 1: Procedural / legal  
requirements

## Issue 1: Procedural / legal requirements

### Questions 1-3: Plan preparation

- 1) Has the preparation of the Local Plan been in accordance with the Local Development Scheme in terms of its form, scope and timing?**
- 2) Have requirements been met in terms of the preparation of the Local Plan, notification, consultation and publication and submission of documents?**
- 3) Has the preparation of the Local Plan complied with the Statement of Community Involvement?**

1. With regard to question 2, and as set out more fully in RPS' response to Question 4-6 of Issue 1, the SA/SEA is not considered to have adequately informed the preparation of the Local Plan, with regard to considering reasonable alternatives, particularly in light of the removal of Wyton Airfield SEL from the Proposed Submission Local Plan (PREP.01).

### Questions 4-6: Sustainability Appraisal

- 4) How has the Sustainability Appraisal (SA) informed the preparation of the Local Plan at each stage and how were options considered?**
- 5) How has the SA been reported?**
- 6) Has the methodology for the SA been appropriate? What concerns have been raised and what is the Council's response to these? Have the requirements for Strategic Environmental Assessment been met?**

2. The following sets out the response to questions 4-6. The Planning and Compulsory Purchase Act 2004 (as amended) makes it clear in Section 39(2) that Local Plans must have the objective of contributing to the achievement of sustainable development. Section 19(5) of the 2004 Act (as amended) makes it clear that the local planning authority must also (a) carry out an appraisal of the sustainability of the proposals in each development plan document and (b) prepare a report of the findings of the appraisal. The Environmental Assessment of Plans and Programmes Regulations 2004, Section 12(2) sets out that "*The (Environmental) report shall identify, describe and evaluate the likely significant effects on the environment of – (a) implementing the plan or programme; and (b) reasonable alternatives taking into account the objectives and the geographical scope of the plan or programme.*"
3. Paragraph 152 of the NPPF refers to seeking opportunities to achieve sustainable development and to avoid significant adverse impacts and that wherever possible, alternative options which reduce or eliminate such impacts should be pursued. Paragraph 165 of the NPPF makes it clear that "*A sustainability appraisal which meets the requirements of the European Directive on strategic environmental assessment should be an integral part of the plan preparation process, and should consider all the likely significant effects on the environment, economic and social factors*". Paragraph 35 of the Consultation NPPF is similar to the existing framework in terms of requiring Local Plans to be informed by SA/SEA and avoiding significant adverse impacts.
4. The NPPG, paragraph: 018 Reference ID: 11-018-20140306, also makes it clear that the development and appraisal of proposals in Local Plan documents should be an iterative process, with the proposals being revised to take account of the appraisal findings. The

Consultation NPPG under the heading of 'What evidence might be needed to plan for the natural environment' makes a similar reference to SA/SEAs being an integral part of plan preparation.

5. It is considered that the Council has not appropriately considered or appraised all reasonable alternatives to those contained within the Local Plan. RPS set out on behalf of Larkfleet Homes in representations to the Proposed Submission Local Plan (PREP.01) how the Council had failed to appraise reasonable site specific alternatives to those included within the Plan (PREP.01). The representations also set out that that the Proposed Submission Local Plan (PREP.01) removed Wyton Airfield as one of three Strategic Expansion Locations (SEL) and redistributed growth to market towns and key service centres without a comparable assessment of reasonable alternatives.
6. The Council has set out in the Legal Compliance Checklist (CORE.13) on page 17, that in response to the activity / question 'Are you preparing reasonable alternatives for evaluation during the preparation of the DPD', that *"Stages B2-B4 and Stage C of the SA provide evidence of the consideration of alternative approaches, and that early stages of the Local Plan consultation focused strongly on alternative approaches" and that the evidence of these can be found in the Final SA and the Statement of Consultation under Regulation 18"*
7. Paragraphs 7.38 of the Final SA Report (CORE.07) sets out that the Local Plan Consultation Draft 2017, which was open for public comment from 3 July to 25 August 2017, included a 'Call for Sites'. Paragraph 7.39 states that *"Just over 200 sites were put forward during the consultation" and that it was "decided to produce a new Housing and Economic Land Availability Assessment (HELAA) to assess a total of 129 sites to determine whether they were suitable, available and achievable, and if so whether they should be added to the local plan as allocations for development"*. These sites included 'potential new settlement proposals' as referenced in bullet point 1 to paragraph 7.39 of the Final Sustainability Appraisal Report (CORE.07). Paragraph 7.40 of the Final SA states that *"for more detail on the site assessments, see HELAA: October 2017 below or the consultation event for the 'Housing & Economic Land Availability Assessment: October 2017"*.
8. Paragraph 7.41-7.43 of the Final SA (CORE.07) under the heading of 'Changes to the Strategy for Development', states that *"responding to the comments received during consultation on the Huntingdonshire Local Plan to 2036: Consultation Draft 2017 and the HELEAA October 2017, it has been proposed to add an additional tier to the settlement hierarchy for 'Local Service Centres'...and to add a number of allocations in and around these settlements"*. Paragraph 7.42 of the Final SA (CORE.07) acknowledges that *"This proposed change is considered to be a significant change"*.
9. The HELAA (December 2017) (HOUS.02) references (on page 12) a number of potential new settlement proposals, including 'Sibson Aerodrome', Sibson (201), which had been submitted during the Call for Sites consultation during 2017, although the Council were also fully aware of Sibson before this date, particularly as the site was submitted by the Council in partnership with Larkfleet Homes as an Expression of Interest to the Homes and Communities Agency's Garden Villages Programme in July 2016 as referenced on page 13 of the HELAA (December 2017) (HOUS.02). The Council's Strategy as set out under Policy 1 / LP1 had been to primarily direct growth to three Strategic Expansion Locations (Alconbury Airfield, St Neots Eastern Expansion and Wyton Airfield), with Wyton Airfield only removed in the Proposed Submission Plan (PREP.01) (December 2017), as is referenced at paragraphs 4.21-4.25. In

light of the significant change to the Strategy as identified in paragraph 7.42 of the Final SA (CORE.07), a reasonable alternative to adding an additional tier to the settlement hierarchy for 'Local Service Centres' and considering allocations around these, would have been to consider and appraise potential new settlements, but this has not occurred. Therefore, it is considered that the SA/SEA process has not considered reasonable alternatives and why they were rejected.

10. Furthermore, the Environmental Report should contain this information, rather than requiring a paper chase in terms of considering the HELAA. Even if it were considered appropriate to have an SA of alternative sites in the HELAA, then Regulation 12(2) of the SEA Regulations as considered in *Calverton Parish Council v Nottingham City Council* [2015] EWHC 1078 (Admin) at [67] that it is necessary to consider reasonable alternatives, and to report on those alternatives and the reasons for their rejection, and that the alternatives must be subjected to the same level of analysis as the preferred option. Schedule 2 'Information for Environmental Reports' refers to likely significant effects on the environment, including short, medium and long-term effects, permanent and temporary effects, positive and negative effects, and secondary, cumulative and synergistic effects, on issues such as biodiversity, etc. The SA in the HELAA (December 2017) (HOUS.02) makes no reference to cumulative, secondary and temporary effects so it is therefore considered that this is not consistent with Regulation 12(2) of the SEA Regulations.
11. The Final Sustainability Appraisal (SA) Report (CORE.07) does not justify why sites with a greater risk of flooding are to be allocated when there are reasonably available sites in Flood Zone 1. This is covered in more detail in RPS' response to Question 17 of Issue 3, which sets out that this approach is inconsistent with paragraph 101 of the NPPF about directing development to areas with the lowest risk of flooding.

#### **Questions 7 – 12: Habitats Regulations Assessment**

- 7) How was the Habitats Regulations Assessment (HRA) carried out and was the methodology appropriate?**
  - 8) Was the approach in accordance with the recent judgement of the Court of Justice of the European Union (12 April 2018 - Case C-323/17) which ruled that it is not appropriate to take account of measures intended to avoid or reduce the harmful effects of a plan or project on a European site at the screening stage as part of the Habitats Regulations Assessment (HRA)?**
  - 9) What are the relevant designated sites considered?**
  - 10) What potential impacts of the Local Plan were considered? What were the conclusions of the HRA and how has it informed the preparation of the Local Plan?**
  - 11) What concerns have been raised and what is the Council's response to these? Specifically what is Natural England's position and the Council's response?**
  - 12) Is additional work required to address any of the above matters? Have there been further discussions with Natural England and if so what has been the outcome?**
12. In response to questions 7 and 10, the objective of the Habitat Regulations Assessment 2017 (CORE.08) is to determine whether or not significant effects are likely on one or more European sites, and to suggest ways that they are avoided (paragraph 3.3). The HRA sets out at paragraph 2.42 that "*individual development allocations were screened for likely*

*significant effects identified in the policy screening (Appendices 5 and 6)*". Paragraph 3.1.3 of the HRA has 68 separate allocations for development (shown in Appendix 3). Paragraph 6.1.1 of the HRA states that that *"each of the 40 policies in the document for the Huntingdonshire Local Plan dated 21st November 2016 were screened for their possible significant effects"*.

13. Whilst the Final Sustainability Appraisal (SA) Report (CORE.07) states at paragraph 1.15 that the SA and HRA are distinct processes, it also recognises that *"there are synergies between the two processes"*. The NPPG makes it clear at paragraph 011 Reference ID: 11-011-20140306 that *"The sustainability appraisal should take account of the findings of a Habitats Regulations Assessment, if one is undertaken"*.
14. As set out in RPS' response to questions 4-6 of Issue 1, the SA/SEA has not considered reasonable alternatives and why they were rejected. The SA/SEA has therefore not informed the HRA and neither has the HRA informed the SA/SEA in respect of considering new settlements. It is therefore considered that the HRA has not adequately informed the preparation of the Local Plan, as is posed in question 10.

#### **Other matters**

**13) Has the Council had regard to the specific matters set out in S19 of the 2004 Act (as amended) and Regulation 10?**

**14) Does the Local Plan include policies in relation to the mitigation of and adaptation to climate change? Which?**

**15) How have issues of equality been addressed in the Local Plan?**

15. For response to question 13, please refer to answer to questions 4-6 of Issue 1.