

**EXAMINATIONS OF THE BROMSGROVE DISTRICT PLAN (BDP) & BOROUGH OF REDDITCH LOCAL PLAN No. 4 (BORLP4)
INSPECTOR'S POST-HEARINGS NOTE – JULY 2015**

Introduction

1. Following the main series of hearings in respect of both Local Plans I held further examination hearings on 23 & 24 June 2015 covering (1) the methodology and sustainability appraisal (SA) that underpinned the selection of sites in both the BDP and the BORLP4 to meet the growth needs of Redditch and (2) detailed representations in respect of the cross-boundary sites identified in the BDP (and some 'omission sites') to meet part of those needs. The timing of these hearings was delayed from December 2014 at the request of the Councils.
2. Unfortunately, as I made clear at the sessions, I have a number of concerns in respect of those matters. As requested by both Councils, I am putting these concerns in writing rather than explain them orally at the hearings themselves. For the avoidance of doubt, this note does not amount to an assessment of the Plans' soundness or legal compliance, which will be addressed by my final reports. Its contents are subject to the findings of those reports.
3. The present note also covers a number of other outstanding matters in respect of the examinations.

Site Selection Methodology & Sustainability Appraisal

4. As set out in my note to Redditch Borough Council (RBC) dated 3 October 2014, the requirements for the consideration of alternative sites are set out in legislation¹ and national policy². In that note, I described a potentially serious flaw in the methodology that was undertaken in respect of the BORLP4. In summary, I suggested that the SA that supports the BORLP4 should be revisited. I also stated that it was necessary to address two BORLP4 sites (Webheath and the A435 ADR) in more detailed terms in the context of the Housing Growth Development Study (HGDS) in order to ensure that they have been assessed on a comparative basis to other options. In a subsequent note (dated 13 January 2015) I emphasised the need that any new SA work should be undertaken in a manner that does not seek to justify any particular outcome.
5. The evidence base in respect of these matters was considered in detail at the hearing on 23 June 2015. This focussed in particular on two of the new documents that have been submitted by the Councils

¹ Notably EU Directive (2001/42/EC) on Strategic Environmental Assessment (the SEA Directive), and the Environmental Assessment of Plans and Programmes Regulations 2004 (SI No.1633) which transpose the Directive into domestic legislation.

² Paragraph 182 of the National Planning Policy Framework requires, among other matters, that the plan should be the most appropriate strategy, when considered against the reasonable alternatives, based upon proportionate evidence.

– the HGDS Addendum³ and the BORLP4 SA (May 2015)⁴. An updated SA of the BDP (also dated May 2015) has also been submitted⁵, but it was accepted by BDC at the hearing that this does not in itself contain a detailed consideration of growth options for Redditch within the BDP area, referring instead to the BORLP4 SA. In principle, this seems to me a suitably pragmatic approach: I see no benefit in duplicating such an exercise and the May 2015 BDP SA provides appropriate cross-references to the relevant documentation.

6. Nevertheless, it does not appear that the updated work in either the HGDS Addendum or the May 2015 BORLP4 SA has fully addressed the key concerns that I raised in my note of October 2014.
7. Turning first to the HGDS Addendum. This seeks to update both the original HGDS and its accompanying SA. Unfortunately, due to a lack of some cross-references, it is unclear as to which of those earlier documents certain text – specifically the 'Conclusion of Broad Area Appraisal' (paras A4.84-A4.87) – has updated. I sought to clarify this at the hearing. It was initially stated by RBC that these paragraphs related solely to the SA. However, in response to my questions it was accepted that they also represent the updated conclusion in respect of the Broad Area Appraisal exercise undertaken in the HGDS, taking into account the additional sites that were considered in the Addendum's Broad Area Appraisal section.
8. The above-noted Broad Area Appraisal conclusions derive in part from the output of the HGDS SA, which uses a different methodology – and in some cases different sustainability objectives – to that of the main BORLP4 SA. This is unfortunate. However, and notwithstanding the calls of some representors to reconsider the development potential of areas around Studley, I am satisfied that the decision to exclude the 18 areas listed in paragraphs A4.84-A4.86 from further Focused Area Appraisal is sufficiently justified.
9. It is however necessary to consider the 7 areas that have been taken forward into the Focussed Area Appraisal⁶. Additional text has been added (in the Addendum) to set out Focussed Area Appraisals for areas 3 and 18. These sit alongside the text in section 6 of the original HGDS. As with the original sections, each area contains a section of analysis and an individual conclusion. However, what is lacking from this assessment is an *overall* conclusion that brings the conclusions from each area together and explains why the selected approach (in both Plans) has been adopted. This is the comparative assessment that I referred to in my earlier note.
10. At the hearing, the Council's argued that the conclusions in the individual Focussed Area Appraisal sections gave the necessary level

³ Document CDX1.47: Addendum to the Housing Growth Development Study (CDX1.1) and the Housing Growth Sustainability Appraisal (CDR3.2/CDB3.1).

⁴ Document OED/33a.

⁵ Document OED/34.

⁶ Areas 3, 4, 5, 6, 8, 11R and 18.

of detail to explain why the preferred approach had been selected. However, there are several problems with this:

- a. The Addendum merely adds two further Focussed Appraisal sections to those already contained in the HGDS (areas 4, 5, 6, 8 and 11R). It does not explicitly revisit the earlier appraisals in the context of the additional sites that are now also being considered: the original text remains unchanged and no new overall conclusions are drawn. If the areas that were already contained in the HGDS have indeed been reappraised then it is not clear where this has occurred.
- b. When I raised this matter at the hearing, the Councils suggested that the BORLP4 SA (May 2015) contained the relevant reappraisal. Nevertheless, it is clear that the SA in itself does not provide a sufficient level of detail or explanation. Appendix D of the BORLP4 SA sets out a comparative appraisal of potential development sites. However, as was accepted by the Councils at the hearing, its conclusions⁷ rely upon evidence and analysis that are not contained in that document. For example, while 'significant predicted negative sustainability effects' identified for several sites are used as reasons for their exclusion, these effects are not apparent in the table that precedes the conclusion⁸. The Councils' response at the hearing was that such analysis was set out in the HGDS and Addendum.
- c. Taken together, this represents a circular argument. It seems to me (without prejudice to the Councils' future actions) that what is lacking is a section of explicit analysis within the HGDS that takes forward the individual conclusions that apply to each site that has been subject to Focused Area Appraisal (including the sites added in the Addendum) and explains (with reference to those individual conclusions) why some have been taken forward and some have not. Such analysis should necessarily include an updated consideration of alternative scenarios (i.e. combinations of development options). The fact that the scenarios set out in the original HGDS were not updated to take account of the additional sites that were considered in the Addendum (and have been proposed for allocation in the BORLP4) is a particular weakness. All four scenarios assume that area 3 (Webheath) would accommodate some development: irrespective of the relative merits of the sites concerned, it is not clear that a scenario that excludes Webheath has been tested at all.

⁷ Page 259 of Document OED/33a.

⁸ For example, areas 4 and 5 score the same (-2) in respect of objective 10 (relating to landscape and townscape character and quality) in the SA matrix, but are clearly distinguished on that point in the conclusions on page 259.

Area 4 (Foxlydiate) and Area 5 (Brockhill West)

11. The second day of resumed hearings (24 June 2015) considered detailed representations in respect of sites allocated within the BDP to meet the needs of Redditch and some 'omission sites'. Arising from those discussions, I have further concerns about the relative treatment of the effects of two sites (Foxlydiate [in Area 4], which is proposed for allocation and Brockhill West [in Area 5], which is not) in respect of the heritage assets of the Hewell Grange Estate. There are two main issues in this regard:
 - a. Area 5's potential effects on Hewell Grange were considered in a separate study undertaken by BDC⁹. It is noted that English Heritage (now Historic England) agrees with the findings of that assessment. Nevertheless, such a view appears at odds with the Council's acceptance at the hearing that the study's finding that 'substantial harm' would result to the assets' significance and setting should now be changed to 'less than substantial harm'. Bearing in mind that no heritage assets would be directly affected – the concerns relate to their setting – I have no reason to disagree with the Council's updated view. However, bearing in mind the provisions of paragraph 134 of the Framework, and notwithstanding the statutory duty imposed by Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, this is not in itself a reason to necessarily rule out development of the 'reduced potential development area' of area 5. Such harm should be balanced against public benefits. Given my concerns above about the overall site selection methodology, it is not apparent where (or indeed whether) this balance has been undertaken. Furthermore, on the evidence before me it appears that the consideration of this site in the original HGDS was based upon a conclusion with regard to harm that has now been revisited.
 - b. The boundary of the Foxlydiate allocation extends closer to the designated heritage assets than that of the potential development area within site 5 that was rejected. Although the A448 dual carriageway separates the Foxlydiate site from most of those assets, some (including the walled garden and part of the Conservation Area) are on the same side. When asked at the hearing why a similar heritage assessment was not carried out for this area, BDC responded that it was envisaged that development would be to the south of the ridge that crosses the northern part of the site. This raises three concerns:
 - i. First, the decision to exclude area 4 from the same level of analysis as was applied to area 5 appears inconsistent. Given BDC's comments at the hearing,

⁹ Hewell Grange Estate: Setting of Heritage Assets Assessment – document CDX1.38.

its exclusion was based upon an assessment of the likely scale of development within area 4 (this appears to have been an *input* to the exercise). In contrast, the conclusions of the analysis were used to inform a view about the development potential of area 5 (this was an *output* of the exercise).

- ii. Second, the introduction to the study¹⁰ acknowledges that the development of area 4 would 'harm' the 'wider setting' but states that 'this impact is not considered to be as great as the harm that would be caused to the setting of the Heritage Assets by the development of Area 5.' However, it contains no substantive justification of this position: the remainder of the document concentrates solely on the effects of development of area 5. The harm to area 4's wider setting is neither quantified nor explored further. This appears inconsistent with both national policy and the above-noted statutory duty.
 - iii. Third, the allocation as now proposed at Foxlydiate *does* extend beyond the above-noted ridge and there are no *explicit* safeguards in BDP policy RCBD1.1 to prevent development taking place in the northern part of the site. Indeed, notwithstanding a heritage assessment that has been prepared by the developer that identifies two fields in that part of the site to be left undeveloped¹¹ the notional layout supplied by the developer suggests that development could extend into this area.
12. Taken together, these factors indicate that – in principle – there is the potential for development within area 4 to adversely affect these designated heritage assets. Irrespective of the Council's suggestion at the hearing that consideration could now be given to amending the boundary of the Foxlydiate allocation, this is a matter that should affect the overall consideration of site options at an earlier stage of the process. It is clear that an inconsistent approach has been taken to the treatment of areas 4 and 5 in terms of their potential effects on the heritage assets at Hewell Grange. This needs to be revisited.
 13. In doing so, the Councils would need to carefully consider the effects of any boundary amendment at Foxlydiate (or indeed any other amendments that may come forward) on the overall capacity of sites to deliver the identified housing requirement. I have seen no evidence to support the Councils' assertion that a boundary change could be made at Foxlydiate without affecting the site's overall capacity. Similarly, no quantitative assessment has been produced

¹⁰ Paragraph 1.2 of document CDX1.38.

¹¹ Hewell Grange Estate, Setting of Heritage Sites Assessment (Site 3) (Aeon Archaeology) – document XB1/2q.

by the Councils about the likely effects of any measures that would be required to mitigate against any other of that site's particular constraints (notably groundwater protection). An accurate assessment of likely site capacities seems to me to be an essential input into the testing of scenarios, as discussed above.

BORLP4 SA (May 2015)

14. The above-noted comments about the BORLP4 SA refer mainly to matters of process rather than referring to the specific scoring that has been applied to various options under different headings. In general terms, I accept that this is a matter for professional judgement. Nevertheless, given that the Councils have sought in part to justify their site selection choices with references to the SA work, and noting that since submission a further three versions of the BORLP4 SA have been issued, it is inevitable that a spotlight will be shone on specific scoring decisions.
15. I do not intend to comment on the details of the way that specific sites and options have been scored. However, if this process is to be revisited yet again (see below) then I would urge the Council to ensure that its specific scoring decisions are both realistic and consistent with the wider evidence. As an example, I would comment that it is difficult to see how only one of the 20+ sites considered would result in harm to agricultural land (and even that would be 'limited' harm): the Councils failed to explain at the hearings how such adverse effects could be mitigated against in practice. Furthermore, (and with reference to comments made above) it seems to me important that where substantive differences in the relative performance of sites with regard to sustainability objectives are identified, these are clearly shown in the SA.

Other Outstanding Matters

16. **Housing Land Supply** – In view of the delays that have occurred in both examinations, I have already asked both Councils to provide updated information in respect of their ability to demonstrate a Five Year Housing Land Supply as required by the Framework. This should be subject to a similar written consultation process as took place when a similar exercise was undertaken earlier this year. Clearly, if land supply problems are identified then this would be a serious matter for either examination.
17. **Gypsy and Traveller Sites** – The Councils will be aware that further background information has been prepared during the period of the examinations. In my note to RBC dated 3 October 2014 I asked whether further consideration could be given to this matter in the light for the delay that has occurred for other reasons. I would be grateful if the Council could consider this point.
18. **Housing Standards** – A new system of housing standards was announced in a Written Ministerial Statement (WMS) dated 25 March

2015, which gave particular advice as to how this should be addressed by Local Plan policies. Consideration should be given to ensuring that policies in both Local Plans accord with this advice.

19. **Renewable Energy** – The Councils will also be aware that a WMS regarding onshore wind turbine development was published on 18 June 2015. Although directed at planning applications, this has implications for the way in which Local Plans consider the matter of wind turbines. The expectation of the WMS is that any future wind energy development must be in an area identified as suitable for wind energy in a local/neighbourhood plan. It is noted that both the BDP and BORLP4 contain criteria-based climate change policies that do not refer to wind turbines and do not identify specific areas. This approach would appear to conflict with the WMS. The Councils are requested to consider this matter given the delay that has arisen in respect of the other issues that are set out in this note. One potential option could involve: amending the plans to explain that the generic policies do not apply to wind turbines, clarifying that this matter would be considered through future Local Plans and also clarifying that in the meantime any such proposal will be considered against national policy.

Next Steps

20. It is for the Councils to consider how best to take matters forward in the light of the concerns that I have raised. Given the acknowledged need for an early review of the BDP to take account of other factors, notably the need for a comprehensive Green Belt Boundary Review in the light of additional housing needs arising from the West Midlands, the Councils may wish to consider withdrawing the two plans. This would provide an opportunity to undertake a more comprehensive assessment that addresses the needs of Redditch in a wider context.
21. Having said that, I accept that a significant amount of work has been undertaken in both examinations and I would not want this to be wasted unnecessarily. As such, I would have no objections if the Councils wished to seek to remedy the above-noted concerns in the context of the present examinations. However, this would require these concerns to be addressed in a positive and robust manner: if substantive concerns were still to remain after such an exercise then I would be reluctant to perpetuate the examinations still further.

Conclusion

22. I welcome the Council's comments on the matters set out above as soon as possible. Any queries regarding this note should be passed to me via the Programme Officer.

Michael J Hetherington
Inspector
10 July 2015