
Woking Site Allocations DPD: Examination Hearing Statement – Matter 1

Response on behalf of Martin Grant Homes (Respondent Ref. 06543/2)

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Examination of Woking Site Allocations DPD

Hearings Statement – Matter 1: Legal Requirements and the Duty to Co-operate



Matter 1: Is the SADPD legally compliant, have the relevant procedural requirements been met, and has the Duty to Co-operate (DtC) been discharged?

Issue (i)

Question 1: No comment.

Question 2: No comment.

Issue (ii) does the Sustainability Appraisal (SA) comply with the requirements of the Strategic Environmental Assessment Directive (SEA Directive) and the Environmental Assessment of Plans and Programmes Regulations 2004 (the SEA Regulations)?

Question 1: Has the SA process complied with the requirements of the SEA Directive and the SEA Regulations?

Answer

2.1 The SA broadly meets the requirements of the SEA Directive by providing a general assessment of the effects of the Site Allocation Development Plan Document (SADPD) on the environment. However, the SA does not comply with Article 8 of the SEA Directive requirements.

Explanation

2.2 The SA is considered to comply with parts a-h of Article 5(1) Annex 1 and Articles 5(2), 5(4), 6(1) and 6(2) of the SEA Directive based on the references to parts of the SADPD set out in Table 1. However, the SA is not fully compliant with Article 8, which states the following:

*'The environmental report prepared pursuant to Article 5, the opinions expressed pursuant to Article 6 and the results of any transboundary consultations entered into pursuant to Article 7 **shall be taken into account during the preparation of the plan or programme** and before its adoption or submission to the legislative procedure.'* [our emphasis].

2.3 The SA process is not compliant with Article 8 of the SEA Directive as the SA has not been adequately taken into account in the preparation of the SADPD and specifically in informing proposed site allocations. For instance, sites which have been assessed more positively in the SA and are specifically recommended for allocation/safeguarding are in fact not proposed for allocation, whereas sites which have been assessed less positively are proposed for allocation.

2.4 Whilst the SEA Directive requires only that the SA is 'taken into account', rather than being directly contradict with, it is clear that decisions to allocate sites within the SADPD directly contradict the outputs of the SA. Examples of this include the assessment of Land north east of Saunders Lane (Ref. SHLAAHEA018) and Land north west of Saunders Lane (Ref. SHLAAHEA019), where the SA (Table 7), at both Regulation 18 and Regulation 19 stage, provides a positive assessment of both sites and recommends allocation/safeguarding. The Regulation 18 draft SADPD (Policies GB10 and GB11) proposed safeguarding of these two sites, in line with the Regulation 18 draft SA, however the Regulation 19 draft and submission version SADPD do not then allocate either site, contrary to the updated Regulation 19 draft SA, with no evidence from the Regulation 19 draft SA to support this change.

Remedy

2.5 It is essential that the SADPD is fully evidence-based in order to ensure the soundness of the plan in accordance with paragraph 35 of the National Planning Policy Framework 2019 (NPPF 2019). As such it is recommended that the SADPD is amended in line with the evidence base. In this regard, it is proposed that Land north east of Saunders Lane (Ref. SHLAAHEA018) and Land north west of Saunders Lane (Ref. SHLAAHEA019) are reconsidered for allocation/safeguarding.

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Question 2: *Is the approach to SA compliant with the advice set out in the PPG and based on an appropriate methodology?*

Answer

2.6 The SA complies with the overarching PPG requirements by providing consideration of environmental, social and economic issues, and is based on that of the Core Strategy SA which was accepted as being legally compliant by the Inspector. However, there are deficiencies in how the outcomes of the SA have been applied in the SADPD as required by the PPG, as well as the SEA Directive, as the SADPD does not allocate specific sites in line with the findings and recommendations of the SA (as referred to in the Issue (ii) Question 1 response above).

Explanation

2.7 The PPG explains that the SA process should be used to inform how the plan “*can contribute to improvements in environmental, social and economic conditions... [and] by doing so, it can help make sure that the proposals in the plan are appropriate given the reasonable alternative*” (Paragraph: 001 Reference ID: 11-001-20190722). Further, the PPG advised that the SA should be based on “*an iterative process informing the development of the plan*” (Paragraph: 001 Reference ID: 11-001-20190722), where reasonable alternatives are considered and compared as the plan evolves (Paragraph: 018 Reference ID: 11-018-20140306). In this regard, contrary to the PPG, the SA has not been adequately applied based on an iterative process such that the proposals in the SADPD are not ‘appropriate given the reasonable alternatives’.

2.8 For example, at the Regulation 18 stage, the draft SA recommended allocation/safeguarding of Land north east of Saunders Lane (Ref. SHLAAHEA018) and Land north west of Saunders Lane (Ref. SHLAAHEA019) based on the assessed contribution of each site towards achieving sustainable development. The Regulation 18 draft SADPD (Policies GB10 and GB11) subsequently proposed the safeguarding of these two sites. At the Regulation 19 stage, similarly the draft SA recommended allocation/safeguarding of both Saunders Lane sites, based on an even more positive assessment of each site when compared to that at the Regulation 18 stage. For instance, the two sites were assessed as having positive or neutral effects on accessibility (Regulation 19 draft SA, Objective 5), rather than negative effects (Regulation 18 draft SA, Objective 5), and neutral effects on the natural, historic and cultural assets and landscapes (Regulation 19 draft SA, Objective 10), rather than negative or very negative effects (Regulation 18 draft SA, Objective 10). However, neither site was included in the submission version of the SADPD with no evidence from the Regulation 19 draft SA to support this deviation from the evidence base.

2.9 The PPG explains that the SA should be “*integral to the preparation and development of a local plan or sustainable development strategy, to identify how sustainable development is being addressed*” [our emphasis] (Paragraph: 006 Reference ID: 11-006-20140306) and therefore it is imperative that the SADPD is based on the outcomes of the SA.

Remedy

2.10 In order to ensure that the SA is compliant with the PPG, it is recommended that the SADPD is amended accordingly in line with the evidence base. In this regard, it is proposed that Land north east of Saunders Lane (Ref. SHLAAHEA018) and Land north west of Saunders Lane (Ref. SHLAAHEA019) are reconsidered for allocation/safeguarding.

Question 3: *Has the SA process been genuinely iterative and carried out in step with the stages of plan preparation?*

Answer

2.11 The Council appears to have undertaken the required stages in the SA process (as set out in the PPG) as explained in chapter 3 of the SA. However, the SADPD proposals have not been revised iteratively based

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on the outcomes of the SA findings such that there is a clear and unjustified disconnect between the evidence base and the content of the plan.

Explanation

- 2.12 The PPG illustrates the stages in the SA process and explains that *“the development and appraisal of proposals in plans needs to be an iterative process, with **the proposals being revised to take account of the appraisal findings**”* [our emphasis] (Paragraph: 018 Reference ID: 11-018-20140306).
- 2.13 As explained above in response to Issue ii Questions 1 and 2, further to work at Stage A (Setting the context and objectives) and Stage B (Developing and refining alternatives) of the SA process (as defined in the PPG), the Regulation 18 draft SADPD proposed to allocate/safeguard specific Green Belt sites, including Land north east of Saunders Lane (Ref. SHLAAHEA018) and Land north west of Saunders Lane (Ref. SHLAAHEA019). This decision was based on the outcomes of the draft Regulation 18 SA and evidence base documents including the Green Belt Review 2014 (notwithstanding its deficiencies – see Matter 3 response).
- 2.14 The draft Regulation 19 SA included no changes to the SA methodology but included a reappraisal of sites against SA Objective 10, relating to the natural, historic and cultural assets and landscapes (SA para 15.16). This led to the removal of Land to the east of Upshot Lane and south of Aviary Road, but also resulted in a more positive assessment of other sites which were previously proposed for allocation/safeguarding, such as Land north east of Saunders Lane (Ref. SHLAAHEA018) and Land north west of Saunders Lane (Ref. SHLAAHEA019). For each of the Saunders Lane sites, the Regulation 19 SA was clear that *“Lower, flatter areas of the site could accommodate development without adversely impacting on the integrity of the escarpment”*, and *“careful design and layout”* would ensure neutral long-term effects on important landscapes and heritage assets (SA Appendix 12, page 197-219, Objective 10). The Regulation 19 SA therefore continued to recommend the Saunders Lane sites for allocation/safeguarding. Overall the assessment of the two sites was even more positive than at the Regulation 18 stage, when the sites were proposed for allocation/safeguarding in the draft SADPD. Despite this, the Regulation 19 and submission versions of the SADPD were revised to exclude the two sites from the list of allocated sites (as referred to at the Issue ii Question 2 response above). It is clear therefore that the SADPD has not been revised iteratively based on the SA findings as required by the PPG.

Remedy

- 2.15 In order to ensure the soundness of the Plan in accordance with paragraph 35 of the NPPF, it is essential that the SADPD is based on the SA findings and is therefore amended accordingly. As such, sites such as Land north east of Saunders Lane (Ref. SHLAAHEA018) and Land north west of Saunders Lane (Ref. SHLAAHEA019) should be reconsidered for allocation/safeguarding based on the outputs of the SA.

Question 4: No comment.

Issue (iii)

Question 1: No comment.

Question 2: No comment.

Issue (iv)

Question 1: No comment.

Question 2: No comment.

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Issue (v) To what extent has the production of the SADPD complied with the Council's published Local Development Scheme (LDS)?

Question 1: No comment.

Question 2: Does the SADPD make explicit which, if any, of its policies are strategic?

- 5.1 No. There are however frequent references to various pieces of "strategic" evidence. For instance, the introductory paragraph on page 4 sets out that, "*The Site Allocations DPD also takes a long term strategic view of the future and safeguards land for residential development beyond the present Plan period (between 2027 and 2040).*"
- 5.2 Page 24 of the SADPD notes that, "*The NPPF requires Local Plans to indicate broad locations for strategic development on a key diagram and land use designations on a Proposals Map. The Site Allocations DPD identifies specific sites for development, protection and safeguarding and in accordance with this requirement is indicated on the updated Proposals Map.*" This acknowledges that strategic development sites are illustrated on the proposals maps and that the SADPD has specific policies to seek to deliver these strategic allocations.
- 5.3 Notwithstanding any lack of clarity as to how any cross boundary issues have been addressed, the Duty to Cooperate Statement (July 2019) acknowledges that there are cross boundary issues to be addressed. Paragraph 21 of the NPPF 2019 states that, "*These [strategic priorities] should be limited to those necessary to address the strategic priorities of the area (and any relevant cross-boundary issues).* [Our emphasis]. Therefore, it is necessary that the cross-boundary issues are also addressed in the strategic policies.
- 5.4 Such strategic policies therefore need to be explicitly referred to as 'strategic' in order to accord with paragraph 21 of the NPPF 2019 and to ensure the soundness of the Plan. This is particularly important given that there are no specific site allocations in the Core Strategy to meet development requirements – both strategic (and non-strategic) site allocations are all within the SADPD.

Question 3: Do any strategic policies contained in the SADPD accord with the Framework insofar as they "should look ahead over a minimum 15 year period from adoption, to anticipate and respond to long-term requirements and opportunities"?

- 5.5 No, there are no strategic policies in the SADPD that look ahead over a period of 15 years from adoption. Despite many policies addressing strategic matters such as housing, employment, school and infrastructure delivery, the SADPD is proposed to have a plan period of only 7 years, assuming it is adopted in 2020.
- 5.6 In order to ensure the soundness of the plan, the plan period should be extended to at least 2035. Relevant policies and their evidence base should be updated accordingly. For example, the housing need should be updated in response to this longer plan period and additional sites should be allocated in response to the additional housing need and other development needs.

Question 4: No comment.

Issue (v)

Question 1: No comment.

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