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MATTER 1

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Lands Improvement Holdings
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Executive summary

1. The Sustainability Appraisal does not comply with the SEA Directive 12 (2) (b) in that there is no evaluation of the “reasonable alternative” of Green Belt review.
2. The decision to exclude Green Belt sites was made too early in the process preventing the proper consideration of:
 - meeting objectively assessed need;
 - the most appropriate strategy when assessed against the reasonable alternatives for employment and housing; and
 - delivering sustainable development.

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1 Response to Matters

1.2 This paper deals with Matter 1(d).

1.3 Our view is that the Plans are not in compliance with the SEA Directive and the SEA process has not been adequate.

Background

1.4 The most sustainable development hierarchy is set out in the *Cambridge and South Cambridgeshire Sustainable Development Strategy 2012*. The majority of sites on the edge of Cambridge have been rejected with the effect that the second most sustainable location in the hierarchy (the most sustainable for South Cambridgeshire) has been omitted in favour of a New Settlement option which is less sustainable. The New Settlement strategy in the emerging plans is not consistent with the 2012 Sustainable Development Strategy.

1.5 The National Planning Policy Framework (NPPF) 2012 and the National Planning Practice Guidance including the recently updated Housing and economic land availability assessment set the policy considerations and the processes.

Non-compliance with the SEA Directive

1.6 A Plan needs to be subject to Strategic Environmental Assessment by virtue of Directive 2001/42/EC. This has been transposed into domestic law by the Environmental Assessment of Plans and Programmes Regulations 2004. Regulation 8 of the latter prohibits the adoption of a plan before the environmental report and the consultation process have been taken into account.

1.7 The objective of the Directive is to provide for a high level of protection of the environment and to contribute to the integration of environmental considerations into the preparation and adoption of plans and programmes with a view to promoting sustainable development.

1.8 We have shown in our submissions that that this is not the case.

Alternatives

1.9 Article 5(1) and Regulation 12 2 (b) requires a report to identify, describe and evaluate the likely significant environmental effects of implementing the Plan, and of reasonable alternatives, taking into account the objectives and geographical scope of the Plan. In this case, the Plan is the New Settlement option, and the alternatives are the overarching development location options available for growth, such as the edge of Cambridge, new settlements, market towns and sustainable villages.

1.10 There has been no evaluation of the reasonable alternative of Green Belt review setting out the likely impacts of that alternative to set alongside the preferred option. The review of the Green Belt undertaken has not been evaluated as a reasonable alternative for the purposes of SEA. The process has not complied with SEA regulation 12(2)(b).

1.11 The alternatives should be identified, described and evaluated in a comparable way as the Plan. The authorities and the public consulted should be presented with an accurate picture of what the reasonable alternatives are and why they are not considered the best option.

1.12 The review of the Green Belt has not been considered as a "reasonable alternative" by Cambridge City Council (CCC) in its Scoping exercise of February 2012, nor in its Interim Sustainability Assessment in May 2012, nor by South Cambridgeshire District Council (SCDC) and CCC jointly in the Interim Sustainability Appraisal January 2013.

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- 1.13 As the “reasonable alternative” of the Green Belt review was not considered, then that judgement was erroneous.
- 1.14 The judgement to reject sites on the edge of Cambridge was erroneous because applying City and District Council of St Albans v Hunston Properties Ltd (2013) EWCA Civ 1610 and Gallagher Homes Ltd v Solihull MBC (2014) EWHC 1283 (Admin), the decision to exclude Green Belt sites in the Issues and Options 2 Part 1 January 2013 was made too early in the process before the objective needs were evaluated.
- 1.15 Even if the Inspector concludes the Green Belt review was in some way treated as a “reasonable alternative” then there is no impact assessment of the Green Belt review alternative in the same terms as the preferred options allowing a comparison to be made in line with the SEA regulations.
- 1.16 The Plan is contrary to SEA regulations.

Scope

- 1.17 There is a requirement that the geographical scope is identified, described and evaluated.

Monitoring

- 1.18 The Directive requires that significant environmental effects of the implementation of the plan be monitored to identify at an early stage unforeseen adverse effects, and to be able to undertake appropriate remedial action.

The Sustainability Appraisals of the Plans

- 1.19 No Sustainability Appraisal (SA) has been undertaken by Cambridge City Council (CCC) or jointly by CCC and South Cambridgeshire District Council (SCDC) on the high level, overarching development strategy. The effect of severely limiting development in the second most sustainable location in preference of a more dispersed, less sustainable strategy based on New Settlements is not understood in terms of the Sustainability Framework of both local authorities.
- 1.20 The full magnitude of the spatial effects of rejecting sites on the Cambridge fringe in favour of less sustainable locations is therefore unknown, contrary to the requirements of the SEA Directive. The rejection of sustainable sites and the next elements of decision making have no foundation.
- 1.21 The most appropriate opportunity to assess the likely spatial extent of the effects was when CCC and SCDC worked jointly at the Issues and Options 2 stage. However, at this stage Cambridge fringe sites were dismissed on the grounds of importance to the Green Belt without the assessment of alternatives and the full extent of effects being known.
- 1.22 It was not possible therefore for consultees to know what the reasons were and full implications for rejecting fringe sites.
- 1.23 SCDC has undertaken an SA on development options which shows that housing, services and facilities, access to work and sustainable travel are supported better by the option of developing on the edge of Cambridge than any of the other overarching development location options. Even though development on the edge of Cambridge is most sustainable and most supportive of their scoped sustainability objectives SCDC has not taken account of their SA, rejecting sites on the edge of Cambridge in favour of less sustainable locations. The SA is inconsistent, because the findings point not to the preferred strategy but to the strategy of developing on the edge of Cambridge.
- 1.24 The Plans are based on extensive infrastructure coming forward, the funding for which was not in place during the consideration of options and for which there is still a considerable funding gap. The necessary infrastructure has not been secured. The Councils have not assessed ‘plan B’ – what happens if the

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necessary infrastructure provision required for the New Settlement Strategy does not come forward. There is no provision for the reasonable alternative of the infrastructure not coming forward.

- 1.25 There are essential elements of infrastructure needed to deliver the New Settlement development option. The SA does not take on board that significant infrastructure must come forward to deliver the Plan. The effect of infrastructure has not been assessed in the SA contrary to the requirements of the Directive set out in Article 5 even though it is fundamental to the achievement of the proposed development strategy. (Heard v Broadland District Council, South Norfolk District Council, Norwich City Council February 2012).
- 1.26 The fundamental objective of the Directive is to provide a high level of protection of the environment and to contribute to the integration of environmental consideration into the preparation and adoption of plans. SCDC has set the most sustainable option to one side without a thorough assessments of likely effects.
- 1.27 The decision making process of the Plans at the Issues and Options Stage 1 and the Issues and Options Stage 2 were carried out before the objectively assessed need was known and therefore the full considerations of the effects of the emerging Plans on the sustainability frameworks are unknown. (Solihull case).
- 1.28 CCC and SCDC have failed to take into account the findings of the SAs to determine the most sustainable housing and job numbers:
 - CCC Housing Policy 3 and Policy 4 which demonstrate that the sustainability of Policy 4 – up to 21,000 new homes is more sustainable than Policy 3 – up to 14,000 new homes. CCC Interim SA 2012. SA states that Option 3 will “*have a significant shortfall of affordable houses, which will impact upon the levels of deprivation in Cambridge*”.
 - SCDC Interim SA 2012 Housing number options show that the higher housing options support the Sustainability Framework more positively.
- 1.29 At the Issues and Options 2, individual Green Belt sites were rejected, contrary to the most sustainable hierarchy detailed in the *Cambridge and South Cambridgeshire Sustainable Development Strategy 2012*, to which both local authorities were signed up. The less sustainable New Settlement option is proposed. It is very likely that the Plan will have adverse effects. It is therefore very important that cumulative and residual effects are understood, mitigation is identified and the effects are monitored.
- 1.30 The CCC Local Plan sets out Monitoring and Implementation in Appendix M. Appendix M sets out loosely the indicator/triggers. However, these do not set out quantitative targets where they could do so and there is no indication of what action will be taken if the targets are not met. For example, the indicator/trigger for Policy 5 Strategic transport infrastructure is “*Proportion of journeys made by car: target – to reduce*”. There could be a quantitative target attached to this. There is no indication whatsoever of what action will be taken if the target is not met and as there is no clear target the monitoring proposed is completely unclear. As the effects of the proposed New Settlement option is likely to be significant in relation to car journeys, it is reasonable to expect triggers for mitigation, and the mitigation to be clearly set out.
- 1.31 The SCDC SA sets out the proposed monitoring at Part 3 . However, there are no actions identified if the targets are not met. Take for example Housing. The published targets are “40% of dwellings permitted on sites of three or more dwellings” and “85 new Traveller pitches by 2031 and 4 new Travelling Showpeople plots by 2016”. SCDC have a policy to provide 19,000 dwellings over the Plan period. This very obvious target is not mentioned. There is no action set out if the targets mentioned are not met.
- 1.32 The monitoring proposed does not achieve the requirements of the Directive in that at an early stage unforeseen adverse effects should be monitored to undertake appropriate remedial action. The

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indicators/triggers will not achieve this early warning as they are not specific and will not achieve the high level of protection which is the fundamental objective of the Directive.

Sustainability Appraisal Process

- 1.33 The sites on the Cambridge fringe were assessed and largely rejected at the Issues and Options 2 January 2013 “*due to either their significance to Green Belt purposes and/or for other factors including planning constraints such as archaeological merit*”. The weight given to the Green Belt is far greater than any of the sustainability objectives scoped into the respective frameworks of both CCC and SCDC. It is weighted and not objective and does not accord with the fundamental objective of the SEA Directive (Article 1).
- 1.34 Green Belt is not identified by SCDC as a sustainability objective. CCC consider it as just one of the matters for consideration in three functional areas (sub-division) of Cambridge.
- 1.35 Green Belt criteria were not identified in the approach to site appraisals set out in CCC SA Scoping Report February 2012 (page 90) apart from one land use criterion; nor in the SCDC Table 10 Assessment Matrix for Appraisal of Site Options outlined in their SA Scoping Report June 2012 (page 45). However, the Proforma used to assess the Broad Locations on the Cambridge fringe was introduced at the Issues and Options Stage 2 and was not previously consulted upon. The Proforma introduces ten Green Belt criteria which skews the assessment against fringe sites. As the Green Belt is not identified as a key theme by CCC nor at all by SCDC in the SA framework, it is not clear why Green Belt is introduced, or considered more important than key objectives such as meeting housing needs, providing jobs and promoting sustainable transport. The Proforma assessment used to assess sites on the edge of Cambridge is not objective and does not accord with the fundamental purpose of the SEA Directive (Article 1) or the NPPF.
- 1.36 Even though the Proforma is not based on the sustainability framework of either CCC or SCDC, it weights Green Belt to a Level 1 high level sieve, which is “*effective for identifying issues that mean a site should be rejected*”. There is no reason for this as Green Belt is not a scoped SCDC sustainability objective and it is only one consideration for each of three of the spatial topics in the CCC SA framework.
- 1.37 Furthermore, neither local authority has a policy against Green Belt release. Even though Green Belt issues in Level 1 of the Proforma could pre-determine the assessment, the Councils have chosen not to make Green Belt a completely exclusionary criterion. Six minor allocations are proposed on the fringes of Cambridge within the Green Belt. These sites have been allocated, some of which perform no better, and in some cases worse in terms of Green Belt, than Cambridge South. There is no reason or explanation for this.
- 1.38 At the Issues and Options Stage 2, individual Green Belt sites were rejected contrary to the SA undertaken by SCDC in the Initial Sustainability Appraisal Report July 2012. Decisions were based on the 2012 Inner Green Belt Boundary Study 2012. This will be a Matter considered at a later session, however it is worth noting that the Boundary Study is not a robust document, there are inherent mistakes in its application which skew the results so that Green Belt issues are more adverse than is the case. (Refer to our previous submissions).
- 1.39 As a consequence, decisions were made to reject Green Belt sites before a Green Belt review was properly done.
- 1.40 By putting the Green Belt assessment early in the process and attaching such considerable weight to the protection of the Green Belt based on a flawed assessment, has prevented the proper consideration of:

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- meeting objectively assessed need;
- the most appropriate strategy when considered against the reasonable alternatives for employment and housing development; and
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- 1.41 Providing homes and jobs in the most sustainable locations available is a fundamental purpose of the Plans. Rejecting sites due to Green Belt issues which is based on an evidence base which is neither robust nor credible, is perverse and renders the Plans unsound and not compliant with the requirement of the planning system to contribute to sustainable development.
- 1.42 In addition, Cambridge South (Broad Location 5) was rejected before it was properly assessed as a science park accommodating around 85,000 sq. m floor space and approximately 1,250 dwellings with associated development. (The Proforma assesses it as a residentially led development of up to 2,500 dwellings).
- 1.43 The delivery of homes and jobs is a key element in the Plans. However, the magnitude of effects, extent of spatial effects, cumulative effects and residual effects of the dispersed strategy of growth beyond the Green Belt in the New Settlements, including the infrastructure required, is unknown. This is contrary to the requirements of the SEA Directive. The Plan making is not robust.

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2 Conclusion

What part of the Plan is unsound

2.1 The SA's undertaken by both local authorities do not comply with the requirements of the SEA Directive.

Which soundness criterion it fails and why

2.2 The Plans are not sound because they are not:

■ **consistent** – the Plan should enable the delivery of sustainable development in accordance with the NPPF:

- i. the Plans do not comply with the SEA Directive; and
- ii. the Plans do not enable the delivery of sustainable development in accordance with the NPPF as required by paragraph 165.

How the Local Plan can be made sound

2.3 We consider the actions required to make the Plans sound and the SA comply with the SEA Directive:

- undertake SA on the alternatives for the development strategy – this should be undertaken jointly so that the full spatial extent of significant effects is understood as required by the SEA Directive;
- undertake SA on the alternatives for the development strategy, taking into account the significant infrastructure requirement for the New Settlement option;
- to undertake SA on the alternatives for the development strategy, taking into account 'Plan B'. What is the effect of the required infrastructure not coming forward;
- to take account of and act on the findings of the SA to help achieve truly sustainable development;
- to undertake a robust, accurate and credible Green Belt review which takes account of the need to promote sustainable pattern of development as required by the NPPF paragraph 84 and apply it at an appropriate point in the process when all the reasonable alternatives have been fully considered, and after the needs have been properly assessed; and
- for CCC and SCDC to consider the release of appropriate, sustainable Green Belt sites on the fringe of Cambridge so that the most appropriate strategy is pursued.

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