

## **ROYAL BOROUGH OF WINDSOR AND MAIDENHEAD: Examination of the Borough Local Plan, 2013 – 2033.**

**Inspector:** Louise Phillips MA (Cantab) MSc  
MRTPI

**Programme Officer:** Charlotte Glancy

C/O Banks Solutions, 64 Lavinia Way, East  
Preston, West Sussex, BN16 1EF.

**Tel:** 01903 783722

**Email:** [bankssolutionsuk@gmail.com](mailto:bankssolutionsuk@gmail.com)

### **INITIAL QUESTIONS FOR THE COUNCIL**

As a result of my initial appraisal of the Borough Local Plan (the Plan) and associated materials, I have identified a number of matters for the Council to address before I finalise my main issues and questions for the examination. The latter will be published separately and statements will be invited prior to any hearing sessions. The timetable for the examination will be set in due course.

My purpose in asking initial questions of the Council is to 'flag up' potentially significant issues of relevance to my examination of the legal compliance and soundness of the Plan and to assist the efficient progress of the examination. Therefore, please could the Council provide a succinct but complete answer to each of the questions below by **Friday 6 April 2018** via the Programme Officer. If further explanation is required, please contact me through the Programme Officer allowing time for the deadline to be met.

#### **1. Habitats Regulations Assessment: SANG Capacity and Air Quality**

In its representation dated 8 August 2017, Natural England expresses concern about the scale of Suitable Alternative Natural Greenspace (SANG) provision in the Plan; and about the evidence in respect of how the development proposed might impact upon air quality and, consequently, upon the integrity of the relevant protected sites in and around the Royal Borough.

- a. I understand that the Council has prepared document CD008: Habitats Regulations & Air Quality Update, January 2018, in response to Natural England's concerns. Is this correct? This document assesses the impact of the Plan on air quality in relation to protected Natura 2000 sites and the Council's obligations to manage local air quality. Do the conclusions of this study address the concerns raised by Natural England about the evidence base for air quality? In particular:
  - o The study concludes at para. 5.1.2 that mitigation is required in respect of the potential effect of nitrogen deposition upon a small part of Bisham Woods SSSI, which forms part of the Chiltern Beechwoods SAC. Is this addressed by the Plan? If not, should it be?
  - o The conclusion concerning the potential for significant effects "in-combination" with other plans and policies is a little unclear (para. 5.1.3) in terms of whether they can or cannot be ruled out. However, it does suggest that RBWM should work with its Duty to Cooperate partners to carry out further investigations and plan for mitigation if necessary. Is the conclusion of the study that "in-combination" effects can or cannot be ruled out? If they cannot be ruled out, are

the necessary joint working arrangements in place to address them? How does the Plan secure the necessary joint working and how will it ensure that any necessary mitigation is provided?

- b.** The update study of January 2018 (CD008) does not appear to address Natural England's concern that the Plan does not identify adequate SANG for development expected to come forward within 5km of the Thames Basin Heaths SPA.
- Is this matter addressed elsewhere? If not, is it sufficient for Policy NR4 of the Plan to commit the Council to delivering appropriate mitigation in the future (Clause 5); and/or to encourage applicants to seek bespoke SANG solutions (Clause 7)? Natural England's representation appears to suggest that this approach could threaten the delivery of the proposed housing allocations.
  - Please could the Council set out which sites are likely to come forward within the 5km zone of influence of the SPA (or 7km zone if relevant), and indicate how much SANG is likely to be required above that already provided in the Plan.

The Programme Officer has made Natural England aware of the above questions. It would be helpful if the Council could liaise with Natural England in answering them, and ascertain whether or not its concerns have been/can be resolved.

## **2. Flood Risk**

In its representations dated 26 September 2017, the Environment Agency (EA) expressed concern that the Plan includes several site allocations in flood risk areas, but no Level 2 Strategic Flood Risk Assessment (SFRA) has been produced. In relation to such sites, the EA suggests that it is not always possible to know which flood zone is relevant and whether the site is capable of being developed to take account of flood risk.

- a.** Having regard to the EAs representation and to the advice in the Planning Practice Guidance (PPG) concerning when a Level 2 SFRA might be required, is the plan sound in the absence of a Level 2 SFRA? In particular:
- Are the spatial strategy and consequent site allocations informed by a robust sequential test and, where necessary, exception test as required by para. 100 of the National Planning Policy Framework (NPPF)? Where is this evidence provided and what role did Sustainability Appraisal play in the process? (I note that para. 8.1.8 of the Level 1 SFRA, June 2017, indicates that the Council has prepared a Sequential Testing Report on the basis of the updated Level 1 SFRA of 2016 and allocated sites for future development accordingly. Where is this report?).

- Which of the sites to be allocated in the Plan fall wholly or partly within Flood Zones 2, 3a or 3b? Please provide the following information for each site:
    - A map showing the site in relation to the relevant flood zone(s);
    - A summary of the use for which it is allocated;
    - A summary of the evidence which demonstrates that the site passes the sequential test and, if necessary, the exception test;
    - A summary of the evidence which demonstrates that there is a reasonable prospect of this site being deliverable with respect to the need to mitigate flood risk.
  - In light of the responses to the questions above, is any additional evidence required to justify either the plan's overall strategy or any individual site allocation?
- b.** The EA is also concerned about whether the growth proposed by the plan can be achieved without degrading the water environment or having implications for the Water Framework Directive as required by para. 109 of the NPPF. What is the Council's evidence to demonstrate compliance in this matter? With reference to Sections 3.18 and 3.19 (Water Supply and Sewerage) of the Infrastructure Delivery Plan, January 2018, how can the Council be confident that the infrastructure needs identified will be in place in time to support planned growth?

The Programme Officer has made the EA aware of the above questions. It would be helpful if the Council could liaise with the EA in answering them, and ascertain whether or not its concerns have been/can be resolved.

### **3. Duty to Cooperate (DtC)**

#### ***a. Housing needs within the Housing Market Area (HMA)***

I understand that South Bucks District Council disagrees with RBWM Council and Slough Borough Council that S. Bucks should form part of the Eastern Berkshire HMA for plan-making purposes. Leaving aside the technical validity of this grouping, please explain the cooperation that has taken place to seek to resolve this issue. In particular:

- How did S. Bucks become involved with the Berkshire (including S. Bucks) Strategic Housing Market Assessment 2016 (SD002)? Who took the decision to include S. Bucks and why? Was it a willing participant? How did it contribute? I understand that it was not a commissioning authority.
- When did S. Bucks first raise concerns about the HMA groupings emerging from the SHMA and why? Were alternatives proposed? Were genuine efforts made to explore and resolve the disagreements?
- Once it became clear that the disagreement over the HMA geography would not be resolved, how did RBWM reach the decision to proceed with its Plan based on the SHMA? Were DtC partners, including S.

Bucks, Slough BC and the Western Berkshire authorities involved in this decision? Were alternative options considered?

- What are the main implications of proceeding on the basis of the SHMA without the engagement of S. Bucks? Do the implications go beyond the question of where to provide for the unmet housing need in Slough? It is my understanding that S. Bucks' unmet need is to be exported to Aylesbury Vale and that RBWM considers there is no unmet need arising from its own area.
- How did RBWM explore the possibility of providing for unmet needs in Slough before concluding that it could not do so (see letter of 17 July 2017)? I note that housing growth above the Royal Borough's own Objectively Assessed Need (OAN) was only tested through sustainability appraisal after the Plan was published. Why was this not tested earlier given the situation of unmet need in Slough was well known? Has the timing of the assessment skewed the result?
- Having concluded that it could not help to provide for housing needs in Slough, how far is it the responsibility of RBWM to seek an alternative solution? Has RBWM taken part in any cooperation to this effect?
- What is the current position in respect of reviewing housing market areas and seeking a collective approach to addressing housing needs arising within this plan period and beyond? What is the scope of the Wider Area Growth Study? Is the present Plan sufficiently flexible to address any changes arising from studies such as this by a process of review?

#### ***b. Some Other DtC Issues***

Slough BC is concerned about the absence from the Plan of a spatial distribution for housing; and about the lack of a specific requirement in Policy HO3 for the provision of affordable housing for social rent. Slough states that these concerns were raised with RBWM on several occasions before the Plan was published. Are these issues which should have been addressed under the DtC and, if so, what cooperation took place?

#### **4. Green Belt Review**

##### ***Nature of Green Belt review; demonstrating that exceptional circumstances justify boundary alterations; and the Duty to Cooperate***

- a. Paragraph 14 of the NPPF generally requires that a Local Plan should meet the objectively assessed development needs of the area. However, it also confirms (via footnote 9) that Green Belt is one of the constraints which indicates that development should be restricted. How has the Council gone about resolving this tension and come to the conclusion that there are exceptional circumstances to justify the alteration of Green Belt boundaries in the Plan? In particular:
  - How do the specific development needs of the Royal Borough weigh against the importance given to Green Belt protection?

- What would be the consequences of not releasing Green Belt land to help meet development needs?
  - Have alternatives to Green Belt release been fully considered, including maximising the use of previously developed land? Could any other neighbouring authority have accommodated some of the Royal Borough's housing need which could not be met on non-Green Belt land?
  - The Edge of Settlement Analysis Parts 1 and 2 (SD018 & SD019), consider parcels of land on the edge of settlements which are themselves excluded from the Green Belt. Having determined that a Green Belt review was necessary to accommodate development needs, and having regard to paragraph 86 of the NPPF concerning villages in the Green Belt, should the Council have considered whether any of the villages presently washed over by the Green Belt should be excluded from it and/or potentially expanded? In the absence of this analysis, has the Council done all it reasonably could to avoid altering Green Belt boundaries?
  - When identifying parcels of Green Belt land for assessment in the Part 1 Study (SD018), land subject to "hard constraints" were excluded for reasons of efficiency. Are these exclusions justified, in particular those relating to heritage assets and land in National Trust ownership? I note that Crown Land was not excluded from the study.
  - How has the Council satisfied itself that the revised Green Belt boundaries to be established by the Plan will be capable of enduring beyond the Plan period as required by paragraphs 83 and 85 of the NPPF? Is it necessary to identify areas of safeguarded land between the urban area and the Green Belt to meet longer term development needs?
- b.** Paragraph 2.17 of the Edge of Settlement Analysis Part 1 (SD018) acknowledges that national guidance identifies Green Belt as a strategic policy in terms of the Duty to Cooperate. It further recognises that the level of housing to be planned for is determined in part by whether there is an unmet requirement in a neighbouring authority area. Given that unmet housing need in the HMA is an issue with which the Council has had to grapple, and that neighbouring authorities are similarly constrained by Green Belt, should a Green Belt review have been undertaken on a joint basis with one or more neighbouring/near authorities? Why was this not done and what are the consequences for the robustness of the Council's own review?
- c.** Paragraphs 4.4-4.5 of the Part 2 Edge of Settlement Analysis (SD019) rule out ten parcels of Green Belt land from further consideration. However, the study does not reach an overall conclusion about which of the remaining parcels would be most suitable for future development.
- How was it decided which of the remaining parcels would be allocated? Has all the land in the remaining parcels been allocated in the Plan?

- If any land/parcels were left unallocated, did the Council consider whether more could be used to help to meet the needs of neighbouring authorities?

End.

*Louise Phillips*

INSPECTOR

16 March 2018.