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EXAMINATION INTO THE SOUNDNESS OF THE HARTLEPOOL LOCAL PLAN

12 May 2017

Dear Mr King

Council's Response to Inspector's Initial Observations and Way Forward for the Examination

Thank you for your comprehensive response dated 8 May 2017 to my initial observations together with the various enclosures.

I am pleased to read that the Local Planning Authority (LPA) is taking a positive and proactive approach to assembling additional evidence, which from my assessment of the timings you have presented will be completed at various stages over an approximate 3 month timeframe. In my view, there would be little merit in holding hearings or partial hearings into selected matters whilst this work was on-going. In effect, the examination, in terms of progressing to the hearings, is 'paused' whilst the LPA compiles this additional evidence. During this 'pause', it is imperative that the LPA keeps me regularly informed of progress via the Programme Officer. Periodically, when the additional material is available it should be submitted into the examination and placed on the website.

In mapping out the additional work in your letter I have assumed the following dates, which are intended to assist the Council and to ensure the examination proceeds efficiently to the critical hearings stage.

Friday 12 May
Addendum to Duty To Cooperate Statement

Friday 2 June
First version of 'live' schedules of Main and Additional Modifications

Friday 30 June
Equalities Impact Assessment

Friday 28 July
Sustainability Appraisal Addendum
Housing and Employment Growth Topic Paper

Update on Strategic Flood Risk Assessment Strategic Gap Evidence

Friday 18 August

Update on demolitions and replacements

Update on Housing Land Supply & Policy Weighting.

(Draft) Framework for SPA/SAC contributions

I am mindful that both the PPG and PINS Procedural Practice note on Local Plan Examinations place a requirement on Inspectors to engage fully with the LPA in meaningful discussion on the scope and feasibility of any additional work needed. In a number of the areas, the LPAs response gives me confidence that there is a clear understanding of what needs to be done. I am also satisfied that the statutory consultees such as Natural England and the Environment Agency are well-placed to advise the LPA regarding their respective concerns. Overall, I am satisfied that the examination does not need an exploratory or pre-hearing meeting to scope out the additional evidence.

I note your letter of 8 May invites me to provide clarification on a number of points and I have sought to do this below. If you require me to provide additional clarification or to comment on issues as they arise as the evidence progresses please do not hesitate to contact me via the Programme Officer.

Sustainability Appraisal (SA)

I have now read the Scoping Report and I agree it addresses a number of my comments including required engagement with the SEA bodies. I have also considered the various cross-references within the covering email of 2 May 2017. That email needs to be submitted as an examination document under the Council documents on the website. In considering the email of 2 May and your letter of 8 May I agree that some additional work needs to be undertaken on SA, which may in part be an exercise in transparency of pulling together assessment work in the SHLAA and elsewhere.

For clarity, when I refer to assessment of options in terms of SA I see it applying to all policies and proposals in the Plan – strategic policies, site allocations and development management policies. In some policy areas there may be genuine policy choices, depending on the evidence, particularly when it comes to matters such as thresholds. For all policies, there is the alternative of 'do nothing' and hopefully for all policies, the alternative of do nothing is demonstrably less sustainable. I appreciate this can appear a reiterative exercise but it nonetheless reflects the requirements of the SEA process.

At paragraph 3.2 of your letter you ask whether the LPA should appraise options presented at the publications stage? It is important that the plan-making process is shown to have systematically considered the sustainability of genuine/distinct reasonable alternatives (see PPG paragraph 11-018-20140306 for a particularly helpful description). SA should also identify unreasonable options and briefly explain why they were rejected. From my experience, the publications stage rarely presents entirely new options (sites or policies) that have not been considered previously by plan-makers. Nonetheless, it remains

important that SA presents a clear audit trail of the genuinely distinct reasonable and unreasonable alternatives to the Plan's proposals.

I would request the LPA satisfy itself before producing the addendum to the SA that the existing SA work covers any distinct option that has emerged from the publication stage representations. From my reading of the representations alternative options to the locational strategy appears to be one area where additional SA work is required (I accept the point in the LPA's email of 2 May that the geography of the Borough limits reasonable alternatives). For example: greater levels of growth west of Hartlepool to deliver the new connecting road to the A19; greater or reduced levels of growth at Wynyard; more housing in the villages. I pass no comment at this stage as to whether they are reasonable options or not, but re-emphasise the role of SA as a tool to test that the proposals in the Plan are the most appropriate.

Some representations on the published Plan, together with the updated evidence, may result in main modifications. These changes will be discussed at the hearings. I would draw the LPAs attention to PPG paragraph 11-023-20140306 in that further SA may be required on these changes. These will be discussed at the hearing together with whether or not further SA should be undertaken once any main modifications are finalised. At this stage the SA addendum does not need to consider likely main modifications.

To assist the LPA in its task to produce an addendum to SA by the end of July 2017 I have set out the following areas, taking account of the Council's response dated 2 May:

- (1) A Non-Technical Summary. This requirement is set out at PPG 11-019-20140306. I note the LPAs response of 2 May but it remains my view that Section 3 of the publication stage SA needs to be expanded as outlined in my initial letter of 12 April.
- (2) Succinct assessment of "do nothing" for all policies against SA objectives
- (3) Assessment of any sufficiently distinct "reasonable alternatives" against SA objectives and a brief judgement as to why they are not preferred.
- (4) Clarity on unreasonable alternatives and why they have been discounted.

Housing and Employment Growth Topic Paper

There are numerous examples of such papers from other Plan examinations around the country and whilst I cannot endorse/recommend any Paper as an example of good practice there is no need for the Council to 'reinvent the wheel'. The PPGs advice on 'Housing and Economic Development Needs Assessments' could provide a useful starting point in terms of the content and structure of the Paper in terms of setting out the 'stepwise' approach the LPA has taken to assessing housing and employment needs. Although it is not government policy or guidance, many practitioners find assistance in the PAS technical note on Objectively Assessed Need and Housing Targets (July 2015). Reference may also be made during the examination to the Local Plan Expert Group (LPEG)

Report on Local Plans (March 2016) and its recommendations on assessing housing need. The recent consultation on the Housing White Paper's proposals seeks further comment on aspects of the LPEG Report without specifically endorsing its recommendations. Again, the LPEG report is neither guidance nor policy but it may be worth having in mind when preparing the Paper.

As a guide, I would envisage the Paper to cover the following aspects:

- Local context for growth in terms of the housing market area and the functional economic area
- What are key themes from the evidence in terms of housing need (household forecasts, the SHMA, SHLAA, etc) and employment growth (ELR and LEP strategy)?
- What scenarios for growth have been tested?
- Do employment and household forecasts align?
- Outcomes or options for Objectively Assessed Needs (Housing and Employment)
- Translation of OAN into a housing provision target in the Plan

Update on 5 year Housing Land Supply position

This update could either be presented as part of the above topic paper or as its own document, drawing on evidence presented in the Housing Section of the 2015/6 Monitoring Report. I assume from the Council's response that the timing of the update would allow for 2016/17 data to be assessed? I think it would be of assistance to the examination to have a brief paper that sets out the context for housing land supply, progress on delivery of housing sites (completions, extant permissions, windfall/urban SHLAA sites and housing allocations), affordable housing delivery, methodology to the housing trajectory (based on Sedgefield and assessment of Liverpool for comparison purposes) and approach to monitor and review. If required, I am happy to provide further clarification via the Programme Officer.

Equality Impact Assessment

In response to paragraph 6.6 of the LPAs 8 May letter, an Equalities Impact Assessment is required. The Equality Act 2010 requires a public authority or person exercising a public function (such as examining a Local Plan) to have due regard to the need to eliminate discrimination; advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it; and foster good relations between persons who share a relevant protected characteristic and persons who do not share it. Accordingly, an Equalities Impact Assessment will enable an informed position in terms of the equality impacts in compliance with the Public Sector Equality Duty.

In terms of 'relevant protected characteristics' these are defined at Section 149(7) of the Act and include, amongst other things: age, disability, race (including ethnic origins), religion, gender and sexual orientation. As part of the Examination I will be giving consideration to the Plan's role in providing for the needs of all sections of the community (as set out in NPPF paragraphs 50 and 156 and elsewhere). Issues include, but are not limited to, inclusive design and accessible environments, delivering housing choice and meeting specific needs.

In my view, an Equalities Impact Assessment need be a proportionate and generally succinct piece of work, which may well identify that the significant majority of the Plan content has a neutral effect on equalities. Nonetheless, it is imperative for the LPA and the examination process that the public sector equality duty is satisfied and I see the assessment as a key tool in informing this legal requirement.

Update on demolitions and replacements

I note the Council's comments regarding sensitivity in this area and I agree that any related evidence needs to be carefully presented to avoid undue anxiety or adverse speculation. The Council will appreciate that some representors are querying this part of the evidence base and my interest was further intrigued by paragraph 3.44 of the SHLAA which refers to updated evidence. Having read the 2015 SHMA, the Housing Strategy 2015 and latest monitoring report for 2015/16 I recognise that these may well be what the SHLAA envisaged. I will set out in due course a number of issues and questions for the examination hearings and this will provide an opportunity for the LPA to clarify matters.

What the examination needs to scrutinise, at a reasonably broad level, is the robustness of assumptions regarding the net implications of this element of housing need. Past trends are one useful indicator but this needs to be sense-checked in terms of the likely scale and delivery under Housing Market Renewal moving forward. I am certainly not anticipating specific areas or properties to be identified. From what you have outlined in your letter of 8 May, any additional evidence around future funding frameworks or evidence of commitment from partner organisations on delivery would be the broad areas of evidence to help assess the reasonableness of the Council's assumptions.

Plan Viability

Thank you for the offer of the SHLAA database but if it is not to be an evidence base document then I do not consider it necessary that I see a copy. I have carefully read Section 7 of your letter and paragraph 2.3.4. I can only reiterate that it remains part of the Plan examination to scrutinise Plan viability within the requirements set out in the National Planning Policy Framework. I will need to be satisfied that the policy requirements set out within the plan do not threaten development viability, particularly those developments central to the Plan's strategy. Representors, including some who were part of the SHLAA steering group, have made submissions on this point.

Plan viability will form a session at the forthcoming hearings and again I will have a number of questions relating to viability which will be informed by the evidence before me as well as NPPF paragraphs 173-174 and PPG paragraphs 10-005-20140306 to 15-005-20140306. The areas that remain of concern and where I would encourage the Council to consider further are as follows:

- High level assurance that as a consequence of the Plan's strategy and policies, development necessary to meet needs remains viable and not at the margins of viability. I see little evidence of iterative testing of the policies of the Plan during their progression in 2016/17.

- In terms of Appendix 1 of the SPD, the assumptions applied indicate that development would be generally (albeit in some cases, arguably marginally) viable up to an 18% off-site affordable housing contribution. My understanding is that this is predicated on 100% of the residential scheme being for market sale to generate the identified receipt. The starting point in Policy HSG9 is for affordable housing provision to be secured on-site. Has that scenario been tested?
- There are a number of strategic greenfield sites critical to the delivery of the Plan, notably High Tunstall. I read that the Council continues to have viability discussions with those promoting these options and the site promoters/developers can attend the examination to assist on this matter. Given the evidence in the SPD does not include strategic infrastructure costs relating to the bypass road (paragraph 7.3 of your letter), I will need to test that this site is deliverable, including through developer contributions for the road should public funding not be available. Similar would appear to apply in relation to highway costs at Wynyard.
- I understand the Council's submission regarding flexibility but I remain concerned that large strategic sites may only be viable subject to significant off-site affordable housing provision together with tentative public subsidy for critical infrastructure. I accept the Council's submission that greenfield sites are the principal typology but I would refer to the PPG that greater detail maybe necessary for some sites, particularly those strategic sites requiring high infrastructure investment (High Tunstall & Wynyard). I would encourage the LPA to reconsider its position and reflect on what viability evidence can be assembled prior to the hearings, working with site promoters where appropriate, to demonstrate that these sites are deliverable.
- The SPD focuses on residential development viability. The PPG advises at paragraph 10-009-20140306 that a proportional viability assessment of other forms development (commercial) necessary to deliver the vision of the Plan should be undertaken.

Moving Forward

I have noted the conclusion to your letter setting out that the practical timeframe for the hearings would now be the week commencing 25 September. I agree with this timeframe and I am of the view that the date would sensibly allow for the additional evidence to be prepared and, importantly, considered by interested persons prior to the hearings. Working back from that date the 6 week notification for the hearings would be Monday 14 August which would allow appropriate time for additional written statements in response to my forthcoming main issues and questions to comment on the LPAs updated evidence prior to the hearing sessions.

Having set out a logical timetable for additional evidence and position statements, I am now fixing the hearings to start on Tuesday 26 September. With this in mind I will shortly be issuing Examination Guidance Notes and a

draft Programme for the hearings through the Programme Officer, so that interested parties can begin to prepare and diarise attendance.

I am assured that the Council is also giving attention to assigning the contents of core document HLP01/7 into Main and Additional Modifications. At paragraph 2.3.3 of your letter you reference the monitoring framework. My advice is that the inclusion of the monitoring framework as part of the Plan as an appendix is necessary and this will be a main modification. This has been the standard approach at other Local Plan examinations. Subject to discussion at the hearings there may need to be refinements to the monitoring framework but this can be dealt with during and immediately after the hearings.

I trust this letter is of assistance.

Yours sincerely

David Spencer

Inspector.