

RNOTP EXAMINATION

CLOSING STATEMENT FOR ENDC

SOUNDNESS AND THE EVIDENCE BASE

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Requirement for a Robust and Credible Evidence Base

It is Section 20(5)(b) of the 2004 Act which sets out that the second purpose of an independent Examination is to determine whether the DPD is “sound”. Soundness is not further explained in the Act itself and it is to Government guidance in the form of PPS12 that one has to turn for the Secretary of State’s policy guidance on that issue. In the “old” PPS12 under which this plan was prepared there are set out nine tests of soundness. Test VII requires that the strategies/policies/applications are founded on a robust and credible evidence base.

A new PPS12 was issued in 2008. The foreword explains that the PPS reflects the lessons learned from the first three years of operating the new planning system. A clear concern, reflected in the new regulations, was that the system was too complex and onerous, in other words that the bar had been set too high. I return to this later.

The tests of soundness are substantially curtailed in the new PPS12.

The new PPS12 says that to be “sound” a DPD should be Justified, Effective, and consistent with National Policy. It says that “justified” means (inter alia) “founded on a robust and credible evidence base”. The new PPS12 therefore adopts that element of the old PPS12 tests of soundness. The guidance then helpfully explains the concepts of justification at pars 4.36 to 4.38.

4.37 deals with the evidence base. It states that the evidence base should contain two elements:-

“Participation: evidence of the views of the local community and others who have a stake in the future of the area.

Research/fact finding: evidence that the choices made by the plan are backed up by the background facts.

Evidence gathered should be proportionate to the job being undertaken by the plan, relevant to the place in question and as up to date as practical having regard to what may have changed since the evidence was collected.”

I believe that we should rely on that policy guidance on the evidence base. It is the new PPS12 rather than the old PPS12 and given that the test “founded on a robust and credible evidence base” is the same in both versions of PPS12 then it is the latest PPS12 which gives guidance on what the evidence base should do and which, in my submission, would be used in any examination by the Courts of whether there was an adequate evidence base. It seems to me that the guidance that “the choices made by the plan are backed up by the background facts” is a lesser test (and with good reason) than has been suggested at this Examination as being necessary to satisfy the test of soundness based on a robust and credible evidence base.

The Evidence Base for Site Allocations

We have put in a document which details the basis on which sites were identified in the preferred options document and the submitted RNOTP. It can be summarised as follows:-

- (1) The “Design for the Future” consultation produced a substantial number of alternative sites. These were analysed by officers using a PP3 sequential approach/sustainability criteria from July 2002.
- (2) Further detailed sustainability assessment of aspirational sites in towns was started in July 2003. It was completed for Oundle but not written up for Thrapston, Kings Cliffe, Nassington and Warmington.
- (3) A new Issues and Options consultation was undertaken from March 2004 to August 2005. Docs 401-405, the Design for the Future discussion papers identified all aspirational sites.
- (4) Earlier response comments and analyses were then taken into account in moving from the aspirational sites, evaluated as set out to sites identified in the draft Preferred Options document.
- (5) With the Preferred Options document a sustainability appraisal was prepared for the allocated sites (doc 310).

- (6) Also as an input to the Preferred Options report an Urban Extensions study was prepared (doc 307) which identified the sustainability of various directions of growth around Thrapston, Oundle and Kings Cliffe.
- (7) Much later a Roger Tym “health check” of the sites allocated (doc 322) was prepared.

I observe that the methodology for the site selection process in this DPD is the same as was employed in the now adopted CSS. It was said that that is the trouble with it. It is ‘coarse grain’ suitable for a CSS, but a finer grain is necessary for an Allocations DPP. That ignores the fact that it is the CSS which makes the strategic allocations – the Sustainable Urban Extensions. I have difficulty in accepting that an evidence base which satisfied an Examining Inspector was sufficient to support strategic allocations is somehow inadequate to support the modest allocations contained in this plan.

The Evidence Base for the Rural Strategy

We have submitted (no. 17 and supplementary) an analysis of the evidence base for the Rural Strategy covering settlement boundaries, village function, and the identification of Nassington and Warmington as “smaller service centres”.

As well as the paper trail identified in that document (17 and supplementary) it is important to note two key elements which were not centred on the identification of boundaries. The first is an assessment of village services and facilities (see tables in docs 402-405).

Based on local services, Kings Cliffe, Barnwell, Brigstock, Woodford and Warmington were considered as possible service centres. The Rural North paper (doc. 403) also identified a significant range of local services in Bulwick, Easton on the Hill and Nassington.

The evidence also related to function, looking at reliance on local services or on local/larger towns. The evidence showed that neither Brigstock nor Woodford were assessed as performing a service centre role.

Additionally the Baker Associates study (doc. 368) further analysed village relationships, and was key in the identification of Nassington and Warmington as smaller service areas.

It is my submission to say that that evidence base, taken as a whole, demonstrates that “the choices made by the plan are backed up by the background facts” – the PPS12 test for the evidence base.

Context for Test “Robust and Credible Evidence Base

It appears to me that the main questions in relation to the tests of soundness at this Examination concern process rather than content. No strategic authority seeks to suggest to you that the plan should be regarded as unsound on content. You have GOEM’s statement which expresses now general contentment with the content of the plan. The JPU has also issued a supportive statement. No strategic authority or infrastructure provider has sought to suggest that there are constraints which would make the plan unsound. Objectors, by and large, are not seeking “the nuclear option” (Mr Holden) or indeed to substitute their sites for those allocated (again, Mr Holden).

It is perhaps salutary to compare the requirements of the Local Plan system, still operating a mere five years ago, with the very substantial evidence base prepared over a period of years for this DPD. The arbitrary process which then led to allocations in a Local Plan has completely disappeared and been replaced with a substantial body of evidence based allocations. Notwithstanding that a Local Plan five years ago could be adopted on the basis of for less evidence than could now lead to a rejection of a DPD.

There is ample evidence for the view that the new system is so onerous as it has been interpreted in the first three or four years of the system so as to mean that it operates as a considerable constraint in bringing forward DPDs to adoption. The 2008 regulations and the explanatory memorandum issued with those regulations give teeth to that submission. Para 7.7 of the memorandum states as follows:-

“turning now to the changes made by the rest of the regulations, a principal motivation is to provide Local Planning Authorities throughout England with greater freedom in determining the most appropriate way to prepare or revise

their DPDs. At present the number of DPDs being proposed nationally (1300) is far greater than anticipated when the 2004 Act was enacted. Added to this is the fact that each plan is taking far longer to produce than had been envisaged. So far, only 5% of all Local Authorities have adopted a core strategy (the principal DPD for each area), whereas the initial expectation back in 2004 was for that figure to be closer to 80% by September 2007. It has become clear from comments received from both Local Planning Authorities and the general public that the process is over-complicated and has led to ‘consultation fatigue’”.

The Planning Inspectorate had to issue a document in June 2007 “Lessons Learned from Examining Development Plan Documents”. The process has been hamstrung by the limitations on the ability of Inspectors to make substantive changes rather than finding the plans “unsound” and various articles have suggested that the Inspector’s powers to amend are greater than previously anticipated.

The new PPS12 in its turn seeks to simplify this hopelessly over-complicated process. In my humble submission it is beyond the resources of the average District Council to undertake the sort of tested evidence base for every aspect of the plan that we have heard speak of at this Examination, but the issue is probably more fundamental than that. No sustainability appraisal or site selection process will escape methodological criticism. It is an easy target. That again was acknowledged by Mr Holden. That reflects the perhaps unpalatable truth that you cannot reduce site selection to a series of issues to which points are allocated, because in allocating points, planning judgement is necessary. Judgement is necessary in deciding what the maximum number of points to be allocated to each issue is, and judgement is again involved in allocating those points across different site options. There is no such thing as the best site. The selection of sites is a distillation of the evidence base which has been put to you with professional planning judgement applied and as then approved by the elected Council. I observe in passing that it would appear that the role of members in site identification may be precisely nil if they are not allowed to bring their judgement to bear on the evidence base.

Presumption of Soundness

It would seem that the presumption of soundness is now to be taken in neutral terms i.e. that the Local Planning Authority should have submitted a plan which it believed to be sound. That, in my respectful submission, should be your starting point. In making your assessment of soundness I would urge you to interpret the guidance in PPS12 on the evidence base at para 3.7 as liberally as the wording of the advice implies (the choices made by the plan are backed up by the background facts). There are four reasons for that. The first is that the main issue surrounding this modest plan appears to be process related rather than content related. The second is that the imperative particularly in an area which already has an adopted CSS and is a growth area, to have in place an adopted DPD to allow development to take place in accordance with an approved strategy in a timely fashion. The third is because the result of finding the plan not sound will be the complete opposite to the plan led system which the 2004 regime sought to bolster. It will in fact be a free for all. Whilst you say that that is not something that you can take into account, it seems to me that that outcome should suggest that the bar should not be set too high in testing whether the choices made by the plan are backed up by the background facts. The fourth is the considerable knock-on effect for other plans of a finding of an inadequate evidence base methodology.

The strategic studies underpinning the North Northamptonshire CSS, have already been found robust and credible through examination of that plan. These studies including the work by Entec, and subsequent case study work by Baker Associates on settlement hierarchy and service centres across North Northamptonshire have fed down into the preparation of 'daughter' DPDs. This approach is advocated in PPS12 (para 4.18) and has resulted in considerable resource efficiencies for the four Local Planning Authorities. Additionally, this joint approach has been cited as good practice in the PAS Plan Making Manual.

In other cases, studies at the District/Borough level have shared methodologies, building on work at the CSS level (e.g. Urban Extensions Study) or simply using the same consultants to prepare studies in line with Government guidance (e.g. PPG17 Open Space Audits, Employment Land Reviews). For example, the East Northamptonshire PPG17 study was jointly procured with Corby but the same

consultants were used to undertake similar studies at both Kettering and Wellingborough.

Through the Hearings you have intimated that you have some concerns over aspects of the RNOTP evidence base. If these concerns remain, notwithstanding these submissions, it is important that they are specified as precisely as possible to enable the planning authorities to address them quickly and to avoid undermining work on other DPDs. There would be great concern if the extensive evidence base so far assembled were to be called into question, through a wholesale rejection of certain studies or their methodologies. Site specific documents are being prepared for the remainder of East Northamptonshire, and for each of the boroughs of Corby, Kettering and Wellingborough. These DPDs are the building blocks for delivery of the growth and regeneration agenda in North Northamptonshire. Fundamental questioning of the evidence base risks unravelling the entire joint LDF and certainly calls into question the speed with which the CSS can be revised, as it would be likely to widen the scope of the proposed partial review.

My submission would be, in the terms of para 4.37 of PPS12, that the evidence gathered is proportionate to the job being undertaken by the plan, relevant to the place in question and as up to date as practical having regard to what may have changed since the evidence was collected.

Two final thoughts. The first with regard to the '3 Plan' approach is that it was approved by GOEM in consultation with PINS for inclusion in the Local Development Scheme before it commenced.

The second is that there would be a strong preference for keeping the examination open and allowing the Council to undertake any necessary further work rather than having the Plan rejected. Following the first option would allow the other two Plans to be informed by this examination process and thus also allow them to proceed in a reasonably timely fashion.

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