

HEARING STATEMENT BY HUGH STEBBING, FRICS, CHARTERED SURVEYOR

CARISBROOKE, MAPLE WALK, LITTLE COMMON, EAST SUSEX TN39 4SN

EXAMINATION OF THE ROTHER DISTRICT COUNCIL (RDC) DEVELOPMENT AND SITE ALLOCATIONS LOCAL PLAN

This Hearing Statement is in response to the Inspector's document ID/04 "Matters, Issues and Questions" dated 22nd March 2019.

Matter 1. Legal and Procedural

I question whether the effects of the Plan have been properly considered in the Habitats Regulation Assessment, especially having regard to the requirements of the European Court of Justice judgement in the case of People Over Wind and Sweetman v Coillte Teoranta (C-323/17) [PoW]. It is not evidenced that the HRA has demonstrated beyond reasonable scientific doubt that no harm will come to protected areas subject to proposed development (e.g Rye Harbour, Pevensey Levels, Romney Marsh and associated site allocations such as RHA1, RHA2, BEX9 and BEX10). There is inadequate evidence that proper regard and weighting have been given to paragraphs 110, 117, 118 and 119 of the NPPF 2012.

Matter 4. Development Policies.

Policy DIM 2. It is unclear why the Development Boundary in west Bexhill is moved. This seems to be related to the apparently arbitrary inclusion in the site allocation proposals of Policy BEX 9 (site BX116). The existing boundary was introduced to clearly segregate the urban and rural landscapes and provide a transition between the town and the protected Pevensey Levels immediately to the west and south west of it.

Matter 5. Site Selection.

It is not clear that allocated sites have been selected on robust grounds in accordance with the guidance set down in NPPF 2012. By way of example RDC has rejected a site BX51 for the following reasons:

"This site is not considered suitable for development. The site has multiple environmental and on-site constraints, including being adjacent to international and national nature conservation sites (Ramsar and SSSI). In addition, a significant proportion of the site is subject to flood risk. The site is predominantly rural in character and development would be an unacceptable intrusion into the open countryside, out of character with the surrounding area, contrary to Policies OSS4 and EN1 of the Core Strategy.

Consideration has been previously made to the inclusion of a smaller area of development outside of the area of flood risk, however this was still considered to be an unacceptable intrusion into the open countryside and out of character with the surrounding area. Therefore, this site is not considered suitable for development." (source – Rother DaSA ; Initial Responses to Representations -March 2019).

BX51 lies immediately adjacent to site BX116 (Policy BEX 9) where RDC appears to take a diametrically opposite view by including the site as a preferred development site. The reasons for rejecting BX51 would equally apply to BX116 so decision taking is inconsistent and contrary.

Matter 6. Housing Supply.

RDC has included in its future supply and delivery figures an allowance for the contribution by small windfall sites (source – RDC response to the Examiner’s question about housing trajectory, March 2019). RDC has NOT included any allowance for the contribution from Large Windfall Sites. Its argument that these would not occur because development would (only) take place on allocated sites cannot be regarded as logical or accurate. Historically within the last decade Large Windfall Sites have added circa 500 homes on sites which were not included in the DaSA. In 2018 a site next to Ashridge Court (APP/U1430/W/17/3191063) received outline planning consent on appeal. This is a large windfall site (31 homes) not included in the DaSA yet it, and others like it, will contribute to housing figures. It is illogical and historically irrational not to include an allowance for them of 45 homes per year in the Local Plan.

Matter 7. Development Site Allocation.

Bexhill. Policy BEX 9.

It has not been demonstrated in the HRA that beyond reasonable scientific doubt no harm will come to the protected areas of Pevensey Levels (Ramsar, SAC, SSSI) over the lifetime of the project. This would be in contravention of the requirements of PoW (see Matter 1 above) which sets down what is necessary for an Appropriate Assessment (AA) under the Habitats Regulations. As such any AA must “not have lacunae (*gaps or incompleteness – my clarification*) and must contain complete, precise and definitive findings and conclusions capable of removing all reasonable scientific doubt as to the effects of the proposed works on the protected site”. An AA that defers to future investigations to reach a conclusion about potential harm or effective mitigation cannot logically comply with the PoW judgement and must therefore be inappropriate and fail to satisfy the requirements of the Habitats Regulations or paras 117,118 and 119 of the NPPF. My formal representations in the consultation stage of the DaSA expand on this.

Highways England has objected to the inclusion of BEX 9 as development site on the grounds of a “severe” impact on the A259 (Trunk Road and part of the Strategic Road Network; SRN) [source: DaSA consultation objections refs. 24442 and 24582) The Infrastructure Delivery Plan – March 2019, submitted by RDC does not explain how and gives no confidence that the identified negative impact of development of BEX 9 either alone or when aggregated with other approved developments nearby (i.e. Rosewood Park [342 dwellings] and Ashridge Court [31 dwellings] will be avoided. No evidence is given that the underlying “nil detriment” requirement for the SRN can and will be satisfied if BEX 9 is approved.

I submit that Policy BEX9 (site BX116) be removed from the list of development sites in the Local Plan.

Hugh Stebbing

9th April 2019

christineandhugh@gmail.com

