



Planning Policy
South Somerset District Council
Council Offices
Brumpton Way
Yeovil
Somerset
BA20 2HT

MO.7391/SSDC/sc
9th August 2012

Dear Sir or Madam,

**DRAFT SOUTH SOMERSET LOCAL PLAN
REPRESENTATIONS ON BEHALF OF HAMMONDS YATES LTD**

Introduction

CSJ Planning Consultants are instructed by Hammonds Yates Ltd (HYL) to submit representations in respect of the Draft Local Plan 2006 – 2028, for the administrative district of South Somerset.

Our representations are based on a review of the consultation information, resulting in very serious concerns in relation to a number of aspects of emerging policy and the preferred strategy.

It is therefore HYL's intention to assemble a full professional team coordinated by CSJ Planning Consultants in our capacity as planning consultants to include: legal advisors; transport consultants; landscape consultants; sustainability advisors; and demographic specialists. The HYL's professional team wish to actively participate in the subsequent formal stages of the Local Plan Examination to ensure that the HYP's legitimate interests are fully represented in the process.

The primary purpose is to promote mixed use residential and rural employment development on land at Court Lane, Malbourne Port, Ordnance Survey reference ST6719SW (red line Title Plan attached). In doing so and upon inspecting the emerging Local Plan it is our contention that;

1. The Spatial Strategy is misguided and will promote unsustainable travel patterns. The preference for the Yeovil urban extension is not justified nor legally compliant. There is an alarming lack of conformity with the stated goals of the Employment Strategy.
2. The Employment Strategy is misguided for the same reasons stated above. The 'sustainable urban extension' is afforded primacy at the expense of Local Market Towns and Rural Centres. Although the stated aims are to promote rural employment and promote self containment, only arbitrary minimal employment allocations are made for this purpose. The strategy is unsound.

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3. The Housing Supply Strategy is unsound. The overall target is too low and the undue focus on the Yeovil extension has resulted in static rural communities, including Milbourne Port, requiring a large housing and employment allocation of growth to avoid the stagnancy of dormitory villages and promote a tangible sustainable local settlement.
4. The Transport Strategy is unsound, has compounded multiple errors of assessment and unduly focused on a flawed Yeovil expansion strategy. The weight and primacy afforded transport action in rural areas is unsatisfactory and the entire approach unjustified.
5. The Sustainability Appraisal is fundamentally flawed. The assessment of reasonable alternatives is incomplete and partisan. The scoring of various topic areas for identified areas of growth does not withstand even the most basic testing on an objective basis. It is legally invalid and the process does not conform to good practice.
6. The legal process followed is not sound. The absence to consider and consult upon all reasonable alternatives is fundamental. Legal challenge is inevitable. There is no evidence of an adequate assessment on a strategy that does not focus the majority of growth upon Yeovil.

Our representations therefore relate to Policies SS2; SS4; SS5; and HG2 of the emerging Core Strategy, and are set out below for consideration:

Spatial Portrait, Milborne Port

- Paragraph 7.46 of the Spatial Portrait notes a population of 2,586 with 1,300 economically active residents and 350 jobs. It is noted that only one quarter of the village residents have access to jobs in the village and suggested that more employment opportunities should be provided. It is evident that high levels of out commuting exist.
- Paragraph 7.50 identifies a target of 299 dwellings over the plan period, of which 210 are already committed with a residual requirement of 89. The 89 dwellings, together with 2.04 hectares of land, will not address the jobs to housing imbalance. It is, therefore, not a sound or sustainable objective of the Local Plan.
- Significant allocation of the spatial housing requirement should be made in the rural settlements, namely the 'other market towns' and 'villages'. This will help to generate a more buoyant market economy with less reliance on commuting to Yeovil and a projected settlement expansion in a southerly direction. A larger number of houses, plus associated employment, would make a tangible difference to the local economy and stimulate the provision of more local services and promote self containment.
- Similar comments can be made at Bruton, Ilchester, Martock/Bower Hinton, South Petherton and Stoke sub Hamdon.

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- Accordingly, objections are made to Policy SS5 'Delivering New Housing Growth'.
- Similarly objections are made to Policy SS3 Delivering New Employment Land. Whilst the reasoning behind minimum size employment sites contained within paragraph 4.68, on page 40 are noted as 'difficult to assess', there is no good reason to constrain employment land to the bare minimum size in the rural centres. It achieves exactly the opposite of the stated policy goal of self containment.
- The employment led strategic housing strategy is, therefore, promoting an unsustainable travel pattern, where inadequate public transport services exist in rural areas, it is a complete dichotomy.

Policy SS2 Development in Rural Settlements

- In light of the above, objections are made to Policy SS2 which indicates that development will be 'strictly controlled' in rural settlements, employment community or affordable housing needs.
- A similar approach to the wider strategic vision should be taken in the rural centres and local market towns to more evenly distribute the spatial growth. Employment growth will simply not occur in the rural centres without the stimulus of additional housing.
- There is no difference between rural centres and the strategically significant town of Yeovil. If rural employment growth and a more buoyant economy is a genuine objective of the Local Plan, than the strategic vision is fundamentally flawed and unsound.

Policy SS4 District Wide Housing Provision

- It is noted that South Somerset District Council (SSDC) are planning for growth of 15,950 homes over the plan period 2006 to 2028. This underlying economic development assumption and the interpretation of demographic data is not considered to be well founded, and the housing growth figure is considered to be an undersupply.
- The need for affordable housing is over-stated in the context of declining open market values, and evidence in SSDC's Housing Market Assessment that indicates that Yeovil has a demonstrable supply of cheaper smaller units available for rent and purchase.
- The planning benefits of new provision of nil subsidy affordable housing through large scale Greenfield allocations is outweighed by the significant negative environmental and heritage impacts south of Yeovil which have not been robustly assessed in the Sustainability Assessment.
- Legal challenge and, therefore, delay is inevitable. The concentration strategy needs to be adapted to provide for more flexibility to ensure delivery.

Policy SS5 Delivering New Housing Growth

- The Local Plan seeks to concentrate growth around Yeovil with a relatively limited proportion of housing being targeted at market towns and rural centres.
- The planned provision of 3,700 homes in an 'eco town' extension to Yeovil is not

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considered to be deliverable or environmentally sustainable.

- Housing provision should be distributed more evenly throughout the district, where additional growth could assist in sustaining rural local services in market towns and rural centres.
- Housing growth may be more appropriately delivered through a 'neighbourhood' planning process as opposed to the proposed 'top down' approach set out in the draft Core Strategy.

Policy YV2 Yeovil Urban Extension

- Detailed evidence will be provided to demonstrate that the proposed preferred option 'sustainable urban extension' to Yeovil is too large, unsustainable, in the wrong location, and will cause irreversible environmental damage.
- Yeovil is constrained by topography, heritage, ecology, agriculture, transport and service infrastructure, all of which indicate that a more modest expansion should be considered.
- The viability of the proposed 'eco town' should be subject to independent assessment, and take account of all anticipated infrastructure and mitigation costs.
- A more rigorous assessment of biodiversity impacts is required.
- Inappropriate weight has been attached to consideration of the Keyford site by the previous Local Plan Inquiry Inspector.

The Sustainability Appraisal Site search process

- The site search process leading to the selection of the preferred option 'sustainable urban extension' is fundamentally flawed, and has been undermined by the housing provision assumptions, and the proposed spatial distribution strategy.
- It is contended that a more modest urban extension located to the north of Yeovil would be a more sustainable option. This would provide greater support and investment to the market towns, local market towns and rural centres.
- The comments of the Highways Agency in respect of the ability of the north Yeovil area to accommodate additional development are not considered to be well founded.
- Sustainability, due to services proximity, is incorrectly assessed. Yeovil Hospital is located closer to the northern periphery than the 'preferred option'.

Transport Related Concerns

- A strategic development at Yeovil comprising 3,700 dwellings and 31ha of employment land would significantly increase traffic generation all key nodes in Yeovil, as well as through East, North and West Coker, and Barwick.
- The traffic generation arising from such strategic development would create negative effects in terms of air quality, noise, light pollution, and would adversely affect the amenity of residents in Yeovil as well as residents of the aforementioned villages.
- Access to the Keyford site is poor, with significant existing congestion at Hendford Hill.

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This would form a barrier to almost all realistic prospect of journeys by foot or cycle to the main work and service areas in Yeovil.

- The Sustainability Assessment is unsound, does not reflect the fact that the Keyford site does not provide any close transport link, by foot, bus, cycle, car or otherwise to the two Yeovil railway stations.
- Increased congestion in Yeovil is likely to have an adverse impact on its economy and environment.

Loss of Grade 1 Agricultural Land

- All the Keyford and Coker land that is proposed as the sustainable urban extension is classed Grade 1 best and most versatile agricultural land, and is of higher more consistent agricultural quality than land on the northern periphery of Yeovil, hence the classification.
- Being so close to a large town, this large piece of Grade 1 land is among the very best opportunities that South Somerset has for sustainable food initiatives such as local organic, slow food and community farming to produce more local and lower carbon food for Yeovil and South Somerset, which would contribute to South Somerset's sustainability objectives and diversify its economy, as well as enhance its food security and people's well-being.
- The land's quality and productivity has made Coker a highly valued agricultural prize at least since Roman times, and the agricultural nature of the East Coker parish and the land in question is an integral part of its heritage, and fundamental to the setting and context of the various Grade I listed buildings and scheduled monuments that are valued by the community and endangered by the proposed development.

Heritage Context

- SSDC's draft Core Strategy and draft Sustainability Assessment do not accurately assess heritage value and importance of East Coker and environs.
- The historical environment of the 'preferred option' is evidently not properly understood by SSDC and consultation should only take place after a proper review of the evidence is conducted to an appropriate standard to enable an objective assessment.

Policy HG2 The Use of Previously Developed Land (PDL) for new housing development

- The suggested target of providing only 40% of new housing on brownfield land is unsustainable and falls below national targets.

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Legal Issues

We will have full regard to the following legal principles in addressing all of the above issues;

Soundness

Section 20 of the Planning and Compulsory Purchase Act 2004 provides for an independent examination to determine whether the Core Strategy satisfies the requirements of section 19 [s20(5)(a)] and whether it is sound [s20(5)(b)].

As relevant section 19 provides:-

(1A) Development plan documents must (taken as a whole) include policies designed to secure that the development and use of land in the local planning authority's area contribute to the mitigation of, and adaptation to, climate change.

(2) In preparing a document the local authority must have regard to –

(a) national policies and advice contained in guidance issued by the Secretary of State;

(b) the regional strategy for the region in which the area of the authority is situated, if the area is outside Greater London;.....

(f) the sustainable community strategy prepared by the authority;.....

(h) any other local development document which has been adopted by the authority;

(i) the resources likely to be available for implementing the proposals in the document;

(j) such other matters as the Secretary of State prescribes.

(3) & (4) compliance with an adopted Statement of Community Involvement.

(5) The local planning authority must also-

(a) carry out an appraisal of the sustainability of the proposals in each development plan document;

(b) prepare a report of the findings of an appraisal.

The Council must comply with its obligations under European Directive 2001/42/EC ("the SEA Directive") and the Environmental Assessment of Plans and Programmes Regulations 2004 ("the SEA Regulations") in preparing the Core Strategy.

Regulation 12(2) of the SEA Regulations applies to the sustainability appraisal of the Core Strategy and this provides that:-

"The report shall identify and evaluate the likely significant effects on the environment of-

(a) Implementing the plan or the programme; and

(b) Reasonable alternatives taking into account the objectives and geographical scope of the plan or programme.

Regulation 12(3) provides that:-

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“The report shall include such information referred to in Schedule 2 to these Regulations as may reasonably be required, taking account of-

- (a) Current knowledge and methods of assessment;
- (b) The contents and level of detail in the plan or programme;
- (c) The stage of the plan or programme in the decision-making process; and
- (d) The extent to which certain matters are more appropriately assessed at different level in that process in order to avoid duplication of the assessment.”

In **Save Historic Newmarket Ltd v Forest Heath DC, SSCLG** [2011] EWHC 606 (Admin) a successful application was made to quash “ to the extent that the court considers appropriate “ the Forest Heath CS and was an attack on a policy for the urban extension of Newmarket for approx 1200 dwellings as part of mixed use development. The concerns were related to the protection of the locally valuable horse industry. The main challenge was that there was a failure of the SEA to contain all that it should have contained. Collins J stated this:-

*“17 It is clear from the terms of Article 5 of the Directive and the guidance from the Commission that **the authority responsible for the adoption of the plan or programme as well as the authorities and public consulted must be presented with an accurate picture of what reasonable alternatives there are and why they are not considered to be the best option (See Commission Guidance Paragraphs 5.11 to 5.14). Equally, the environmental assessment and the draft plan must operate together so that consultees can consider each in light of the other.** That was the view of Weatherup J in the Northern Irish case RE Seaport Investments Application for Judicial Review [2008] Env LR 23. However that does not mean that when the draft plan finally decided upon by the authority and the accompanying environmental assessment are put out to consultation before the necessary examination is held there cannot have been during the iterative process a prior ruling out of alternatives. But this is subject to the important proviso that reasons have been given for the rejection of the alternatives, that those reasons are still valid if there has been any changes in the proposals in the draft plan or any other material change of circumstances and that consultees are able, whether by reference to the part of the earlier assessment giving the reasons or summary of those reasons or, if necessary, by repeating them, to know from the assessment accompanying the draft plan what those reasons are...”*

[emphasis added in bold]

In paragraph 28 of the judgement Collins J explains that a number of factors were influential in rejecting alternative approaches to the making of housing provision were not in the SEA. In paragraph 30 the Judge records the material increase in numbers from 500 to 1000 to 1200 (para 35) but there was no explanation of the increase or why there were no realistic alternatives for that increase being accommodated other than by the already identified spatial strategy within the SEA – this was a flaw requiring relief.

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In ***Heard v Broadland District Council*** [2012] EWHC 344 (Admin) [24/2/12 Ouseley J] a challenge was made to a Joint Core Strategy under s113 of the 2004 Act – paragraph 4 identifies the nature of the challenge- which was that the SEA did not comply with two requirements: first, the CS failed to explain which reasonable alternatives to urban growth in the North East Growth Triangle they had selected to examine and why and second, failure to examine the reasonable alternatives in the same depth as the preferred option which emerged. The judgement records that there is an appraisal in the annex to the SA which is an appraisal only of preferred option against a comprehensive array of policies. It is not an examination of alternatives (para 37). The judgement provides a long time line of the plan and records the inspectors’ deliberations on uncertainty surrounding a northern distributor road which did not prevent them concluding that the plan was justified, effective and consistent with national policy and the most appropriate plan when considered against the reasonable alternatives. The plan focused growth on a North Eastern Growth Triangle (NEGT).

The Judge upheld the challenge on the basis that there was not put before him any document which provided the outline of reasons for selection of alternatives at any stage nor was there any discussion in the SA of why preferred options came to be chosen, there was no analysis on a comparable basis of preferred options and selected reasonable alternatives (para 57) . The essence of the successful argument is captured by Ouseley J at paragraph 71:

*“Again it seems to me that, although there is a case for the examination of a preferred option in greater detail, the aim of the directive, which may affect which alternatives it is reasonable to select, is more obviously met by, and is best interpreted as requiring, an equal examination of the alternatives which it is reasonable to select for examination alongside whatever, even at the outset , may be the preferred option. It is part of the purpose of this process to test whether what may start out as preferred should still end up as preferred **after a fair and public analysis of what the authority regards as reasonable alternatives**. I do not see that such an equal appraisal has been accorded to the alternatives referred to in the SA of September 2009. “*

[emphasis added in bold]

Both these recent cases emphasis the need for the sustainability appraisal and the Core Strategy which it supports to be organised in such a way that the report explains which alternatives had been examined and why they are not considered to be the best option in a readily accessible manner and without the need for a “paper chase..to find out what had been considered and why it had been rejected” [see paragraph 12 and 13 of *Heard*]. The relevant passage in the judgment of Ouseley J is as follows:-

“12..Mr Harwood for the Claimant submitted, and I accept, that while options can be rejected as the plan moves through successive stages, and do not necessarily require to be re-examined at each stage, even if only by reference back to earlier documents, so long as the reasons there given remained sound. But the earlier documents had to be organised and presented in such a way that they could readily

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be ascertained and no paper chase was required to find out what had been considered and why it had been rejected; see Save Historical Newmarket Ltd v Forest Heath District Council [2011] EWCH 606 (Admin), Collins J, paras 17 and 40.”

At para 40, he said, and it provides a useful summary of the test

“40. In my judgment, Mr Elvin is correct to submit that the final report accompanying the proposed Core Strategy to be put to the inspector was flawed. It was not possible for the consultees to know from it what were the reasons for rejecting any alternatives to the urban development where it was proposed or to know why the increase in the residential development made no difference. The previous reports did not properly give the necessary explanations and reasons and in any event were not sufficiently summarised nor were the relevant passages identified in the final report. There was thus a failure to comply with the requirements for the Directive and so relief must be given to the claimants.”

Section 39 of the Planning and Compulsory Purchase Act 2004 provides for the plan making function to be conducted with the mandatory “objective of contributing to the achievement of sustainable development”.

The Local Plan has been brought forward under national planning policy and by reference to the tests of soundness identified in PPS 12 (June 2008) and encapsulated within the table at paragraph 4.52:-

“To be “sound” a core strategy should be JUSTIFIED, EFFECTIVE and consistent with NATIONAL POLICY.

“Justified“ means that the document must be:

- founded on a robust and credible evidence base
- the most appropriate strategy when considered against the reasonable alternatives

“Effective “means that the document must be :-

- deliverable
- flexible
- able to be monitored

The concepts of justification and effectiveness are expanded at paragraphs 4.36 - 4.38 and 4.4- 4.47 . “

Pursuant to Annex 3 to the National Planning Policy Framework (NPPF) published on 27th March 2012 PPS 12 was replaced by the NPPF. This provides a policy definition of “soundness” within paragraph 182 as follows:-

“182. The Local Plan will be examined by an independent inspector whose role so to assess whether the plan has been prepared in accordance with the Duty to Cooperate, legal and procedural requirements, and whether it is sound. A local planning authority should submit a plan for examination which it considers is “sound”- namely that it is:

- **Positively prepared** – *the plan should be prepared based on a strategy which seeks to meet objectively assessed development and infrastructure requirements, including unmet requirements from neighbouring authorities*

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where it is reasonable to do so and consistent with achieving sustainable development;

- **Justified** – *the plan should be the most appropriate strategy, when considered against the reasonable alternatives, based on proportionate evidence;*
- **Effective** – *the plan should be deliverable over its period and based on effective working on cross-boundary strategic priorities; and*
- **Consistent with national policy** – *the plan should enable the delivery of sustainable development in accordance with the policies in the Framework.”*

Conclusions

We recognise the challenges that the Council faces in planning a coherent and sustainable Core Strategy over the plan period to 2026, and will be willing to engage constructively with its Planning Policy Team. However, we reserve our right to submit further information.

I would be grateful if you could acknowledge receipt of these representations, and ensure that we are registered formally on your database. For the avoidance of doubt, we will wish to participate at the forthcoming Examination.

Yours faithfully



Michael Orr
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