

Examination of the Horsham District Local Plan

Statement on behalf of Highwood Group

Representation Number(s): 1194363, 1194366, 1194369

Matter 1 –Legal and Procedural Requirements

November 2024

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Client

Highwood Group

Our reference

HIGS3003

November 2024

1. Introduction

- 1.1 This statement is submitted on behalf of Highwood Group, who have interests in the assessed reasonable alternative growth option west of Billingham (See Regulation 19. Representations: [Document F](#)).
- 1.2 The statement responds to the Inspectors' Issues and Questions for Matter 1 – Legal and Procedural Requirements.
- 1.3 Section 20(2) of the PCPA states that the LPA must not submit their Local Plan unless they think it is ready for independent examination. Paragraph 1.2 of the [Procedure Guide for Local Plan Examinations](#) elaborates, stating:

'Having considered the Regulation 19 consultation responses, the LPA should only submit a plan if they consider it to be sound Before submission, the LPA must do all it can to resolve any substantive concerns about the soundness or legal compliance of the plan, including any raised by statutory undertakers and government agencies. (our emphasis).
- 1.4 Paragraph 1.5 of the same document sets out the procedure to follow if the LPA do wish to make changes to remedy issues of soundness prior to formal submission of the Regulation 19 Plan. Our client submitted representations to the Regulation 19 consultation stage, detailing significant issues pertaining to the plan's soundness, and respectfully invited Horsham District Council to explore this option, specifically in relation to Policy HA4 of the plan. This approach would have reduced the prospect of main modifications having to be made to this policy, and then consulted on during the examination process, contrary to the aforementioned guidance.
- 1.5 The Council have opted not to pursue this option. The [significant concerns](#) outlined by our client at the Regulation 19 stage, on issues pertaining to the plan's soundness, have not therefore been overcome in the submitted version of the plan.
- 1.6 Accordingly, we have examined the Inspector's questions for Matter 1 and provide responses to those we wish to contribute to debate on. We have also respectfully requested the opportunity to participate in the forthcoming hearing sessions to assist the Inspector further on such matters.

2. Response to Issues and Questions for Matter 1 – Legal and Procedural Requirements

Plan Preparation

Question 2. In overall terms, has the preparation of the Plan complied with the Statement of Community Involvement?

2.1 No. HDC through their Statement of Community Involvement (HDC, Sept 2020) assert at paragraph 2.19:

‘Horsham District Council wants our plan-making to fully consider and take account of community views.’

2.2 The remainder of the same paragraph sets out a range of means to gauge community views, beyond just the statutory consultation stages, recognising plan making is an iterative process. This is reiterated at paragraph 1.10 of the Regulation 19 Plan.

2.3 There was a four-year delay between the Regulation 18 stage (2020) and Regulation 19 stage (2024) consultations on the emerging Local Plan. This was the result of a range of significant matters, including:

- the release of Natural England’s ‘Position Statement’ in relation to water neutrality
- changes to NPPF - specifically to paragraph 22 (amongst others), including a requirement for a 30-year vision for new settlements, or significant urban extensions – both of which were proposed in the Reg. 18 plan at that time; and
- the requirement, amongst other matters, for further cross boundary work to be undertaken on strategic matters in light.

2.4 Over the same period, the red line extent of our client’s site and cohesiveness of the proposals within it substantially changed. As did the level of community support for this reasonable alternative strategic growth option, with a wide range of local stakeholders and community organisations supporting the allocation of this option (West of Billingshurst), versus that proposed to the East of Billingshurst.

2.5 This included Billingshurst Parish Council and the Billingshurst Sports and Recreation Association (BSRA), both of whom have signed a legal agreement with our client to include their lands as part of a comprehensive proposal to deliver a range of social and economic uses for the wider community’s benefit.

2.6 This agreement was the outcome of several meetings between the Parish Council, the BSRA and Billingshurst Tennis Club (who we understand would fall under the umbrella of the BSRA, should the proposals West of Billingshurst [inc. a new purpose-built tennis facility for the tennis club], be secured and implemented).

- 2.7 The significant shift in community support for strategic growth West of Billingshurst, versus that expressed at Regulation 18 stage in 2020, was communicated to HDC as early as November 2021. This included written exchanges between the Clerk of Billingshurst Parish Council and HDC Officers, dated 9th November 2021. The support for West Billingshurst continued to grow thereafter, with a wide range of community organisations adding their similar support.
- 2.8 A summary of the support garnered for this growth option between 2020 and 2023, from a wide range of organisations, was compiled and shared with HDC early in 2023; and formal presentations were made on the same, at HDC's request, to HDC Members in June 2023. A copy of that presentation was submitted with our Regulation 19 representations ([Document C](#)), including a summary of community support for this option between 2021 and 2023, which can be seen from page 87 onwards in this document.
- 2.9 Yet, in presenting their [Report](#) on the draft Regulation 19 Local Plan to HDC's 11th December Cabinet meeting, Officers state at paragraph 5.3:
- 'Since the close of the Regulation 18 consultation in March 2020, correspondence and petitions relating to the Local Plan have continued to be received, particularly in relation to potential housing allocations identified at the Regulation 18 stage of consultation. The content of these have been noted but they have not raised any new views or concerns that had not already been made by others at the Regulation 18 consultation.' (our emphasis).*
- 2.10 This does not in our view represent an accurate account of matters that had unfolded in Billingshurst since Regulation 18 stage in 2020, particularly with respect of the significant evolution of the proposals at and support for the reasonable alternative growth option West of Billingshurst, particularly from the Parish Council and other key community organisations.
- 2.11 Highwood wrote to Council Officers and Members setting out their concerns with respect to such matters in advance of the 11th December Cabinet meeting, as did other representatives of community organisations. In addition, a written question was submitted for public questions at the Cabinet meeting on the same.
- 2.12 Despite this, the 11th December 2023 Cabinet meeting [minutes](#) show no correction or update to either acknowledge or address significant shifts in community views, including that of the Parish Council, toward growth at Billingshurst in the four years between Reg. 18 and Reg 19 stages.
- 2.13 This is more notably absent in the consultation statements accompanying the submission Local Plan. Separate statements have been produced by HDC covering the Reg 18 and Reg 19 stages, rather than the single consultation statement advised under section 22 of The Town and Country Planning (Local Planning) (England) Regulations 2012. A single statement would have afforded the opportunity to explain the reasons for significant delay between the two consultation stages, set out any significant matters that may have arisen over this period (inc. the significant shift in community support for a reasonable alternative growth option, including from the Parish Council, versus that expressed in 2020), and how these have been accounted for in the plan making process.

- 2.14 The Planning Advisory Service have produced a Good Practice Note for LPAs for ['Producing a Consultation Statement under Regulation 22\(1\)\(c\)'](#). At page 10, the PAS advises as part of good practice:
- 'Short explanations should be given for significant matters that may have arisen, including periods of delay...'*
- 2.15 This has not been heeded, with reliance and focus instead on the Council's response to representations submitted four years prior in 2020, and again in 2024. No commentary or update is provided on events that led to such a significant delay between the two consultation stages, or importantly in relation to substantial shifts in community views toward any particular growth option consulted on— as evidenced in respect of options at Billingshurst.
- 2.16 In 2020 for example, Billingshurst Parish Council opposed strategic growth at this settlement. However, shortly after, our client secured an interest in lands west of Billingshurst, and progressed comprehensive and cohesive proposals for these lands in consultation with the parish and a range of community organisations. The outcome is testament to the benefit of ongoing engagement with the community, as in the four years between Regulation 18 and 19 plan stages, the Parish Council and a range of other community organisations have shifted their views significantly; and now express their support for growth at Billingshurst, in the comprehensive mixed use form and location proposed by our client (see [Document F](#) of our client's Regulation 19 Representations). As set out in paragraph 2.7 and 2.8 above, the significant shift in views expressed at Reg 18 stage in 2020, was communicated to HDC as early as 2021.
- 2.17 HDC were therefore fully aware of the significant shift in community support for a reasonable alternative growth option at Billingshurst, well before the Regulation 19 Local Plan, and the SA that accompanied it were drafted. However, there is no evidence to suggest the communities support for this option has been accounted for, shaped or afforded weight in the plan making process (inc. in the SA), in so far as decisions pertaining Billingshurst are concerned at least.
- 2.18 This runs contrary in our client's view to the Council's own assertions through their SCI, and Paragraph 73 of NPPF:
- 'Working with the support of their communities, and with other authorities if appropriate, strategic policy-making authorities should identify suitable locations for such development where this can help to meet identified needs in a sustainable way.'* (Our emphasis).
- 2.19 It is difficult in such context to conclude anything other than HDC have failed to 'take account of community views'¹, and seem instead to have prioritised the need to progress to Regulation 19 and submission stage without further delay and cost, irrespective of such a significant shift in the community's views.
- 2.20 For these reasons, and with reference to the aforementioned guidance on the same, we do not consider the preparation of the plan complies with the assertions made in

¹ Paragraph 2.19 - Statement of Community Involvement, HDC, 2020

the Council's SCI, or paragraph 73 and 35 of the Framework with respect to being 'consistent with national policy'.

- 2.21 As we go on to elaborate on under subsequent issues and matters, the Local Plan has not in our view been arrived at through an objective assessment process, comprised of both technical and community engagement considerations (beyond those expressed purely at the Regulation 18 stage).
- 2.22 We move on to set out our more fundamental concerns with the SA process that informed the submitted plan in the following section.

Question 5. Is the SA adequate and have the legal requirements of the 2004 Act and the Town and Country Planning (Local Planning) (England) Regulations 2012 (2012 Regulations) been met?

- 2.23 The Sustainability Appraisal (HDC, Dec 2023) accompanying the Regulation 19 version of the Local Plan forms a key part of HDC's justification for allocating lands east of Billinghamurst for growth under Policy HA4. We have reviewed this in some detail, and have identified significant flaws in the evidence base relied upon in the SA process for this policy, and hence we strongly question the validity of the conclusions that can be drawn from it as a consequence of this.
- 2.24 The 'Horsham District Council Regulation 19 Site Assessment Report' (HDC, Dec 2023) comprises a key piece of evidence used to inform the SA process, concluding on the effects of preferred policy HA4, versus the reasonable alternatives. As outlined in the SA itself, land West of Billinghamurst (Newbridge Park) is concluded by HDC to be a reasonable alternative to that proposed East of Billinghamurst under draft Policy HA4.
- 2.25 Paragraph: 018 Reference ID: 11-018-201403306 of the Planning Practice Guidance (PPG) confirms an SA needs to assess the likely effects of the plan when judged against reasonable alternatives. In doing so, the LPA should:

'outline the reasons the alternatives were selected, and identify, describe and evaluate their likely significant effects on environmental, economic and social factors using the evidence base (employing the same level of detail for each alternative option)....

.....

'Any assumptions used in assessing the significance of the effects of the plan will need to be documented. Reasonable alternatives are the different realistic options considered by the plan-maker in developing the policies in the plan. They need to be sufficiently distinct to highlight the different sustainability implications of each so that meaningful comparisons can be made.' (our emphasis).

- 2.26 However, and contrary to such national guidance, if one compares the assessment of 'Land East of Billinghamurst' (Pages 40-51) with the assessment of 'Land West of Billinghamurst' (pages 80-89) within the 'Horsham District Council Regulation 19 Site Assessment Report' (HDC, Dec 2023), it is evident there are significant inconsistencies in the assumptions made and effects arising for each option. The Council have not employed the same level of detail or applied assumptions and weightings consistently

for each option. The extent and nature of these inconsistencies suggest a predetermined outcome was in mind during the drafting of the SA, as opposed to an objective assessment of each alternative.

- 2.27 Our client set out in some detail the specific and significant flaws with the SA process at Regulation 19 stage, and specifically the evidence and assumptions upon which this is based. To avoid repetition, we refer the Inspector to our client's detailed [comments](#) on both the SA and Site Selection process. This sets out compelling evidence of factual errors and inconsistencies in the site assessment process that underpinned the SA assessment of reasonable alternatives to Policy HA4.
- 2.28 Our client respectfully recommended such matters be redressed by the Council prior to formal submission of the Local Plan, in accordance with Section 20(2) of the PCPA and Paragraphs 1.2 and 1.5 of the [Procedure Guide for Local Plan Examinations](#). HDC have chosen not to do so, and moved instead to submit the plan on the 26 July 2024, four days prior to the publication of the proposed reforms to the Framework on the 30th July 2024.
- 2.29 Contrary to Paragraph: 018 Reference ID: 11-018-201403306 of the Planning Practice Guidance, the assumptions and weightings made are not consistently and objectively applied or based on the same level of detail. The outcome of the process precludes '*meaningful comparisons*' being made between the HA4 site and reasonable alternatives, and only serve to support a pre-determined outcome to support the submitted Policy HA4 site.
- 2.30 We would urge the Inspector to review the detailed evidence set out in [our clients Regulation 19 representation form](#), which sets out a detailed and compelling account of the flaws and inconsistencies in the SA process and the site assessment evidence that underpins this.
- 2.31 As set out above, our client had invited HDC to address such shortcomings prior to formal submission of the Local Plan, in accordance with Section 20(2) of the PCPA and Paragraphs 1.2 and 1.5 of the [Procedure Guide for Local Plan Examinations](#). HDC chose not to do so, and hence we would suggest this now needs to be addressed via the Modifications stage of the Examination.
- 2.32 The SA and Site Assessment evidence base should be updated, and a meaningful comparison undertaken of reasonable alternatives to Policy HA4 in light. This objective assessment process, and the views of the community via a further round of consultation, should then inform the preferred site for inclusion in Policy HA4.
- 2.33 It is our client's assertion and indeed that of the Parish Council and other community organisations, that the outcome will favour Land West of Billinghamurst being selected. All our client is calling for in the interim, is for a fair and objective assessment to be undertaken of reasonable alternatives, for this to be consulted upon, and for this to inform a final democratic decision on a preferred, justified and effective policy option for the emerging Local Plan.

- End -