

Examination of the Horsham District Local Plan

Statement on behalf of Highwood Group

Representation Number(s): 1194363, 1194366, 1194369

Matter 9 – Sites Allocated for Development in the Plan

November 2024

Turley

Contents

1.	Introduction	3
2.	Response to Issues and Questions for Matter 9 – Sites Allocated for Development in the Plan	4



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 Billinghamurst (See Regulation 19. Representations: [Document F](#)).
- 1.2 The statement responds to the Inspectors' Issues and Questions for Matter 9 – Sites Allocated for Development in the Plan, specifically strategic site Policy HA4 – Land East of Billinghamurst.
- 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 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 (HDC) to explore this option, specifically in relation to Policy HA4 of the plan. This approach would have reduced the prospect of significant modifications having to be made, 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 9 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 9 – Sites Allocated for Development in the Plan

Strategic Sites

Question 11. Is Strategic Policy HA4: Land East of Billingshurst sound?

- 2.1 No. We have assessed the policy and the process that led to its selection as the preferred option, versus the reasonable alternatives, against the tests of soundness set out in Paragraph 35 of the Framework. We conclude it fails three of these tests, as the policy arrived at is neither *'justified'*, *'effective'* or *'consistent with national policy'*.

Justified Test

- 2.2 The Sustainability Appraisal (HDC, Dec 2023) accompanying the Regulation 19 Proposed Submission version of the Local Plan forms a key part of HDC's justification for allocating lands East of Billingshurst 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.
- 2.3 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 Billingshurst (Newbridge Park) is concluded by HDC to be a reasonable alternative to that proposed East of Billingshurst under draft Policy HA4.
- 2.4 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).

- 2.5 However, and contrary to such national guidance, if one compares the assessment of 'Land East of Billingshurst' (Pages 40-51) with the assessment of 'Land West of Billingshurst' (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.

- 2.6 To avoid repetition, we rely upon and request the Inspector review the detailed evidence set out in [our clients Regulation 19 representation form](#), particularly the sections entitled 'Red Line' and 'Flaws in Site Assessment Process', 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.
- 2.7 We specifically draw the Inspector's attention, by way of example, to the significant errors and inconsistencies outlined in relation to education, biodiversity and housing to name but a few. All of which combine to support our assertion that there was a pre-determined outcome in mind when drafting the SA, instead of an objective assessment of the HA4 policy option versus reasonable alternatives.
- 2.8 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.
- 2.9 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.
- 2.10 In light, we assert the policy does not meet the 'justified' test of soundness.

Effective Test

- 2.11 In our representations to the Regulation 19 Stage, we also highlight significant and fundamental gaps in the Council's evidence base for the Policy HA4 allocation. These cast significant doubt over the effectiveness of this Policy as drafted, and hence the deliverability of the proposals contained within it over the plan period envisaged.
- 2.12 As the Council are unable to meet the districts calculated housing needs, based in part on water neutrality capacity constraints, greater importance is placed in our view on ensuring those sites proposed for allocation are effective and deliverable over the plan period envisaged.
- 2.13 Under sub-section 'Deliverability & Viability' (Page 48 of the 'Horsham District Council Regulation 19 Site Assessment Report' (HDC, Dec 2023)), for example, it is highlighted that promoters of the East Billingshurst option have not provided a detailed viability assessment to the Council. There are also indications the promoters may well need to

adjust the overall percentage, mix and timing of provision of affordable housing, pending the outcome of further viability testing.

- 2.14 Officers rightly in our view conclude at page 45 of the *'Horsham District Council Regulation 19 Site Assessment Report'* (HDC, Dec 2023) that the East Billingshurst option:

'does not make as significant a contribution to boosting housing as other promoted strategic scale sites and there are also some outstanding concerns as to the timing and level of affordable homes'.

- 2.15 This suggests the eastern option may already have marginal viability issues, even before accounting for the range of other off-site infrastructure requirements listed in the Officers assessment and draft policy, and yet to be accounted for. A fundamental one being the potential need to provide a bridge over the rail line to address Network Rail's concerns with the allocation of this site (criterion 6f, Policy HA4), and /or the diversion of a public right of way.

- 2.16 In the penultimate paragraph of page 50 of the *'Horsham District Council Regulation 19 Site Assessment Report'* (HDC, Dec 2023)), Officers confirm:

'Following feedback from Network Rail, the promoter is exploring the provision of a bridge to avoid a significant diversion of the public right of way in order to remove an uncontrolled ground level crossing over the railway adjacent to this allocation. '

- 2.17 Network rail have understandably highlighted the allocation will inevitably lead to increased use of the Public Right of Way towards the railway station, and hence reliance on the existing uncontrolled crossing of the rail line; and raise legitimate safety concerns with this.

- 2.18 As indicated in the Highways assessment section of the *'Horsham District Council Regulation 19 Site Assessment Report'* (HDC, Dec 2023), the options to address this are to seek a significant diversion of the PRoW, which would impact the accessibility of the site to the train station significantly, or put in the bridge requested by Network Rail.

- 2.19 Both raise significant questions over deliverability, and hence effectiveness of the policy. The preferred bridge would need to cross Network Rail land, for which there would likely be a financial cost associated, and a legal agreement secured, before this option can be assumed. No agreement is understood to be in place, and our experience on projects where this has been sought suggests this could take some time to resolve. The cost to cross Network Rail land could be significant, over and above construction costs; and given HDC have already cited the promoter's viability concerns in providing a compliant affordable housing mix, one could reasonably assume this would have significant implications for viability and deliverability of this option. As set out in our [Regulation 19 representations](#), the construction of the bridge itself would also have heritage, landscape, ecology and arboricultural impact implications that would need to be assessed alongside, assuming all other technical and viability constraints can be overcome.

- 2.20 If the bridge is not deliverable, then it becomes essential to deliver a major diversion to the PRoW to avoid significantly intensifying the use of the uncontrolled rail crossing. This diversion would have significant implications for the accessibility credentials relied upon for the East Billingham site option, as compared to other reasonable alternatives. A Public Path Order to divert is equally not a foregone conclusion, and can be a lengthy process, particularly if the order is opposed.
- 2.21 In either scenario (bridge or diversion), there are significant unresolved implications for the deliverability of this site, and hence effectiveness of Policy HA4. Indeed, we note Network Rail continue to have unresolved concerns with the wording and effectiveness of Policy HA4 at Regulation 19 stage:
- 'A footbridge is necessary to remove the safety risk. During phasing of the development, a condition limiting commencement of development is required until the crossing is closed and the alternative crossing is provided. Developer must engage with Network Rail's Asset Protection Team (ASPRO).'*
- 2.22 HDC's proposed Main Modification (HM091) does not in our view overcome Network Rail's concerns, as it permits development to commence, as long as land is safeguarded to facilitate such works. We contend this does not go far enough, particularly given the very real safety risks highlighted by Network Rail, which are likely to be exacerbated through the intensification of use brought about by the HA4 allocation, until such time as either a bridge or PRoW diversion is secured. The implications of the costs of either solution have not been disclosed in a viability assessment, nor factored into the assessment of the HA4 site, versus the reasonable alternatives, which is a significant flaw in our view.
- 2.23 The Highwood Group have conversely submitted a viability report in support of the West of Billingham reasonable alternative, proposals which provide a greater number of homes, including affordable homes, and homes for the elderly, a report which is uncontested by HDC. HDC point to the fact the promoters of the eastern option have had not yet submitted a viability assessment, and as highlighted above, had raised viability concerns even before the rail crossing matters are factored in.
- 2.24 These matters could well have significant impacts on viability and deliverability of the eastern option. Leaving such matters to be addressed post allocation raises many legitimate concerns. Particularly if further assessment post allocation concludes the need to reduce affordable housing provisions, or other obligations promised to the community to render this allocation viable and deliverable. Evidence on these matters is not provided by HDC, rather they are left to be determined at application stage.
- 2.25 Hence, we have very real concerns with the justification for and effectiveness of Policy HA4 as drafted, versus the reasonable alternatives. It is unreasonable to suggest such fundamental matters, which run to the heart of the site's suitability and effectiveness, are left to be addressed post allocation. The public would have every right to feel they have been misled, if post adoption, the site promoters are forced to reduce the planning obligations taken into account in the site assessment process, to address known viability or delivery issues not bottomed out prior to allocation.

- 2.26 For all these reasons, we cannot conclude the policy meets the ‘Effective’ test of soundness in NPPF.

Consistent with National Policy

- 2.27 HDC consulted on the Regulation 18 version of their Local Plan some four years ago, in February 2020. Since that point, the red line extent of our client’s site and cohesiveness of the proposals within it have significantly changed. As has the level of community support for this option, with a wide range of local stakeholders and community organisations supporting the allocation of our clients’ proposals West of Billingshurst, versus those proposed under draft Policy HA4 to East of Billingshurst.
- 2.28 As set out in our Matter 1 Statement, HDC were fully aware of the significant shift in community support for a reasonable alternative growth option at Billingshurst, versus that expressed at Regulation 18 stage, well before the Regulation 19 Local Plan, and the SA that accompanied it were drafted. This included the Parish Council, who opposed strategic growth at Regulation 18 stage in 2020, but supported it in the form and location proposed by our client; and wrote to HDC to confirm this as early as 2021. The Parish Council and a number of community organisations continued to support this alternative prior to publication of the draft Regulation 19 Local Plan, have made representations to the Regulation 19 stage confirming this; and we understand will be participating in the examination to attest to such matters.
- 2.29 However, there is no evidence to suggest the communities support for this reasonable alternative has been accounted for, shaped or afforded weight in the plan making process. Over reliance instead appears to be placed on the responses received to the Regulation 18 Local Plan, some four years prior, which are no longer representative of the views of the community, or those of the Parish Council. HDC have produced a consultation report for the Regulation 18 stage, and a separate report for the Regulation 19 stage, rather than a single statement setting out the consultation approach during the whole plan production process, including an explanation of the delays between the two stages and any significant matters arising in between. The significant shift in community support for a reasonable alternative growth option surely representing such a matter.
- 2.30 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 towards the Policy HA4 site.
- 2.31 For these reasons, and with reference to the aforementioned guidance on the same, we do not consider the preparation of this policy complies with the assertions made in the Council’s SCI, or guidance in paragraph 73 of the Framework (Sept 2023 version), with respect to strategic scale sites, which states:

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

‘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.’

- 2.32 HDC’s failure to work with the support of their communities in respect of the HA4 policy site is accordingly not ‘consistent with national policy’ under the tests set out at paragraph 35 of the NPPF.
- 2.33 For avoidance of repetition, we refer to our Matter 1 Statement with regards to the plan’s lack of compliance with the SCI, and such national policy guidance.
- 2.34 In conclusion, 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.
- 2.35 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.
- 2.36 It is our client’s assertion and indeed that of the Parish Council and many other community organisations, that the outcome is likely to favour Land West of Billingham 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 -