

## **North Somerset Council**

### **ISSUES RAISED IN SA CONSULTATION AND INITIAL NSC RESPONSE**

1. The Sustainability Appraisal Supplementary Report (SASR) was published for consultation between 24 January and 28 February 2014 and attracted 17 comments. These have been published on the council's e-consult website<sup>1</sup>. This report summarises the issues raised and the council's initial response. This response may differ from the final response to be considered when the remitted Core Strategy policies are re-adopted.
2. Some of the comments received were on the merits of individual options rather than on the SASR as such<sup>2</sup>.
3. Of the three statutory consultees for Strategic Environmental Assessment (SEA), only Natural England responded, and is largely content. Further information was sought on whether the housing figure now proposed is a minimum; it has been confirmed to Natural England that it is not.

### **Legality**

4. The legal basis for SEA is set out in the Environmental Assessment of Plans and Programmes Regulations 2004, transposing European Directive 2001/42/EC. The statutory basis for Sustainability Appraisal (SA) generally is set out in the Planning and Compulsory Purchase Act 2004, section 19(5) and the Town and Country Planning (Local Planning) (England) Regulations 2012, principally Regs. 2, 17, 22 and 26. The council is also under a general duty to promote sustainable development, under the Planning and Compulsory Purchase Act 2004, section 39.
5. These provisions relate to the appraisal of the plan as it proceeds through its statutory stages. The remitted policies of the Core Strategy are currently at submission stage and are awaiting examination. The wording of Policy CS13 therefore is currently that of the Publication Version (January 2011), in which the housing requirement figure is a minimum of 13,400. This figure was appraised in February 2011, along with reasonable alternatives.
6. The SASR provides a non-statutory appraisal of a non-statutory document, the council's statement for consultation of its proposed position in respect of the examination of remitted policies (November 2013). Neither that document nor the SASR has any formal legal status. The SASR is provided for the avoidance of doubt and to better inform the examination process, identifying the likely significant effects of the new options ahead of any formal modifications. Although it has been prepared with regard to the relevant legislation, the council does not believe that its provision is a legal obligation.

---

<sup>1</sup> <http://consult.n-somerset.gov.uk/consult/ti/cs13sa/consultationHome>

<sup>2</sup> Backwell PC; 'Bill'; Congresbury PC; Edwards

It therefore disagrees with those respondents who believe that a legal breach has occurred<sup>3</sup>.

### *Timing*

7. It has been argued<sup>4</sup> that the 2013/14 consultation periods – for the position statement and the SASR – should have been coterminous, or at least have overlapped. The council has followed the spirit of the regulations<sup>5</sup>, which require that the draft plan and its accompanying environmental report (“the relevant documents”) are made available for the purposes of consultation<sup>6</sup>. Consultation must be “as soon as reasonably practicable after the preparation of the relevant documents”<sup>7</sup>. The consultation period must be “of such length as will ensure that the consultation bodies and the public consultees are given an effective opportunity to express their opinion on the relevant documents”<sup>8</sup>. The principal check on the council’s actions is not at the consultation stage but at adoption. The plan cannot be adopted before account has been taken of the environmental report and opinions expressed in response<sup>9</sup>.

8. It has been argued<sup>10</sup> that publishing the SA of the council’s preferred option after it has been selected suggests that the outcomes of the SA process may have been pre-determined and the appraisal may have not properly informed the council’s policy choices. However, the SA, like the Examination, is part of an ongoing decision-making process that has not yet come to a final view on the best option. The ODPM guidance<sup>11</sup> is clear that less realistic options should be filtered out before doing the appraisal, provided that the reasons for doing so are documented<sup>12</sup>.

### *Mitigation*

9. It has been argued<sup>13</sup> that the SASR has not considered the effects of a failed containment strategy. However, it is not the council’s view that the strategy will fail. Policy CS20 sets out the required mechanism for its success. The requirement<sup>14</sup> is to consider the effects of *implementing* the plan (as a whole), not the effects of failing to implement it. Deliberate or assumed failure would not be a reasonable alternative, ‘taking into account the objectives and the geographical scope of the plan or programme’.

---

<sup>3</sup> Barton Willmore; University of Bristol

<sup>4</sup> Barton Willmore

<sup>5</sup> Environmental Assessment of Plans and Programmes Regulations 2004, transposing Directive 2001/42/EC, notably in this context Art. 6 on consultations

<sup>6</sup> Reg. 13(1)

<sup>7</sup> Reg. 13(2)

<sup>8</sup> Reg. 13(3)

<sup>9</sup> Reg. 8(2)-(3)

<sup>10</sup> Barton Willmore; Gladman; Persimmon

<sup>11</sup> ODPM (2005), *A Practical Guide to the Strategic Environmental Assessment Directive* [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/7657/practicalguidesea.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/7657/practicalguidesea.pdf)

<sup>12</sup> Para. 5.B.6

<sup>13</sup> University of Bristol

<sup>14</sup> Reg. 12(2)

## Soundness

10. The tests of soundness set out in para. 182 of the National Planning Policy Framework (NPPF) relate specifically to the plan. There are no tests of soundness for an SA. The Planning Inspectorate has published guidance<sup>15</sup> on the tests of soundness, which refers to SA at page 6<sup>16</sup>. However, that guidance refers to using the information provided in the SA to answer certain questions about the plan. It does not refer to an evaluation of the SA itself. In terms of the SEA legislation, the requirement is that the authority preparing the plan considers comments made on the SA before adopting the plan<sup>17</sup>. There is no independent evaluation process.

11. It has been argued<sup>18</sup> that the SASR pays insufficient regard to the NPPF and to local aspirations for economic growth. However, the purpose of SA is to identify likely significant effects, including negative effects, regardless of whether those effects are considered acceptable in policy terms.

## Content

### *SA objectives*

12. It has been argued<sup>19</sup> that the SA objectives formulated in 2007/11 should have been updated. This point is addressed in the SA at para. 2.5. The objectives were widely enough drawn in 2007/11 to accommodate any change of emphasis since.

### *Reasonable alternatives*

13. It has been argued<sup>20</sup> that Option A (a plan requirement of 14,000 dwellings) is unnecessary given that this figure was quashed or found unsound. In fact, the High Court judgment is explicit that Policy CS13 was remitted and not quashed. The Option A number itself was not found to be at fault. The basis for the judgment related solely to the reasoning for that number. The number remains a viable option if the jobs:homes balance is found to be an over-riding consideration.

14. It has been argued<sup>21</sup> that the SA has unreasonably excluded housing figures higher than 20,220 on the grounds that they are undeliverable. The earlier SA Main Report (2011) included an appraisal of the draft RSS figure of 26,750. That evidence remains available. However, with the passage of time it has become increasingly clear that this is an unreasonable alternative. By April 2013 only 13 years of the plan period remained. In the first 7 years, completions totalled 5,992 dwellings. Using the draft RSS figure would

---

<sup>15</sup> [http://www.planningportal.gov.uk/uploads/pins/ldf\\_dpd\\_soundness\\_guide.pdf](http://www.planningportal.gov.uk/uploads/pins/ldf_dpd_soundness_guide.pdf)

<sup>16</sup> There is a further reference, to monitoring, on page 8

<sup>17</sup> Environmental Assessment of Plans and Programmes Regulations 2004, Reg. 8(2)-(3)

<sup>18</sup> Barton Willmore

<sup>19</sup> D Withers; Gladman; University of Bristol

<sup>20</sup> Gladman; Persimmon

<sup>21</sup> Barton Willmore; Persimmon

produce a residual of 20,758 and an annual requirement over the remaining plan period of 1,597. Given that large strategic sites are likely to have a lead-in period, this figure would in practice be even higher in the later years. Although the economy appears to be recovering, it will take time to return (if it does) to the boom conditions of the mid-2000s.

15. The figure of 1,597 exceeds even the best year's achievement in North Somerset over the past 33 years. In only 7 years out of 33 have completions exceeded 1,200. This has not been because supply has been constrained by policy. Completion rates track the economic cycle, not the plan-making cycle. Although the NPPF<sup>22</sup> calls for a significant boost in housing supply, it does not quantify this, nor does it state that completion rates everywhere are expected to be higher in the future than they have been in the past; it also states<sup>23</sup> that plans should be deliverable. Reasonable alternatives must be both realistic and deliverable<sup>24</sup>. The council's current proposal is for a reduced completion rate (857 dwellings per annum over the plan period) compared to the Replacement Local Plan figure (993 dpa), reflecting the current balance of constraints and opportunities in North Somerset.

16. It has been argued<sup>25</sup> that the SASR should consider effects beyond North Somerset. Since the SEA Directive allows for trans-boundary effects between Member States to be considered, local effects should likewise be considered. However, as the SASR notes, the number of options for locating housing elsewhere is vast. It is not within the council's control and there is no means of tracking any effects. Those who might have chosen to move to North Somerset if the housing stock were larger do not necessarily live at present in the West of England or even within the South West.

17. Other comments<sup>26</sup> relate to the Duty to Co-operate, but as the SASR notes, the Core Strategy was submitted before that duty came into effect. Others<sup>27</sup> suggest that the SASR should assess ways of distributing the higher housing figures but that is not its role, as the Examination is currently restricted to considering the housing requirement figure and will only proceed to consider its distribution if material modifications to the submitted spatial strategy are needed.

### *Containment strategy*

18. One comment<sup>28</sup> is concerned that higher housing numbers conflict with the objective of self-containment. Others<sup>29</sup> challenge the containment strategy itself, but this is encapsulated within the adopted Core Strategy, notably in Policy CS20, and so is not open to re-examination. It has been

---

<sup>22</sup> Para. 47

<sup>23</sup> Para. 173

<sup>24</sup> National Planning Practice Guidance: Strategic environmental assessment and sustainability appraisal

<sup>25</sup> Barton Willmore; University of Bristol

<sup>26</sup> Nash Partnership; Persimmon

<sup>27</sup> Nash Partnership; Persimmon

<sup>28</sup> Mark Lewis

<sup>29</sup> Persimmon; University of Bristol

argued<sup>30</sup> that a larger population would produce a more diverse workforce and thus increase self-containment but only if the relevant employment land is also brought forward.

19. It has been argued<sup>31</sup> that out-commuting is not necessarily unsustainable. The NPPF defines what is meant by sustainable development in planning terms. It supports the transition to a low carbon future<sup>32</sup>, reducing congestion<sup>33</sup> and minimising the need to travel<sup>34</sup>, as well as a balance of land uses so as to minimise journey lengths<sup>35</sup>.

#### *Infrastructure, regeneration and retraction*

20. It has been argued<sup>36</sup> that the SA was wrong to highlight the possibility of infrastructure delivery not keeping pace with housing delivery, because the Community Infrastructure Levy provides a full means of funding. However, the council's experience is that infrastructure delivery cannot be relied on, the clearest case being at Portishead, where a rail connection has yet to be restored, despite considerable housing development over the past 20 years. The NPPF<sup>37</sup> advises that demands for developer contributions should be limited in order to maintain viability, which means that sites that are infrastructure-heavy are likely to place more demand on public resources than those that are not. It has also been claimed that brownfield sites can be regenerated simply by allocating them, which is not the case, since greenfield sites by their nature will usually be more attractive to developers.

21. The Highways Agency's response also identifies infrastructure as a concern that needs to be mitigated. The M5 is national infrastructure designed for long-distance movement and therefore an increase in out-commuting within the West of England that increases use of the motorway for relatively short journeys can have wide-ranging consequences. Another comment<sup>38</sup> queries whether Option A will be neutral in transport terms, since even if there is a balance between homes and jobs there will be increased travel for purposes other than commuting. This could particularly impact on the rural area.

22. Another group of comments<sup>39</sup> raises a number of concerns about infrastructure, identifying the importance of avoiding development on flood plains, as well as the benefits of Green Belt in reducing the urban heat island effect. An unsourced reference is made to the figure of over three-quarters of the population wanting to see more trees planted and more food produced around towns and cities. It has also been argued that distributing additional

---

<sup>30</sup> Persimmon

<sup>31</sup> Barton Willmore

<sup>32</sup> Para. 17

<sup>33</sup> Para. 30

<sup>34</sup> Para. 34

<sup>35</sup> Para. 37

<sup>36</sup> Barton Willmore

<sup>37</sup> Para. 174

<sup>38</sup> 'paul'

<sup>39</sup> Bailey Building Services; D Withers; 'kenco'

housing across Service Villages<sup>40</sup> or a range of non-strategic sites<sup>41</sup> could minimise infrastructure needs and increase assured delivery. These issues primarily relate to the remitted policies other than CS13.

23. It has been argued<sup>42</sup> that the SASR wrongly identifies retraction as more manageable than expansion. The statement in the SASR is a necessary correction to the view that the housing number needs to be high enough for all settlements to expand because allegedly they will suffer if they do not. However, the balance between needs and constraints is one that can be addressed through the submitted spatial strategy, which emphasises the need for village development to be community-led.

24. It has been argued<sup>43</sup> that over-provision is self-correcting through the operation of market forces and that a subsequent plan review can reduce provision if sites are not delivered. However, this would not be a plan-led system; it would lead to planning by appeal – since the imperative of a five-year supply of deliverable sites would remain – and potentially to unsustainable forms of development, including partially completed sites.

#### *Environmental/socio-economic balance*

25. It has been argued<sup>44</sup> that the SASR underplays socio-economic factors compared to environmental ones. There are 36 objectives in all, divided equally between environmental, economic and social. Quantified information has been provided wherever possible but, by their nature, socio-economic effects are more speculative. Nevertheless, Table 4 shows that there are at least as many 'Uncertain' scores for the environmental as for the economic and the social objectives. This reflects the lack of detailed site-specific information at this stage of the plan-making process.

26. It has been argued<sup>45</sup> that the SA incorrectly weighs the environmental, economic and social effects. In fact, the ODPM guidance<sup>46</sup> makes clear that SA/SEA provides information to decision-makers; it does not make decisions. Therefore reference to 'weight' is inappropriate.

27. A specific criticism<sup>47</sup> has been made that the SASR is biased against housing development and does not recognise its benefits, including potential environmental benefits. In fact, as the SA Main Report (2011) showed<sup>48</sup>, housing development does have a large negative environmental impact. This is because of the increased resource consumption that results from a larger population and a larger number of households. It would be wrong not to acknowledge this. If there is a conflict between meeting the needs of the

---

<sup>40</sup> Bailey Building Services

<sup>41</sup> Persimmon

<sup>42</sup> Barton Willmore; Nash Partnership

<sup>43</sup> Nash Partnership

<sup>44</sup> Barton Willmore; University of Bristol

<sup>45</sup> University of Bristol

<sup>46</sup> Para. 5.B.7

<sup>47</sup> Barton Willmore

<sup>48</sup> Table CS13.6

present generation and not reducing the ability of future generations to meet their own needs then this should be identified. To argue<sup>49</sup> that the post-plan period is irrelevant would not meet the requirement for SA to consider the long term.

28. Any positive provision<sup>50</sup>, such as developer-funded biodiversity enhancements, would need to be cumulatively of a large-scale to produce significant effects and these effects would not represent mitigation for the wider negative effects of development because they relate to different resource headings. Public open space provision is a social benefit, the need for which generally arises from the development and not for other reasons, and environmentally it represents simply a change from one open use of land to another. Despite the aspiration for net environmental gain<sup>51</sup>, the NPPF<sup>52</sup> advises that mandatory mitigation/ compensation should be limited to that necessary to make a particular development acceptable in planning terms. There is therefore some doubt that net benefits will arise at all, and more doubt over how many sites will contribute if they do. They cannot therefore be regarded as 'likely significant effects'.

29. It has been argued<sup>53</sup> that the SASR is wrong to highlight housing neglect or abandonment as a potential negative environmental effect of over-provision, because in the circumstances of the local housing market this is unlikely to occur. High demand exists and therefore under-occupation will be low. From 2011 Census data, the district figure for unoccupied household spaces, at 4.1%, is below the England and Wales average (4.4%). However, under-occupation is indeed a problem in some parts of North Somerset. The table below shows all wards with a vacancy rate above the district average.

Ward	% vacant	Ward	% vacant
WsM West	10.2	Winford	5.6
WsM Central	9.9	Easton-in-Gordano	5.3
Clevedon North	7.7	Portishead Central	4.8
WsM Clarence and Uphill	6.8	Banwell and Winscombe	4.5
WsM South	6.5	Hutton and Locking	4.3

The table illustrates the urban regeneration challenge faced by North Somerset. It is also the case that over-provision in the housing market area generally could lead to abandonment of low-demand properties in Bristol.

30. It has been argued<sup>54</sup> that there are wider factors worth considering that impact upon the performance of the local economy than solely that of the jobs:homes balance. The quality of the jobs and housing in North Somerset is also important in determining the extent to which the local labour force is retained. It is claimed that the additional economic benefits provided by new

---

<sup>49</sup> Persimmon

<sup>50</sup> Barton Willmore

<sup>51</sup> Policy CS4

<sup>52</sup> Para. 176

<sup>53</sup> Barton Willmore; D Withers

<sup>54</sup> Gladman

developments including boosts to the local construction industry, increases in local consumer spending and demand for public services are given insufficient weight by the SASR.

31. The economic benefits of housebuilding are acknowledged in the SASR<sup>55</sup>. However, it would be an over-simplification to claim that the more houses are built, the better off people become. It is not simply a matter of the multiplier effect of introducing new consumers but also of the area's capacity to accommodate growth and what kind of growth. Congestion will ultimately act as a constraint on growth. Therefore, while the SASR gives many positive scores to all four of the options appraised, it also notes the need for increasing mitigation as the numbers rise.

32. The SASR has been criticised<sup>56</sup> for pointing out that building more houses does not necessarily meet local need because the houses will not necessarily be bought by local people. The argument is not, as has been alleged, that there is therefore no point in building more houses, only that the claim that this meets a local need can be over-stated.

33. The SASR has also been criticised for describing the market housing that funds affordable housing as a 'social cost', given that the plan aims to make provision for the needs of an ageing population. This is a fair description of the situation that would arise if affordable housing need were to be met by market housing provision in excess of that required to meet the needs of the working population. Excess provision imposes social costs in terms of, for example, benefits and social care, especially care for the elderly. This is a matter of budgetary concern to North Somerset Council.

34. This view has been challenged<sup>57</sup> by arguments that older people use their vehicles less, appreciate the countryside more and contribute more to local spending and to council tax, and that their in-migration would help achieve government targets. This assumes that larger, more expensive homes will be bought by older people, whereas this group is more likely to be downsizing. Any economic benefit will diminish as the elderly become more dependent.

### *Scoring*

35. Some criticisms have been made of individual scores in the appraisal tables. It has also been argued<sup>58</sup> that the impact of the concerns highlighted could be profound in defining the council's housing strategy, due to the apparent marginal differences in scoring. In fact, if the tabulated SA differences are marginal (which they are), then other arguments need to come into play. SA Table 4 is a summary and cannot reflect these arguments in

---

<sup>55</sup> Para. 6.7

<sup>56</sup> Barton Willmore; Persimmon

<sup>57</sup> D Withers

<sup>58</sup> Gladman



detail. The SA is envisaged as part of the evidence base to be examined<sup>59</sup> but it is not the whole of the evidence.

36. It has been argued<sup>60</sup> that in scoring for Objective EC2 (harnessing the particular economic opportunities of North Somerset), it is incorrect to state that Option B will provide housing growth in line with expected employment growth, because Edge Analytics' work demonstrates a shortfall against the council's aim of 10,100 additional jobs. However, the higher numbers would lead to increased out-commuting and thus congestion, which will act as a constraint on growth and therefore the scoring is appropriate.

37. It has been argued<sup>61</sup> that in scoring for Objective SC1 (meeting local needs locally) and SC10 (meeting the housing requirement), all newly tested options (B, C and D) are given an equal score. This is despite the fact that the higher growth options yield a greater provision of affordable housing. When considered in the context of the existing annual affordable need identified in the 2009 West of England SHMA (904 dwellings) the adoption of a higher housing requirement would clearly be more beneficial in meeting this identified need.

38. All SA scoring is categorical, not linear. The SC1 assessment notes in the text the number of additional affordable homes provided by each option, so the combination of the scoring and the annotation clearly demonstrates higher affordable housing delivery with higher numbers. In terms of SC10, the three higher options correspond to three different views of what the housing requirement is, so there is inevitably a match between the requirement and the question of whether the option would meet it. All three options are within the range identified by Edge Analytics in their core scenarios. Alternatively, if 17,130 is taken as the preferred option then any higher figure exceeds this and therefore meets it.

39. It has been argued<sup>62</sup> that in scoring for Objective SC11 (narrowing the gap between income and house prices/rents), Options A and B are identified as having zero impact by the council, whilst the impact of Options C and D is scored as unknown. It is then argued that, while their extent is uncertain, Options C and D would have greater benefits, therefore that the SASR misrepresents this fact as no positive distinction is made.

40. The SA identifies likely 'significant' effects. A and B are shown as having 'no significant effect' because the average annual increment is <1%. (It is not a zero effect.) This explanation is given in the SA table. A distinction is therefore made. All SA scoring is categorical, not linear, so can only be fine-tuned by annotating the table, as has been done.

14 March 2014

---

<sup>59</sup> National Planning Practice Guidance: Strategic environmental assessment and sustainability appraisal

<sup>60</sup> Persimmon

<sup>61</sup> Gladman; Persimmon

<sup>62</sup> Gladman