

IN THE MATTER OF THE WEST OF ENGLAND JOINT SPATIAL PLAN

OPINION

Introduction

1. I am instructed in this matter by Persimmon Homes Severn Valley to advise in relation to the West of England Joint Spatial Plan (“JSP”). In particular, I am asked to advise on the Sustainability Appraisal (“SA”) that supports the JSP and the promoted spatial strategy. I am asked to consider the lawfulness of the SA in accordance with national planning policy, guidance, and the requirements of the Environmental Assessment of Plans and Programmes Regulations 2004 which implement the requirements of the European Directive 2001/42/EC on the assessment of the effects of certain plans and programmes on the environment.
2. I have seen and had regard to the Matters Statements to be submitted on behalf of Persimmon Homes, and the Matters and Questions Document issued by the examining Inspectors. I have had regard to the recent correspondence between the Inspectors and the joint authorities (“JA”) promoting the JSP, as well as the November 2018 Consolidated Sustainability Appraisal WED 009 (“CSA”), and a host of backgrounds documents, including the Issue and Options Consultation Paper, Topic Papers, and the preceding SAs.

Law and Guidance

3. Section 19(5) of the 2004 Act requires a local planning authority to carry out an appraisal of the sustainability of the proposals in each development plan document and to prepare a report of the findings of that appraisal. This is known as a SA. ^[1]_[SEP]
4. The legal obligations in relation to SA derive from European Union law set out in

Directive 2001/42 (“the Directive”), which are transposed into English law by the Environmental Assessment of Plans and Programmes Regulations 2004 (“the 2004 Regulations”).

5. At the heart of the Directive is the requirement for certain kinds of plans such as the JSP to be subject to “environmental assessment” which is defined in Article 2(b) as :

“the preparation of an environmental report, the carrying out of consultations, the taking into account of the environmental report and the results of the consultations in decision-making and the provision of information on the decision in accordance with Articles 4 to 9.”

6. The “environmental report” is defined in Article 2(c) as:

“the part of the plan or programme documentation containing the information required by Article and Annex I.”

7. The information required to be in an ER/SA is set out in Article 5 and Annex I includes:

- a. Identification, description and evaluation of the likely significant environmental effects both of the proposed plan policies and of the “*reasonable alternatives*”: Article 5(1).

- b. “*an outline of the reasons for selecting the alternatives dealt with*” : Annex I(h)

8. The draft plan and ER/SA must be subject to public consultation at a time when there is an “*early and effective opportunity*” for the public to express their view: Article 6(2). The ER/SA and the responses to the public consultation “*shall be taken into account during the preparation of the plan or programme*”: Article 8.

9. The effect of Articles 6 and 8 were discussed by Weatherup J. in ***Seaport Investments Limited’s application for judicial review*** [2008] Env. L.R. 23 at para. 49:

“the Environmental Report and the draft plan operate together and the consultees consider each in the light of the other. This must occur at a stage that is sufficiently ‘early’ to avoid in effect a settled outcome having been reached and to enable the responses to be capable of influencing the final form. Further this must also be ‘effective’ in that it does in the event actually influence the final form.”

10. The PPG sets out a helpful summary of process and requirements of SA:

“A sustainability appraisal is a systematic process that must be carried out during the preparation of a Local Plan. Its role is to promote sustainable development by assessing the extent to which the emerging plan, when judged against reasonable alternatives, will help to achieve relevant environmental, economic and social objectives.

Section 19 of the Planning and Compulsory Purchase Act 2004 requires a local planning authority to carry out a sustainability appraisal of each of the proposals in a Local Plan during its preparation. More generally, section 39 of the Act requires that the authority preparing a Local Plan must do so “with the objective of contributing to the achievement of sustainable development”.

Sustainability appraisals incorporate the requirements of the Environmental Assessment of Plans and Programmes Regulations 2004 (commonly referred to as the ‘Strategic Environmental Assessment Regulations’), which implement the requirements of the European Directive 2001/42/EC (the ‘Strategic Environmental Assessment Directive’) on the assessment of the effects of certain plans and programmes on the environment. Sustainability appraisal ensures that potential environmental effects are given full consideration alongside social and economic issues.” Emphasis added

11. The guidance explains the following important features of SA:

- i) SA is required in the preparation of a Plan; it is not an exercise that can be carried out ex post facto to rationalize choices made without regard to a rigorous SA process. That would not be “early and effective” as required by Article 6(2).
- ii) The sustainability appraisal should only focus on what is needed to assess the likely significant effects of the Local Plan. It should focus on the environmental, economic and social impacts that are likely to be significant. It does not need to be done in any more detail, or using more resources, than is considered to be appropriate for the content and level of detail in the Local Plan.

- iii) Plan-makers should assess the policies in a draft Plan, and the reasonable alternatives, to identify the likely significant effects of the available options.
- iv) A SA must identify, describe and evaluate the likely significant effects on the environment of implementing the Plan policies and of the reasonable alternatives taking into account the objectives and geographical scope of the Plan.
- v) The concept of “reasonable alternatives” is important in SA. They should be identified and considered at an early stage in the plan making process, as the assessment of these should inform the preferred approach.

12. In relation to “reasonable alternatives”, the PPG is particularly detailed in respect of this issue:

“How should the sustainability appraisal assess alternatives and identify likely significant effects?”

The sustainability appraisal needs to compare all reasonable alternatives including the preferred approach and assess these against the baseline environmental, economic and social characteristics of the area and the likely situation if the Local Plan were not to be adopted.

The sustainability appraisal should predict and evaluate the effects of the preferred approach and reasonable alternatives and should clearly identify the significant positive and negative effects of each alternative.

The sustainability appraisal should identify, describe and evaluate the likely significant effects on environmental, economic and social factors using the evidence base. Criteria for determining the likely significance of effects on the environment are set out in schedule 1 to the Environmental Assessment of Plans and Programmes Regulations 2004.

The sustainability appraisal should identify any likely significant adverse effects and measures envisaged to prevent, reduce and, as fully as possible, offset them. The sustainability appraisal must consider all reasonable alternatives and assess them in

the same level of detail as the option the plan-maker proposes to take forward in the Local Plan (the preferred approach).

Reasonable alternatives are the different realistic options considered by the plan-maker in developing the policies in its plan. They must be sufficiently distinct to highlight the different sustainability implications of each so that meaningful comparisons can be made. The alternatives must be realistic and deliverable.

The sustainability appraisal should outline the reasons the alternatives were selected, the reasons the rejected options were not taken forward and the reasons for selecting the preferred approach in light of the alternatives. It should provide conclusions on the overall sustainability of the different alternatives, including those selected as the preferred approach in the Local Plan. Any assumptions used in assessing the significance of effects of the Local Plan should be documented.

The development and appraisal of proposals in Local Plan documents should be an iterative process, with the proposals being revised to take account of the appraisal findings. This should inform the selection, refinement and publication of proposals (when preparing a Local Plan, paragraph 16 of the National Planning Policy Framework should be considered)."¹

13. It should be noted that reasonable alternatives are not to be addressed as an afterthought, but are to be subject to equal examination as the preferred option; see ***Heard v Broadland DC*** [2012] EWHC 344 (Admin) .

Recent Correspondence

¹ Paragraph: 018 Reference ID: 11-018-20140306

14. On 1 June 2018, the examining Inspectors wrote to the JAs in respect of the submitted JSP. In respect of the spatial strategy, the letter contained the following queries:

- i) The submitted Sustainability Appraisal (SA) work includes appraisal of the overall strategy set out in Policy 2, but is it correct, that the alternative spatial scenarios (e.g. avoiding change to Green Belt, transport focussed etc.) relate primarily or solely to the strategic development locations (“SDLs”)? If so, is it the case that in terms of the SA, reasonable alternatives have only been considered in relation to the fourth element of the spatial strategy and not to the other three elements of it or to the policy 2 spatial strategy as a whole?
- ii) Are the Councils confident that in relation to the SDLs, the evidence base adequately justifies the selections made?

15. The JAs responded on 18 June. Annex 1 contains the detailed response to the Inspector’s questions above as follows:

- i) The SA appraised the SDLs and only appraised the other components of Policy as part of the wider strategy because (in essence) there were no reasonable alternatives.
- ii) In respect of the SDLs, the April 2018 SA addendum note was prepared to bring together exiting evidence and to provide clarity. The JAs were at that stage undertaking further work in relation to the SA.

16. On 28 June, the Inspectors wrote to the JAs again (ED02) commenting that given the elements of the spatial strategy for which no reasonable alternatives had been assessed were to deliver more housing that the SDLs the JAs may wish to consider whether there are any reasonable alternatives to those elements, and the spatial strategy as a whole. The JAs intention to undertake further SA work in relation to the SDLs was noted. The JAs response on 23 July explained that further SA work would be carried out. That work was completed and is addressed below.

17. The Spatial Strategy set out in Policy 2 comprises a number of components to deliver the 44,000 required dwellings to 2036². Existing commitments already account for 61,500 dwellings (see fig 5, p.16).

18. Those remaining components are as follows:

Urban living; maximizing the sustainable development of pdl and other appropriate opportunities within existing urban areas	16,200
Enabling non-strategic sustainable development at locations identified and brought forward through local plans to meet the needs of the needs of the all the West of England authorities.	3,400
Strategic Development Locations	17,100
Windfall	6,862

19. That is the proposed distribution of growth, or spatial strategy that the JSP seeks to deliver. Accordingly, one would expect the SA to set out information and justification relating to the individual components of the strategy (save for windfall, which by definition is unplanned but will require separate justification in any event) and also for the combination and proportion of components, and reasonable alternatives to them.

20. The JSP explains at p.15 that urban living is “a central plank of the Spatial Strategy”. It accounts for 16,200 dwellings over the plan period. In respect of the SDLs, §14 sets out that SDLs are locations that are capable of delivering large scale development of over 500 dwellings in locations that support the spatial strategy. It is unclear what “*support the spatial strategy*” means given that the SDLs are an important part of it; it could possibly relate to the central plank of “urban living” which is also explained in Topic Paper SD7A:

² JSP, p.14 §7

“4.2 The JSP spatial strategy reflects the following;

The maximisation, as a first priority, of the potential of urban areas (termed ‘urban living’ in the JSP in order to clarify that this entails a qualitative approach, and not just unsustainable urban intensification....”

21. It would be expected that the key plank of “urban living” that underpins the whole JSP would be subject to significant scrutiny given that it provides the basis not just for the urban living component of the spatial strategy, but also in respect of the selected SDLs.
22. A very significant proportion of the supply (66%) comes from existing commitments. The plan does not give any further information about that component of supply or how it relates to the promoted spatial strategy. The same goes for the background documentation. There has been no attempt to integrate or balance the promoted spatial strategy with what is already going to be delivered. That is a very troubling omission.
23. Non-strategic growth accounts for 3,400 dwellings of the overall strategy. While a small component, it is undoubtedly significant.

The formation of the Spatial Strategy

24. While the Consolidated Sustainability Appraisal (“CSA”) WED 009 seeks to bring the background documents together and clarify the process that has been carried out, there are a plethora of documents relating to the spatial strategy and the SA work; the background evidence in respect of the JSP that feeds into the SA work remains an impenetrable thicket that makes full and proper participation in the process almost impossible.
25. The most obvious example of this, the CSA is the first time that the promoted strategy is actually identified and explained to be something different to the 5 distribution options/ spatial scenarios that were considered at issues and options stage and also referred to in the April 2018 Addendum SA SD9L. None of the earlier work nor the JSP itself actually explains which strategy has been adopted and why. If the strategy is not identified, how can it possibly be measured against the reasonable alternatives; it is not possible to understand what is being appraised.

26. The purpose of the CSA is set out in section 1 and is to respond to the letters sent by the Inspectors as set out above. Section 1.5 explains that the SA presents supplementary work including appraisal of three reasonable alternatives for the quantum of housing, and “re-appraisal” of the five reasonable spatial scenarios considered at the 2015 Issues and Options stage for the overall distribution of development within the JSP plan area. The options were as follows:

- i. Protection of Green Belt ^{[[[}_{SEP]}
- ii. Concentration of development at the Bristol urban area. ^{[[[}_{SEP]}
- iii. Focus strategic development growth at Bristol, but also other towns and expanded settlements. ^{[[[}_{SEP]}
- iv. A focus on transport corridors ^{[[[}_{SEP]}
- v. New settlement (or a limited number of expanded settlements). ^{[[[}_{SEP]}

27. Those are the spatial distribution options identified in the November 2015 Issues and options papers (SD 1C), and thus would be expected to play a central role in the SA process as the basis for understanding the preferred spatial strategy that was selected, the alternatives to it, and why the alternatives were rejected. That is not what happened; those potential spatial distribution options were not assessed and taken through the SA process. It is not at all clear what the relationship is between those options and the components of the spatial strategy set out in the JSP, or how the former has informed the latter. Nor is it clear how they relate to the typologies of SDL which were also considered in the Issues and Options paper as follows:

- a) **Urban intensification:** opportunities to deliver additional development within urban areas
- b) **Urban extension:** planned expansion of the urban area into adjacent countryside.
- c) **Town expansion:** planned expansion of existing towns detached from the existing urban areas. ^{[[[}_{SEP]}
- d) **New settlement:** there are no current proposals for new towns.
- e) **Other settlements/locations:** covers a range of generally smaller scale opportunities such as village expansion or clusters of sites which together could form a strategic option.

- f) **Dispersed growth:** an aggregate of very small scale opportunities, perhaps across a number of villages.

Opinion

28. The process and the evidence base upon which the spatial strategy is founded is thoroughly muddled and confused. The CSA explains (some way into the document), that in fact, none of the original spatial scenarios consulted on are reflected in the promoted JSP spatial strategy. What appears in the JSP is labeled the “TESS” spatial strategy (see §4.73), which has emerged, not from any justified coherent strategy or evidence base, and has not been previously been subject to systematic SA either as an entire strategy, or considered against reasonable alternatives.
29. The CSA goes on at §1.5 to explain that it provides an *“appraisal of three reasonable alternatives for the overall spatial distribution of development set out in the JSP.”* That appraisal relates to a lower or higher “urban living element.” It is concerning, to put it mildly, that the first appraisal of “reasonable alternatives” for a key plank of the JSP strategy, appears in a document dated November 2018, and following the submission of the JSP for examination. There is no conceivable way that the reasonable alternatives set out in the CSA could have influenced or informed the Plan.
30. Moreover, as a matter of principle appraising one component of the spatial strategy against reasonable alternatives³, is not akin to appraising the spatial strategy as a **whole** against reasonable alternatives. It may be that the urban living element of the strategy considered in isolation is the best approach as against reasonable alternatives, but it says nothing about the spatial strategy as a whole. It is, in that sense, a meaningless exercise.
31. In respect of the urban living component, the Issues and Options Consultation Paper explained that:
- “4.1 In order to deliver sustainable development and a high quality of place, the four authorities believe that the best places to meet the development needs of the future should be within our existing cities and towns; especially on previously developed – brownfield – ^[SEP]land. This has been a central plank of our development strategy in*

³ I do not consider that this has actually been done

recent years and helps to minimise the need to develop on greenfield sites. Regeneration and investment in our built up areas is encouraged and helps to draw on and support existing job opportunities, facilities and services. It is also a more effective way to build upon existing transport infrastructure and to deliver investment in the transport system, particularly cycling and walking initiatives and improved local bus services.”

32. Section 4.4 recognised the risk of a reliance on brownfield delivery was “clear.”
33. Nonetheless, the urban living focus of the spatial strategy that is now enshrined in Policy 2 was predetermined at the earliest stage without any consideration of alternatives. The JAs themselves admit that it has not been considered against reasonable alternatives because they do not consider there to be any reasonable alternatives. That is plainly wrong, as a matter of common sense, and as clumsily demonstrated by the CSA.
34. In respect of the five spatial distribution options, the CSA says it contains a “re-appraisal” of those alternatives. It does not. The consideration given to those options by the CSA is entirely new. I note at this stage that the documentation appears to suggest that the SA of those options is set out on the SA Addendum (SD9L)⁴. However, that document only assesses the options by reference to the potential SDLs and which SDL would fit with each option. It doesn't appraise the sustainability of the options themselves. In truth, it is not a SA of alternative spatial strategies at all, but a high-level tick box exercise in respect of the SDLs. Unfortunately, the SA Addendum repeats the fatal error, that

“18. There is no reasonable alternative to Urban Living, Windfall Sites or Non-Strategic Growth. The National Planning Policy Framework expects contributions from all such generic sources. The main role of plan-making locally, at the strategic scale, is to identify the larger locations for development.”

35. The whole SA process has been undeniably driven by an urban focus and the selection of SDLs, that are, without exception, capable of accommodating 500+ dwellings. To understand the genesis of the SDL component of the spatial strategy it is necessary to go back again to 2015 and the Issue and Options Consultation document SD1C.

⁴ see Topic Paper SD7A §3. 7

36. Chapter 5 of that documents “Spatial Scenarios” explained the need to find a potential of about 29,000 dwellings to 2036. ^[1]_{SEP} New development opportunities were said to involve a *“process of identifying a wide range of strategic locations where new strategic development could take place and then considering how different options might be combined into spatial scenarios.”* §.5.2.

37. Then at §5.10:

“In order to focus on strategic options a threshold of about 500 dwellings and/or 500 jobs is used as the basis for identifying strategic locational options. It is recognised that there will be smaller sites or combinations of locations which will eventually make a contribution, but the aim of this stage of the process is to identify the principal options.”

38. No justification is given for the threshold of 500 dwellings or jobs in relation to strategic location options. That is important, because a reasonable alternative would be a much lesser number of dwellings per strategic development location, or perhaps determining which settlements, based on individual sustainability, could accommodate a high level of growth (such as 500), but in more than one location. Determining a threshold of 500 immediately rules out smaller settlements that could still accommodate a strategic level of growth, but could not absorb 500 new dwellings. It also rules out settlements and locations that cannot accommodate an additional 500+ dwellings all in the same area. The CSA seems to suggest that the threshold number was a self-imposed definition; see §4.135.

39. It is also apparent that such a threshold would conflict with one of the five spatial scenarios - a more even spread of development, that would see:

“either a more even spread of growth across the plan area using a mix of different typologies and/or more bespoke solutions to address local objectives or infrastructure deficits. This could include a mix of urban extensions, town expansions or development at other settlements with perhaps different approaches in different unitary authority areas to reflect local community aspirations.”⁵

40. Plainly, not every settlement will be able to accommodate 500 dwellings in one

⁵ Issues and option page p.40

location.

41. The benefits of such an approach however were noted by the Issue and Options paper:

“A greater range of sites is also likely to have housing delivery benefits in terms of providing more variety and choice.”⁶

42. The preferred spatial strategy is explained in the November 2017 Topic Paper 2 in the following way:

“4.1 The spatial strategy, as shown in the Key Diagram, is a positive response to the identified growth needs of the West of England. It enables the effective delivery of homes and jobs in a sustainable way, properly aligned with new infrastructure and with flexibility. It protects and enables the enhancement of the sub-region’s high quality environment, provides many benefits to existing communities and it facilitates the development of exemplar, sustainable new places to accommodate growing communities. This is the most appropriate strategy for the West of England in effectively delivering the Plan’s spatial priorities.

43. The strategy was not said to align at that stage with any of the five spatial options set out in the Issues and Options Paper. It focused on “urban living” and then explained the other components of Policy 2; again, without reference to a coherent spatial strategy. It is now clear, that is because the preferred spatial strategy was not based on of the spatial scenarios set out in the Issues and Options Paper. They did not influence it at all.

44. So much is clear from the early SAs. The November 2016 SA is not a SA of an emerging spatial strategy any more than the 2015 SA is. Neither document considers the 5 theoretical spatial scenarios, but instead simply assessed the different potential strategic locations, based always on a minimum threshold of 500 dwellings.

45. A further issue to note is that between the 2015 Issue and Options Consultation and November 2016, the housing numbers had increased considerably. However, there is no acknowledgement at all in various documents that were released towards the end of 2016 that the increase from 29,000 to (now) 44,000 might have an impact on the preferred spatial strategy, the urban focus, or the identification of SDLs. There was no

⁶ ibid

acknowledgement that the twin strategy or urban focus and SDLs of 500+ dwellings may have to be revisited. What was added in was a large contribution by windfall development, and also non strategic growth. It appears that those components, not subject to individual appraisal or an assessment of reasonable alternatives, were added in to plug the gap.

46. What is meant by “non-strategic” is not explained, but could realistically be anything less than 500, given the threshold for SDLs set out in the plan. It is entirely unclear why the JSP has not considered as a reasonable alternative, a policy that actually provides some guidance on planning for non-strategic growth rather than simply counting the numbers in the JSP that will be delivered by other plans at unknown locations and at an unknown time.
47. Moving forward to 2018, the CSA explains at §4.33 that the spatial scenarios identified were for distributing the housing provision at the SDLs and not the provision included in the other components of housing supply. If that is correct, and it is not at all clear that it is (see §5.25 of the Issues and Option Papers) then the spatial strategy, or at least a large component of it was entirely pre-determined in conflict with the Regulations. It has not been informed by the SA work at all, or a consideration of reasonable alternatives.
48. Tables 4.5 and 4.6 within the CSA are entirely new, as are the assumptions that have gone into them; see earlier tables 4.3 and 4.4. I must confess that I am entirely unclear as to where the numerical assumptions have come from, and why other reasonable alternatives to those figures are not presented. The exercise is unrefined and opaque.
49. In respect of the five spatial scenarios, like the whole spatial strategy, they are predicated on identified SDLs accommodating (for the most part) a minimum of 500 dwellings, despite the SDLs being a component of the spatial strategy not a presumed element, or the starting point for it. Most remarkably, in that assessment (table 4.3) the other components of strategy such as urban living and non-strategic growth remain exactly the same. In short, it is not an appraisal of the spatial strategy but an isolated component of it. It does not contemplate a differently constituted spatial strategy.
50. The assessment of the higher / lower urban living strategy again proceeds on the basis of the already identified SDLs accommodating at least 500 dwellings, and declines to even contemplate a different spatial strategy from the components already set out in

Policy 2. With respect, that does not present SA of reasonable alternatives, rather it is tweaking at a predetermined spatial strategy.

51. For those reasons, the CSA does not plug the gaps or remedy the defects in the earlier work. It proceeds on the basis of already settled upon components of the promoted spatial strategy that have not been subject to full SA or comparison against reasonable alternatives. It proceeds on the basis of tweaking components of the promoted strategy rather than considering reasonable alternatives to the spatial strategy as a whole. The work is neither comprehensive, nor transparent and includes assumptions for which there is no evidence base or justification.

52. That lack of credibility is compounded by the analysis at Table 4.7 that considers the proposed spatial strategy set against Table 4.5. The five spatial scenarios score badly, for the most part, in the themes relating to environmental quality, because of the development of large areas of greenfield; see para 4.57. However, the analysis is too high level to be meaningful, and fails to recognise that development of some alternative greenfield sites would reduce the development number of other SDLs, and mean that sites presently proposed for development wouldn't be developed at all. It is not at all clear, why the proposed strategy should score so much better in those areas, notwithstanding that the assumptions that go into table 4.5 are unexplained in any event.

53. In respect of the assessment of individual SDLs and whether that is appropriate, I consider that is secondary issues given that the entire SA process is fundamentally flawed. However, the erroneous assessment of the SDLs is amply illuminated by the example of Portishead set out in the RPS Matter Statements on behalf of Persimmon Homes Severn Valley which I have seen, and with which I agree. It is correct that the JSP inexplicably fails to recognise and take into account the confirmed £31m funding for a proposed new railway station (not shown on the strategic infrastructure diagram) or the £2.8m allocated for further improvements to the A369 and J19.

54. The same flaws also occur in relation to the contingency sites. It is correct that although the Consolidated CSA seeks to deal with a number of omissions with the SA, little consideration is given to the treatment of contingency sites.

Conclusion

55. In short, the work presented by the CSA lacks any credibility, is ex post facto justification, and based upon a pre-determined strategy which has not been informed by sustainability appraisal or properly tested against reasonable alternatives. The impenetrable thicket of documents relating to this area are not illuminated by the CSA which helpfully confirms that the JAs have not complied with their legal obligations in the production of the Plan; not least because the Plan proceeds on the basis that there is no reasonable alternative to the “central plank” of urban living. The CSA makes clear that there are alternatives to that one component of the strategy, but the document as a whole fails to compressively review the spatial strategy as a whole (including all of its components) against the reasonable alternatives.
56. The resurrection of the original five spatial scenarios to be appraised in the constrained framework of existing components of promoted spatial strategy is entirely artificial and unconvincing.
57. For that reason, while later SA work is capable of remedying deficiencies in the earlier assessment as a matter of principle, the CSA here is fundamentally flawed and it not fit for purpose.
58. In consequence;
- (i) It is not clear how the appraisal of the five spatial scenarios has influenced the chosen spatial strategy of the JSP, particularly given that the promoted strategy does not reflect any of those spatial scenarios as confirmed by the CSA. There is no explanation as to why the reasonable alternatives were not selected, because in truth, they were not considered during the formulation of the JSP strategy.
 - (ii) The SA fails to provide clear and credible reasons for selecting the chosen spatial strategy, which seem to be a product of a predetermined strategy for urban living, SDLs of 500+ dwellings, and added components to make up the shortfall owing to an increase in housing numbers between 2015 and 2016.
 - (iii) There remains insufficient clarity as to what constitutes to the JSP’s spatial strategy and how the SDLs (and reasonable alternatives) have been appraised.

59. Accordingly, it is difficult to understand how, in the light of the above, the requirement at section 39(2) of the 2004 has been discharged. The strategy has not been justified and so it not sound. The SA work does not comply with the provisions of the Directive or the 2004 Regulations and is unlawful. It is difficult to see how, given the flaw identified above, the work could be remedied, without starting the SA process afresh to ensure that the JSP is informed by the SA and reasonable alternatives, rather than the other way around.

60. I trust that covers all matters on which I was asked to advise, but those instructing should not hesitate to contact me if I can be of further assistance.

27 May 2019

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