Examination of the Shepway Core Strategy

Inspector’s Interim Conclusions in respect of the Spatial Strategy for Folkestone Racecourse (policy SS8), the adequacy of the Sustainability Appraisal (SA) process and the justification for the Strategic Corridor (policy SS1)

Introduction

1. As advised at the conclusion of Examination Hearing Session 5, I am writing to the Council to explain my concerns regarding the evidence base in respect of the Folkestone Racecourse proposal (policy SS8), the adequacy of the SA process and the justification for the Strategic Corridor (policy SS1). For the avoidance of doubt, this note does not set out a final view on the soundness of the Plan in respect of these matters – and is issued without prejudice to my final report. Neither does it comment on any other matters raised during the Examination. Instead, it is intended to provide a basis for the Council to consider how it might best approach the concerns that I have raised.

2. As such, and in order to prevent unnecessary delay to the Examination process, I request the Council to submit an initial response to this note by Friday 8 June 2012 at the latest. As I explained at Session 5, this response should indicate whether the Council is seeking a suspension of the Examination or whether it wishes to withdraw the Local Plan.

3. In the event of a request for suspension, I would seek further information from the Council about how it intends to respond to the concerns raised in this note – along with the likely timescale for any further actions. For example, if additional changes to the Core Strategy are likely to be proposed by the Council in respect of these concerns, or further procedural or evidence-gathering work undertaken, then the broad scope or nature of such additional changes or further work should be made clear. Although the Council has requested that I recommend modifications in the event that these are needed to rectify problems of soundness/legal compliance (under Section 20(7C) of the Planning and Compulsory Purchase Act 2004 as amended), it should be stressed that any such modifications should not be so significant or extensive as to amount to a re-write of the Plan.

4. Notwithstanding this, it is likely that any changes proposed in respect of the concerns set out in this note would require a further consultation exercise to be carried out. In undertaking such an exercise, the following principles should be applied:
   (i) any modifications would be put forward on the basis that they are without prejudice to the recommendations in my final report;
   (ii) all representations in respect of such a consultation exercise will be taken into account and, if necessary, a further hearing session or sessions will be held in order to consider additional matters arising from the consultation exercise; and
   (iii) the scope and length of the consultation exercise should be consistent with Regulation 35 of the Town and Country Planning (Local Planning) (England) Regulations 2012, as well as the Council’s Statement of Community Involvement.

5. The Council has proposed other possible changes to the Plan in response to matters raised during the Examination. The relevant document is yet to
be completed and I request that this is carried out as soon as possible – and in any event by the above-noted deadline of 8 June 2012. As I advised during the hearings, it is likely that material changes arising from this exercise, along with material changes proposed prior to submission but post-publication, will also need to be the subject of public consultation. There would be merit in combining this with any consultation exercise in respect of the concerns set out in this note. While I can provide further guidance on this in due course, it is recommended that any such consultation exercise should be on the basis of a single schedule of changes set out in the order in which they appear in the Plan document. Where amendments are proposed to figures or maps the amended figures/maps should be included within the changes schedule – for example as appendices.

Folkestone Racecourse (policy SS8)

6. While part of the Folkestone Racecourse site allocation is occupied by an existing use (the racecourse) and buildings, the proposal would result in greenfield development outside existing settlement boundaries. Although within the Strategic Corridor (policy SS1, discussed in more detail below), the rural and greenfield nature of the site is inconsistent with the stated priority given to previously-developed land in the urban area by policy SS1. The visibility of the scheme from the nearby Area of Outstanding Natural Beauty (AONB) is a matter of dispute: nevertheless, the submitted landscape and visual assessment [A58] accepts that local views would be affected, in contrast to their presently open character. Irrespective of potential effects on the AONB, it is likely that the introduction of up to 820 dwellings would have a markedly urbanising effect on the existing locality.

7. Stanford/Westenhanger is identified as a Primary Village in table 4.3 of the Plan – an assessment that takes into account the transportation advantages deriving from its station, proximity to the M20 and local bus routes. The status of this settlement in the hierarchy is also a matter of dispute. However, irrespective of whether it is a Primary or Secondary Village, the scale of housing development proposed at the Racecourse is markedly in excess of what the Plan proposes for other settlements of this size and scale. Indeed, it is considerably greater than the housing numbers assigned by the Plan to settlements with a more favourable position in the hierarchy: for example the approximate 250 dwellings at Sellindge (a Rural Centre) proposed by policy CSD9. This is at odds with the requirement of policy SS3(a) that the proposed use, scale and impact of development should be proportionate and consistent with the settlement’s status and its identified strategic role within the district (with reference to table 4.3). Taking these matters together, the racecourse proposal represents a departure from the Plan’s overall strategy that requires particular justification.

8. Policy SS8 requires that residential development at Folkestone Racecourse is provided only as a necessary part of a comprehensive approach for reconstructing the racecourse facility as a high quality visitor attraction. In principle, it is not disputed that some benefits, such as suggested improvements to the setting of Westenhanger Castle, could result from the scheme. However, such benefits are not explored in detail in the relevant evidence base [A56], which relies to a significant extent on an industry-wide report and on evidence from other racecourse developments that do

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1 Within this Note, references to examination documents are contained in square brackets.
not necessarily relate to the specific circumstances at Folkestone. The viability of the current operations is not fully quantified, and a detailed cost-benefit analysis of options is not available. These factors reduce the weight that can be attached to the scheme’s stated advantages.

9. The required improvements to the racecourse are set out in the initial paragraph of policy SS8. However, the evidence base relates to one specific scheme to secure such an outcome – in essence, a proposal by the site’s landowner – and does not explore alternatives in any level of detail. For example, while it appears that other access options were considered [A56, page 24], these are not described further. The evidence base tests one access proposal [A57] – a scheme that the Council now accepts requires more refinement. Similarly, while a range of cost estimates for the scheme have been provided [S6, S6.1] these do not test different options for the improvement of racecourse facilities. Given that the construction costs of any such scheme bear heavily on total costs – and, as a result, the level of ‘enabling’ development required – this is a significant weakness in the scheme’s justification.

10. A further concern relates to the detailed justification for the 820 dwelling figure. Although presented as a maximum, it is the Council’s case that this is a realistic total. However, while various viability exercises have been undertaken, notably in [A55] and [S5], all take their respective housing figures as inputs rather than outputs. For example, the Indicative Development Timeline and Cashflow Projections document [S5] serves to demonstrate what profit would accrue to the developer from a scheme comprising 820 dwellings, rather than to show what level of dwelling numbers would be required in order to deliver the stated improvements – as is usual practice in schemes relating to ‘enabling’ development.

11. Furthermore, it is clear from the evidence base [A55] that the profit level that is anticipated from this exercise would comprise two elements. First, a 20% return is anticipated on the total racecourse cost. Such a level of return appears, in principle, broadly appropriate given the level of risk involved, and has not been substantively challenged. Second, a return is expected in association with the land element of the project. It is stated that ‘it would not be equitable for [the developer] to be expected to bring forward a racecourse and in so doing ‘forego’ 25ha of potential development land where they are simply receiving a return on cost for the ‘construction element’ of the new racecourse’ [A55, para 3.6]. However, it is clear from the terms of policy SS8, as described above, that the development potential of the land concerned derives from the racecourse reconstruction – for which the developer risks are accounted for by the 20% return already noted. In order to generate an additional level of return, additional houses would be required over and above those needed to meet the costs of the racecourse development itself.

12. While it is the Council’s view, as stated at the hearing, that this is what the landowner requires in order to bring the scheme forward, this goes further than the necessary justification set out in policy SS8. Indeed, it appears at odds with the importance that the landowner attaches to securing the necessary improvements: these are presented as being ‘vital for the Racecourse’s future viability’ [A56, page 6]. On the evidence, it appears clearly, and strongly, in the landowner’s interest to secure improvements on their own merits. Bearing in mind that a reasonable rate of return would also accrue from such a proposal, and that this rate of return has taken into account the requirements identified for affordable housing,
infrastructure and associated costs in line with para. 173 of the National Planning Policy Framework, it is unclear why an additional return is required in order to ensure deliverability. Taking these matters together, the 820 dwelling figure does not appear to have been robustly justified. If so, this would fail an important soundness requirement.

Sustainability Appraisal (SA)

13. As submitted, the Core Strategy contains a number of significant changes from the 2009 Preferred Options version of the Plan. The Strategic Corridor (policy SS1) was introduced (see below), the Plan period was extended from 2026 to 2031 and housing numbers at the three strategic allocations were increased – broadly adding 200 dwellings at Folkestone Seafront (policy SS6), 300 dwellings at Shorncliffe Garrison (SS7) and 420 dwellings at Folkestone Racecourse (SS8). At the same time, some previously identified allocations were deleted.

14. It is accepted that Local Plan preparation is an iterative process and that it is unlikely that any Plan can be progressed without making changes in response to matters such as an evolving evidence base, changing policy context and the need to respond to stakeholder comments. However, among other matters, the submitted Plan must accord with the requirements of the EU Directive (2001/42/EC) on Strategic Environmental Assessment (the SEA Directive), and the Environmental Assessment of Plans and Programmes Regulations 2004 (SI No.1633) which transpose the Directive into domestic legislation.

15. It was confirmed at the Hearings that, in the present case, the July 2011 SA report [A28] comprises the ‘Environmental Report’ that is required by the 2004 Regulations. Regulation 12(2) requires that such a report ‘shall identify, describe and evaluate the likely significant effects on the environment of – (a) implementing the plan or programme; and (b) reasonable alternatives taking into account the objectives and the geographical scope of the plan or programme’. Such an assessment should, of necessity, take account of any changes to alternatives that had been previously presented during the Plan preparation process – including circumstances where previously separate alternatives had been combined.

16. The changes to the number and size of the proposed strategic allocations took place around March-April 2011 – at ‘stage 4’ (out of 5) of the SA process as described in the final SA report. They were considered in a ‘Strategic Sites SA Commentary’ document – which appears as Appendix 4 to a Council Cabinet Report (13 April 2011) [CR1]. However, this document (although publicly available) did not itself form part of the final SA report and, as was clarified at the Examination hearings, was not subject to the consultation that is required by the 2004 Regulations. While a summary was included in the SA Report itself (Appendix IV) this did not present the changes to housing numbers in any level of detail, did not itemise the likely significant effects of the increased housing numbers (with the exception of a matrix in respect of policy SS8), and did not explain what, if any, reasonable alternatives to the proposals as revised had been considered.

2 In respect of the Shorncliffe site, the SA Report [A28, page 140] states that the proposal would be ‘700 dwellings by 2026, and 1,200 when complete’. This conflicts with policy SS7 which provides for around 1,000 dwellings by 2026 and up to 1,200 by 2031. While described by the Council at the hearings as a ‘typo’, this error may have had the potential to mislead readers about the intended phasing of development at this site.
17. In respect of Folkestone Racecourse, it was contended for the Council at the hearings that the consideration of alternatives is ‘implicit’ in pages 140-144 of the SA Report [A28] and that its approach in this matter accords with accepted practice. The Council also stated that as a site specific proposal, no reasonable alternatives existed. However, even if this were to be the case, this is not a view that is explicitly set out in the submitted SA document. Furthermore, as already noted, it is unclear to what extent the Council has considered alternative approaches to securing racecourse improvements that might result in a different quantum of housing development at the site.

18. Furthermore, the relevant section of the SA Report focuses solely on the ‘emerging approach to strategic sites that was appraised in April 2011’ [A28 Appendix IV, initial sentence]. It does not explore in any detail either the extension to the Plan period (with the resulting increase in total housing provision as set out in policy SS2 – albeit at the same annual delivery rate) or the implications of introducing the Strategic Corridor (discussed below). Drawing these matters together, it appears that the approach that has been taken to the strategic allocations, the extended Plan period and the introduction of the Strategic Corridor may not accord with the SEA Directive. Potentially, this fails the soundness requirement of being justified and legal compliance requirements.

Strategic Corridor (policy SS1)

18. The extent to which the Strategic Corridor has been subject to the SA process remains unclear. The SA Report does not explicitly consider either the likely significant environmental effects of the Strategic Corridor proposal or reasonable alternatives to the Strategic Corridor approach. It is the Council’s case that the Corridor represents an ‘amalgam’ of approaches that had been tested at previous stage of the SA process – specifically option 1B at the Issues and Options stage and option SO3 at the Preferred Options. However, both options were materially different from the Strategic Corridor as it is now presented. Such differences are not explicitly articulated in the SA Report.

19. Furthermore, the Strategic Corridor is not explicitly analysed in the papers that accompany the relevant Cabinet Report [CR1]. Indeed, Appendix 2 of that report (‘Strategic Distribution’) states that ‘at the core of delivering this spatial strategy will be: a settlement hierarchy; a network of town centres and other focal points of commercial activity; a selection of strategic sites for development’ [A90, para 6.5]. The role of a Strategic Corridor is not mentioned.

19. The Strategic Corridor is a key element of the LP as submitted – appearing in the opening sentence of the District Spatial Strategy policy (SS1). However, its role and purpose are unclear. Specifically, it is not clear from the Plan whether the Strategic Corridor represents a reflection of development proposals that are justified for other reasons, or whether the allocation of these proposals derives from the Strategic Corridor concept. At the Hearings, the Council position on this matter was unclear. At one point it was explained that the Strategic Corridor was not the justification for the relevant development sites, while at a later point it was stated the Plan ‘is directing development to the Strategic Corridor’ and that ‘the Strategic Corridor is not a product of the site allocation process, it is the other way round’.
20. However, the boundaries of Strategic Corridor are not shown on the Policies Map and, as was made clear during the hearings, are a matter of dispute. The Core Strategy does not explain how the Strategic Corridor concept will be taken forward into other Local Plans, if at all. While para 4.179 refers to the ‘growth objectives of the Strategic Corridor’ it is not clear whether such objectives relate to the sites that have been designated or whether they represent an intention to locate further development in this part of the district. At the hearings, the Council implied that the Strategic Corridor did have a role with regard to future planning (stating that its removal would make ‘an element of difference’), but it remains unclear exactly what this means. Specific growth objectives for the Corridor (over and above allocated sites and ‘broad locations’) are not explicitly articulated in the Plan.

21. Taking these matters together it appears the Strategic Corridor approach set out in policy SS1 potentially fails the soundness requirement of being justified, as well as (in respect of the SA process) legal compliance requirements.

Conclusion

22. As explained in the opening paragraphs of this Note, and in line with the Government’s Localism agenda, it seems to me that it is, in the first instance, a matter for the Council to consider how the above-noted concerns should be addressed. Accordingly, I request a response within the timescale set out in paragraph 2 above. If you have any queries regarding this Note, please contact me via the Programme Officer.

Michael J Hetherington
Inspector for the Shepway Core Strategy Examination
18 May 2012