

Matter 8 – Sustainability Appraisal

Hearing Statement Response – Matthew O’Connell

< 1500 words excluding questions and quotations

Q6. In seeking to meet the residual housing need within the Plan period to 2033 (ASA Appendix 6, Principle 1), should the spatial strategy alternatives for the Stage 2 appraisal seek to provide land for:

- a) 7,500 dwellings; or
- b) 1,720 or 2,000 dwellings (the residual requirement identified in Appendix 6, Table 1); or
- c) another figure

The new information regarding cited housing requirement vs. OAN appears very problematic in the context of the ASA for a number of reasons:

The latest information is from March 2019 and therefore would have been available at the time of the ASA. It appears that lower, out of date figures had previously been used in order to justify the required housing figures which feed into site selections. This is a very clear example of pre-determination, especially when an overly large and poorly justified buffer is then applied to the out of date / understated figures.

If up-to-date figures were provided now (e.g. September 2019) – as they should be – there would likely be a material housing surplus vs OAN, which would make the aforementioned buffer look even less appropriate in justifying oversized sites.

The ASA only gives relatively cursory treatment to cumulative and fully-built out impacts of the different spatial strategies. However even in the context of that cursory treatment there is now a clear further problem: that larger / longer term sites have not been examined against an appropriate backdrop, namely that the greater cumulative and fully built out impact of those sites (especially air pollution, biodiversity and the like) should be measured against no or minimal actual requirement for the additional housing up to 2033 and therefore the impact being particularly oversized and harmful.

It is important to note also that this Local Plan is unlike occasional examples where a large buffer has been found acceptable. Specifically:

- Most Local Plans have a much more diverse Section 1 for strategic sites - there is not such a clear divide as there is here where Section 2 (ie non strategic) sites actually fully cover the OAN
- There is no obvious market failure across the NEA area which merits such a large buffer such that long term strategic sites are justified simply as ‘nice to haves’ where there is no quantitative requirement for them

Q12 Does the ASA give adequate and appropriate consideration to:

- (a) effects of overflying aircraft to and from Stansted airport?

The NEAs comment that

“An objector notes that Runway 4 at Stansted is used regularly and has “numerous 3000-5000ft arrival flight paths and 4000-7000ft departure flight paths which pass directly over the proposed West of Braintree site”. It is accepted that departures from Runway 4, in particular, pass over NEAGC1 at heights of 3,000-6,000 ft.[4] The same objector cites Government guidelines and draft

guidelines that highlight the potential for aviation noise impacts from overflight below 7,000 feet of densely populated areas. Again, it is accepted that such a potential exists but as set out in the SA and above, noise mapping evidence indicates that the areas near to the airport affected by aircraft noise do not include NEAGC1.”

It is a welcome admission from the NEAs that such flight paths and the associated noise could indeed be problematic including in relation to Government guidance.

Indeed, it can be noted that the allocation of a site directly under a relevant-height flightpath runs directly contrary to the UK aviation policy objective to “*limit and where possible reduce the number of people in the UK significantly affected by aircraft noise*”.

My consultation response also refers to a senior member of MAG (Stansted owner) commenting at the UDC examination that WOB houses would be under flightpaths, that this was relevant to the WOB site in a Local Plan context and that the houses should be marketed as being subject to aircraft noise.

I note here that the attempt by the NEAs to use noise contour maps to dismiss the Inspector’s question on this topic (both in his June 2018 letter and the current examination questions) is entirely flawed.

Assuming the reference is not deliberately misleading, it seems that LUC and/or the NEAs have not made an attempt to understand the published noise contours maps for Stansted.

Noise contour maps in the document referenced show areas where the average noise across an extended time period (specifically 16 hour periods of the day, with data then taken over a whole year) is above certain thresholds.

As referenced in my consultation response (and as noted at the original examination from which the Inspector’s question was derived), the relevant runway/flightpath for WOB is used around 25-30% of the time. When the averages across the year are calculated, obviously the average noise (taken across all days) in the WOB location is not high enough to show on the annual average map: put succinctly, one day in 3-4 there is full noise; the other days there is significantly lower noise. The noise contours referenced therefore do not relate at all to the experience at a set location when aircraft are overflying.

The noise contour maps specifically note the % incidence of use of the two runways in order that this dynamic can be correctly understood. For completeness, I quote from the latest document to show that this is the way the calculation is done - a higher incidence of the use of the ‘WOB relevant’ runway led to an expansion of the average noise contours:

“A shift to a higher percentage of south-westerly operations in 2016 led to a 24% population increase [in the region of the noise contour] as the contour stretched over populated areas such as Thaxted and Little Hallingbury.”¹

The purpose of the noise contour maps are therefore not to show the areas which are impacted by aircraft noise at certain points in time (for as I have explained above they do not do this) - indeed the flight path maps which I referenced in my consultation response (and which were referenced at the original examination) are far more suitable for this purpose. Rather the noise contour maps are a

¹ P23 <https://live-webadmin-media.s3.amazonaws.com/media/5470/2017-dft-noise-contour-stansted.pdf>

means through which the CAA (on behalf of the DfT) track on a year-on-year basis core noise output and spread from airports - with relevance for items like planning applications for airport expansion, ongoing references for quantitative research on health effects from aircraft noise and so on.

For the avoidance of doubt, the relevant part of government guidance referred to previously relates to flights at a certain height over densely populated areas, not to whether noise contours cover said areas.

The question in hand here is therefore whether the residents of WOB would suffer from exposure to aircraft noise (and the now well-known effects such as sleep deprivation, lack of concentration at work / school with difficulty in carrying out complex tasks, fatigue and accidents from concentration failure and even mental disorders such as depression, with vulnerable groups and children most impacted) and whether this should have been considered in a Sustainability Appraisal as a significant negative point (without the potential for mitigation) for the site vs other alternatives.

The answer is clearly that there is an issue with noise exposure. As set out above, it is not every day but it is a very material problem (and indeed a worsening one for various reasons) whereas for most or all other sites it is not an issue at any point in time.

This is therefore a significant flaw in the SA and ASA and all the more so given the Inspector had specifically suggested that the NEAs examine this area in more detail during the ASA process; what they have instead done is dismissed the issue out of hand through irrelevant evidence / data.

Q12 Does the ASA give adequate and appropriate consideration to:
(b) impacts on operations at Andrewsfield airfield?

Please see my consultation response as the NEAs have not addressed the concerns expressed.

Q12 Does the ASA give adequate and appropriate consideration to:
(c) impacts on heritage assets?

The NEAs note in their hearing statement that they ignored the recommendations of the statutory body, Historic England, regarding methodology for the ASA. Historic England, I and others have pointed out why this is highly problematic and not NPPF compliant.

The NEAs comment further that:

“As such, it identifies where significant adverse effects could not reasonably be avoided or where it would be prudent to include requirements for further investigation and mitigation in site allocation policies. This approach is consistent with the requirement of the SEA Regulations (s12(3)) to include the information reasonably required, taking account of the strategic nature of the Section 1 Local Plan and the fact that more detailed consideration of effects and how they should be mitigated will take place as part of the preparation of the Development Plan Documents for each site”

Firstly, the analysis does not identify where significant adverse effects could not be avoided in any meaningful fashion. Please see my detailed comments on methodology in MOC/HIS for a fuller explanation.

Secondly, the NPPF requires mitigation to be considered at the SA stage - otherwise how is it possible to allocate a site in the absence of any 'built out' view on impact on historic environment? The relevant NPPF (2012) paragraph is:

152. Local planning authorities should seek opportunities to achieve each of the economic, social and environmental dimensions of sustainable development, and net gains across all three. Significant adverse impacts on any of these dimensions should be avoided and, wherever possible, alternative options which reduce or eliminate such impacts should be pursued. Where adverse impacts are unavoidable, measures to mitigate the impact should be considered. Where adequate mitigation measures are not possible, compensatory measures may be appropriate

Thirdly, the reference to SEA Regulations s12(3) is simply incorrect here – this clause advocates (in summary) a proportional approach, specifically taking into account what is appropriate at the relevant stage. It is all too clear from Historic England’s guidance and direct responses, as well as the detailed NPPF requirements, that what is appropriate at this stage of the Plan is i) an analysis which goes beyond what the NEAs have done (i.e. distance based assessment); ii) HIA reports for allocated large allocated sites; and iii) details on mitigation measures.

Fourthly, and for completeness, the government guidance on Sustainability Appraisals also notes the importance of considering mitigation measures at this stage (my emphasis added):

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

The sustainability appraisal needs to consider and compare all reasonable alternatives as the plan evolves, including the preferred approach, and assess these against the baseline environmental, economic and social characteristics of the area and the likely situation if the plan were not to be adopted. In doing so it is important to:

*as part of this, **identify any likely significant adverse effects and measures envisaged to prevent, reduce and, as fully as possible, offset them**”*

The NEA position on this is patently unsound.

Indeed as my hearing statement response showed, the NEAs have repeatedly ignored statutory body comments across the Local Plan process - this has manifested itself in a lack of appropriate evidence preparation and analysis (across both SA and ASA) and trying to defer meaningful consideration - Historic Impact Assessments and associated mitigation measures - to DPD stage despite the unsound nature of this approach.

Q13 Does the ASA give clear and justified reasons (including in the Main Report Conclusion and in Appendix 8) for selecting the preferred spatial strategy option and for rejecting the alternatives?

The NEAs note that:

8.13.2 Many objectors have argued that the SA conclusions do not demonstrate that the chosen spatial strategy is the most appropriate one when considered against the reasonable alternative. The NEAs acknowledge that the overall conclusions of the ASA score many of the options very similarly against the various sustainability objectives and are therefore unable to identify a ‘clear winner’. However, it is important to re-iterate the role of Sustainability Appraisal in the plan-making process which is to inform the choice of strategy by identifying the potential significant environmental, social and economic effects of different options – it is not (as some objectors are implying) there to provide a definitive conclusion on the most appropriate option. This is the job of the plan-making authorities which, in this case, are the NEAs and this is ultimately a political decision by the elected Councillors of the three respective authorities, taking a variety of factors into account

This is not a correct representation of either the Inspector's comment on the SA from the first Examination nor of government guidance. Specifically (my emphasis in both cases):

*"119. I have considered the SA at length as it is the principal evidence document that seeks to justify the NEAs' choice of a spatial strategy involving three GCs, and their choice of the three allocated GCs themselves. **Because of the shortcomings I have identified, I consider that the SA fails to justify those choices. As a result, it has not been demonstrated that the chosen spatial strategy is the most appropriate one when considered against the reasonable alternatives, as the tests of soundness require**" (Inspector)*

"What is the role of the sustainability appraisal report at the examination of the plan?"

*... **The sustainability appraisal report should help to integrate different areas of evidence and to demonstrate why the proposals in the plan are the most appropriate.**" (Government Guidance)*

The NEA's / LUC's strategy has clearly been to try to produce an entirely neutral Sustainability Appraisal such that the conclusions leave the spatial strategy decision primarily down to officer judgement in order that the same three sites can be selected again.

It is clear from the above that in fact the result is that the core document which is supposed to provide and tie together evidence that the strategy is the most appropriate (as required by NPPF), does not do anything of the sort - and indeed appears to fail the Inspector's test by which the previous SA was assessed (and also fell short) and the new evidence was prepared.

The NEAs' statement that the Councillors can effectively choose whichever sites they like is simply not NPPF compliant; it does however constitute implicit confirmation of the pre-determination and closed-mindedness which the ASA is littered with.