



WILLAND PARISH COUNCIL

Local Plan Review: Proposed Submission Consultation (incorporating proposed modifications) – Sustainability Appraisal Update (incorporating consultant LUC recommendations)

April 2018

1. Preliminary Information & Comment.

1.1 Willand Parish Council has responded to the **Local Plan Review Options Consultation** in January 2014; the **Local Plan Review 2013 – 2033 Proposed Submission** in February 2015 and the **MDDC Local Plan Review 2013 – 2033 Proposed Submission (incorporating proposed modifications)** in January 2017. The views expressed in those responses are still relevant and strongly held and should be considered in conjunction with this response.

1.2 This current response is to the **Local Plan Review: Proposed Submission Consultation (incorporating proposed modifications) – Sustainability Appraisal Update (incorporating consultant LUC recommendations)** dated January 2018.

1.3 On 13 September 2017 the planned hearing set for later in the month by a Planning Inspector was postponed and has yet to be reconvened. The recorded decision by the Chief Executive of MDDC is:

"The council commissioned legal support in the form of a Barrister to act on its behalf in respect of the Local Plan examination of the Junction 27 allocation and consequential housing allocations. His advice to the council, having reviewed both our submissions and those made by objectors, is to commission an independent review of the sustainability appraisal and to publish this for consultation before the hearings. This advice was based on case law and precedent over the last few years where such an approach has assisted the inspector when considering issues during the examination. It follows a precautionary approach."

1.4 On 14 September 2017 a press release and notification to councillors was released and a relevant section read:

"Mid Devon District Council considers that this adjournment will provide the opportunity for the council to commission an independent report to review the Sustainability Appraisal of the proposed plan. The Council considers this precautionary additional work will benefit the Examination, aid the Inspector's decision making, and give additional assurance to all hearing participants and the public that a fair and thorough assessment has been undertaken." What it did not say was that the further delay would allow further speculative planning development proposals on sites which were not allocated in the current or emerging local plans. This was due to the fact that MDDC could not prove a five-year land supply and the absence of a plan was aggravating that situation.

1.5 The Parish Council requested sight of the legal advice but were denied with the reason being given that it was 'privileged information'. A request for the detailed specification prepared for tender to carry out the necessary review and report was also denied as 'it had not been decided'. This hardly gives confidence to the statement *"and give additional assurance to all hearing participants and the public that a fair and thorough assessment has been undertaken."*

2. LUC Review of Legal Compliance and Report

2.1 Without knowing the detail of the legal advice, or the detailed specification for the required work to be undertaken in an independent review and report, it is not possible to fully judge the relevance of the consultation document. Some indication can be obtained from paragraph 1.7 of the report. Paragraph 1.8 of the report gives an indication of the restrictions of information available to LUC to carry out a full and meaningful review. An interpretation could be made that they were being 'restricted' as to what they could consider and comment on.

2.2 The way that the latest appraisal has been presented requires cross reference to a number of earlier documents which make it difficult or almost impossible for the average member of the public or local councillor to understand or get a clear picture of information. This is the subject of comment in paragraph 1.12 of the report:

"However, this approach means that it is quite difficult for the reader to get a clear overview of the content of the document and the key findings and LUC advises that it would be helpful for some of the information presented in the Annexes to be summarised in, or moved to, the front end of the document."

2.3 The content of paragraph 1.22 is of concern as it appears that the Council made a decision on 22 September 2016 on incomplete information from officers:

"LUC has queried with MDDC the timeline of the appraisal work that was carried out for the Junction 27 policy, in particular to what extent the proposal was appraised before the decision was made by Council on 22nd September 2016 to propose the allocation as an amendment to the Pre-Submission Local Plan. It was noted that SA work should have contributed to the decision making process. MDDC has since provided further clarification with regards to the timeline of the appraisal work."

2.4 Paragraph 1.24 contains information as to the process for the argument to include the Junction 27 land. It has been a concern of Willand Parish Council that the decision-making process has not been fully and openly transparent thereby preventing questions being asked of or by councillors at the appropriate time. It is argued that this concern is supported by the comment in the paragraph:

"However, the SA Update (2017) did not provide any specific information about the audit trail of decision making with regards to the location of the development. LUC recommends to MDDC that the SA should make clear how the location of the J27 proposal was selected, even if this is based on other factors rather than the SA."

2.5 There have been many questions raised by residents of Sampford Peverell over the selection and allocation of Policy SP2. There appears to be no open audit trail surrounding

decisions made to reject alternative sites put forward in the village. No account seems to have been taken of the unplanned for additional 60 houses (now 90) on the edge of Uffculme which may be slightly further away from the J27 but would have a route to the site avoiding manoeuvring J27 itself. Would the LUC comment at the end of paragraph 1.31 be different had they been aware of the full facts?

2.6 Paragraph 1.40 includes the comment:

“Without a clear audit trail of policy options and decision making in relation to each policy topic/proposed modification, which did not appear in the SA Update (2017), it would be very difficult to establish whether this process has been completed robustly.

This adds to the concern that MDDC has made decisions without being aware of the full facts leading to the advice they had been given by officers. This has, by implication, given rise to concerns that the plan is not sound in some areas as it has been approved on incomplete information. The lack of full information has therefore not allowed the procedures and decision-making process to be properly tested.

2.7 The **Review Matrix** in **Appendix 1** gives further concern as to the ‘openness’ of the decision-making process or at the very least the quality and comprehensiveness of the information to councillors on which their decisions were made.

2.8 The Implications Report to Cabinet on 15 September 2016 led to recommendations to Cabinet and Council on which decisions were made but the information, although available, would require members to search other documents which were not referred to in the report. See page 22 of the report where it states: *“The Sustainability Appraisal was not mentioned in the Implications Report; however there is an apparent synergy in the reasons set out in the Implications Report and the Sustainability Appraisal (2015).”*

3. Local Plan Review: Proposed Submission Consultation (incorporating proposed modifications) – Sustainability Appraisal Update (incorporating consultant LUC recommendations dated January 2018.

3.1 As indicated earlier this document is still difficult to read and understand in places with different coloured typescripts, underlining and striking through. It amounts to 402 pages. A reader is again directed to other documents rather than containing everything clearly in the one document. Full information does not appear to be being given and there has been some selectivity as evidenced in a comment in paragraph 3: *“Only proposed alternatives deemed ‘reasonable alternatives’ are considered as part of the SA update; for example, this excludes alternatives considered in previous iterations of the SA and where only minor amendments are proposed.”*

Further concern is raised in the note regarding Annex 3: *“This annex provides the full appraisals used to assess reasonable alternatives **where deemed necessary** as summarised in Annex 2.”* It is not clear as to who decided what was necessary to be brought to attention or left out?

3.2 Paragraph 21: *“The Junction 27 policy is for the delivery of a major leisure destination providing mixed use development comprising travel hub, agronomy visitor centre, outdoor adventure zone and outlet shopping village. The retail element is integral to the overall*

proposal. It ensures the development provides a unique multifaceted visitor attraction and assists delivery in terms of viability and the inter-relationship between the elements which is seen as essential." No indication is given as to who has decided this and one of the concerns of some councillors and members of the public is that this policy has been written and developed to suit the wishes of one developer without inviting or considering any other options. This concern has been evident at all stages of consultation yet seems to be discounted.

3.3 In paragraph 24 is a statement: *"In comparison to the Proposed Submission Sustainability Appraisal option, this commercial option encompasses a smaller site area, a number of the town centre uses have been withdrawn and new information has been provided to determine the retail impact."* No indication has been given as to what has been withdrawn or what the new information is to determine the retail impact!

3.4 In paragraph 25 it states: *"It reappraised the J27 proposal against the Proposed Submission option, which was the rejected 96ha commercial scheme. The 71ha scheme (26% smaller) was found to perform better than the larger alternative."* This is misleading as the larger area containing the distribution area was withdrawn by the 'developer' and not rejected by MDDC as is evidenced by a press statement at the time and supportive comment from the Chief Executive of MDDC.

3.5 Paragraph 29 includes the following: *"Individual sites were considered at an officer level where they met the selection criteria. These where(sic) then presented to members at Cabinet on 15th September and Council on the 22nd September 2016 in a collated format. Not all sites or all village locations that were considered at an officer level were referred to in the committee paperwork on the 15th or 22nd September 2016. However the reasons for rejecting site options set out in the Implications Report and the Sustainability Appraisal (2015) are broadly the same."* It would appear that councillors were making decisions on incomplete or selective information to achieve a predetermined outcome.

3.6 On the bottom of page 92 under '**Distribution of Development**' it states: *"None of the proposed alternatives are favoured. The rural distribution alternative would lead to greater negative impacts on almost all sustainability appraisal objectives, would result in unsustainable travel patterns and would be contrary to NPPF advice (para 30)."* Regrettably due to the delay in the submission of the plan applications for unplanned sites are coming forward and being approved which is causing negative impact yet sites in the plan are still going to be put forward in addition to the unauthorised sites which are being approved.

3.7 Page 171 - **Sustainability Appraisal Comments** at 4 still leaves questions over the sustainability of the proposals for J27 and in particular the retail element which will be needed to 'support' the leisure proposal. There are still too many 'unknowns'. Retail assessments are not up to date in relation to taking account of the effect on town centres, emerging on line shopping practices and possible effects on the economy of 'Brexit'. There is still no firm evidence as to the need or justification or sustainability of the leisure proposals. No indication is given as to how 'planning controls' will protect the town centres.

3.8 Starting at page 334 - **Additional Appraisals for Land at Junction 17** (sic) itemises various **Commentary** to **Sustainability objectives** and it is felt that some of the **Mitigation** does not support or properly explain the change to the **Impact** scores.

3.8.1 A) Protection of the natural environment: In the commentary it says, *“Development of this scale would have a significant impact on existing landscape character, altering the rural quality of the entrance into Mid Devon from the M5 and the rural character around Willand and Sampford Peverell.”* Under mitigation it says, *“The policy requires environmental protection and enhancement including noise mitigation.”* Certain policies are referenced but they give no detail of assessment or actions which will be taken to mitigate. It is therefore difficult to see how the impact score could have been reduced.

3.8.2 B) Protection and promotion of a quality built and historic environment: The mitigation refers to public consultation and the adoption of a masterplan as a Supplementary Planning Document. It further states *“As such a neutral effect is considered however this remains uncertain given the masterplan is not yet adopted.”* The Impact has been reduced from -2/? To 0/? with no evidence or substance to support this decision other than a presumption that the proposed work will result in such a score.

3.8.3 C) Mitigating the effects of climate change: A number of issues are raised in the commentary which are then referred to in the mitigation with no actual evidence or substance to show how the Impact score can be reduced. Just to emphasise one point from the commentary – *“The site could also contribute to surface water run off without appropriate mitigation measures.”* Under mitigation it says, *“A policy requirement in the Local Plan Review seeks mitigation measures through the provision of Sustainable Urban Drainage Schemes to deal with surface water run-off and arrangements for future maintenance.”* Surely that requirement should have been evident and recognised when the original impact score was given and so a reduction in score cannot be substantiated. Concerns as to surface water retention/disposal has been raised in representations from this Parish Council in previous submissions.

3.8.4 E) Promoting economic growth and employment: The commentary only states that it *“has the **potential** to bring major inward investment and job creation for Mid Devon and the wider region.”* No account appears to have been given to the potential to have a negative impact on other areas within the district or adjoining districts.

3.8.5 F) Supporting retail: The content of the summary still fails to explain how a study provided by a developer can be considered to be independent and can justify the comment *“The study also sets out how designer outlet villages differ from that in town centres and how they can be controlled by planning.”* In mitigation it states *“Limitations and controls provided in the policy have been provided since the previous assessment of this site. A retail impact assessment has also determined that all centres would continue to achieve higher future trading turnovers than at the assessment year. As such a significant positive impact is considered.”* This comment does not take into account the current situation with changes brought about by the increases in the use of ‘on line’ shopping and the potential effects of ‘Brexit’. The current state of our town centres with vacant shops does not appear to have

been considered. There is still no indication of what planning controls will protect existing town centres.

3.8.6 I) Delivering the necessary infrastructure: The commentary states, “*Further assessment work is needed to identify the transport impact, sustainable transport options and strategic infrastructure requirements an uncertain effect. Essential service infrastructure including; water supply, sewage works capacity, gas and electricity will need to be determined as deliverable. Overall a negative and uncertain effect is considered.*” This has a negative impact score of -2/? The mitigation shows a number of proposals in the policy but it is known that the developer is seeking to have the specific provision of a bridge for pedestrian and cycle link over the motorway removed from the policy. Other issues will apparently be dealt with under masterplanning but no detail is given. A mitigation score is then given as +2/? Yet there is then the contradictory comment, “*Overall a positive effect is considered, the uncertainty remains as the detail of providing the necessary infrastructure will be considered at the masterplanning and planning application stage.*” If the proposed masterplanning fails to resolve the issues then the land has been allocated in the plan on unsubstantiated and speculative information without an evidence base.

3.9 Rural Areas

3.9.1 **Alternative Site Option - Land west of Uffculme, Uffculme.** It should be noted that this site now has approval for a further 30 houses making a total of 90. This full site had a negative impact score but it has been allowed by an Inspector on appeal and so the question has to be asked that with this and other unplanned for sites being approved outside of the original plan whether or not other elements of the plan are still sustainable? No work appears to be considered in this respect but they will all have an effect, in a number of cases harmful, on the infrastructure and social wellbeing and cohesion of an area.

3.9.2 **Alternative Option WI1: Land east of M5, extended area 14.8ha, 174 dwellings.** It needs to be clarified that this option is not to be included in the plan particularly bearing in mind that 35 houses are being provided outside of the village settlement area on an ‘exception site’ which was to be removed from the Emerging Plan and substituted elsewhere with 42 houses. The village now looks to be getting 35 more houses than were in the original plan. A further major application is being considered which could result in more than a further 100 dwellings if approved.

3.9.3 **Alternative Option WI2: Willand Industrial Estate residential 2.2ha, 53 dwellings.** It needs to be clarified that this site is not to be considered for housing.

4. Conclusion

4.1 In the Parish Council view there are areas of the new plan which are unsustainable and therefore unsound. Decisions are being made on suggestions and visions, particularly in relation to the allocation of land at Junction 27, which lack sufficient independent evidence to support some of the statements and decisions made. There are also concerning elements of decisions being made on incomplete evidence and decisions being made by officers without elected members being fully aware of the circumstances or reasons.