

To: Robert Young (FAO MDDC and the Inspector). **7/8/19**

From: Jamie (RBC) Byrom, 16 Paullet, Sampford Peverell
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Re: Comments on Examination documents E20 and E21

1. It is not clear that SP2 needs to be brought forward.

- a. We make no comment on the detailed figures in ED20, except to note that none of the 5YHLS figures shown in Appendix 3 matches the figure of 7.43 years published in the case officer's Implications Report for Application 17/01359/MOUT, published c. 22 July 2019.
- b. Whichever method MDDC proposes in Appendix 3, the figure generated suggests that MDDC believes it has a secure HLS for the years 2018/19 - 2022/23.
- c. By our calculations, a loss of 60 houses from the first five year phase would still allow MDDC to show a secure HLS for that period.

2. SP2 is no longer an appropriate option for early build-out within the proposed Local Plan.

- a. Since the Inspector recommended that SP2 be built out earlier than planned, the context has changed. On 31 July 2019, the MDDC Planning Committee refused permission to Application 17/01359/MOUT. The application is for 60 houses on the SP2 site.
- b. This refusal is very likely to lead to an appeal.
- c. There may be a delay of 6 months before we know whether an appeal is to be made.
- d. There may be another delay of almost a year before an appeal decision can be reached.
- e. If that appeal decision were to allow the application to proceed, there are existing conditions laid down by the DCC Flood Authority that a full year's testing for drainage must be conducted on the site and results analysed before any work can begin.

- f. A developer would need to acquire the site and reserved matters would need to be determined. It may be years before the first completions are made.
- g. Paragraph 1.9 of MDDC's implications paper stresses that *'sites that do not have a realistic prospect of yielding completions within the five years cannot be considered as reasonable alternatives to the measures proposed'*. This applies NPPF definitions.
- h. MDDC must apply the rule given (above) consistently when considering the 'measures proposed' ie when proposing to bring SP2 forward for earlier build-out than originally planned.
- i. For the reasons given above, SP2 has no realistic prospect of yielding the completions indicated in Appendix 1 of ED21.

3. MDDC says in paragraph 1.6 of ED21 that its Main Modifications will not have a material change on the previous assessment. This cannot be justified for SP2.

- a. There are several ways in which a material change will be caused to the SA as it relates to SP2.
- b. In 2017, scoring for 'Infrastructure' was changed (from -1 to 0) for SP2 with the 'new information' that A361 slip roads should be constructed before development can begin at SP2. That has now been reversed – and the score should also revert to -1.
- c. The other factor involved in amending that score was that the LHA had assured MDDC that *'access was achievable'* at the Higher Town site. The SA says that *'Improvement of the site access would improve visibility'* and this may also have improved the score.
- d. But the access arrangements referred to above were found to be unsustainable in the first iteration of Application 17/01359/MOUT. The proposed removal of a considerable length of hedgebank was found to harm the natural and historic environment.
- e. The access preferred by LHA and MDDC was dropped in that application as it was deemed to be unsustainable. These are very strong grounds for saying that the infrastructure score may need to drop even further back than -1.

- f. It follows that the **MMs for SP2 would result in a material change**. In December 2016, the Head of Planning urged Councillors to allocate SP2 as it 'scored better' than alternatives. **These MMs mean alternatives would even now be more suitable – if they are needed at all (See Section 1 above).**

4. If the MM proposal to cut the tie between policy SP2 and J27 is acted upon, then SP2 is no longer sustainable as an allocation.

- a. I cannot find any evidence in the SA to support the Inspector's assertion that *'the Policy SP2 allocation is included so that the overall housing requirement can be addressed'*.
- b. On the contrary, SP2 was included specifically and only to meet extra housing needs that were identified only following the decision to explore an allocation at J27.
- c. The 2018 SA update could not be more clear about this. See, for example, pages 11, 26, 52, 85, 201-202, 227, 342, 369). The 'tie' runs through the SA.
- d. The Inspector found the process by which SP2 was allocated to be sound (See ID08, October 2018). His recommendation to remove the tie between SP2 and J27 suggests that he now finds fault with SA process.
- e. The Inspector's recommendation and MDDC's proposal to cut the tie between SP2 and J27 must be shown to be consistent with the SA process. That has not been done.
- f. If SP2 and J27 were to be split, then SP2 would have no local economic and employment need to justify its inclusion. An allocation of 60 houses on the SP2 site would conflict with Policies S2, S13 and S14 in the Proposed Local Plan.
- g. In justifying the allocation at SP2, MDDC used the NPPF requirement for employment and housing to be considered 'in tandem'. (SA Update, page 203). That still applies. Without its tie to J27, SP2 fails to meet the NPPF requirements.
- h. Without a tie to J27, there is no local need that justifies building 60 houses at Sampford Peverell. This would be a major development (as defined by TCP Order 2015).

- i. This is exactly why the site was not included in 2015 before the J27 allocation was proposed. MDDC has said so in its SA (see 3c above). It would have been unjustifiable then and it will continue to be unjustifiable until there is firm evidence of local need, such as a successful application to develop J27 that will create local employment.
- j. Appendix 1 lists the other rural allocations. This shows that the 60 dwellings at SP2 is far and away the highest listed. It is disproportionately high. That can only be justified – and has only been justified – by its tie to J27. The nearest rural allocation in terms of numbers is Willand at 42. (Willand is much larger than Sampford Peverell. In 2011 it had 1368 dwellings to Sampford Peverell's 537). After Willand, the nearest number of proposed new houses is 20 dwellings. Without a tie to J27, the SP2 allocation is unsustainable.
- k. We note that pages 4-5 of the MDDC implications paper, never propose new wording in the SA to cater for the tie between SP2 and J27 to be removed.
- l. We agree that all existing wording should remain in the SA to prove that the tie between SP2 and J27 was valid and should be retained. If changes were to be made, it would hide evidence that sets out the justification for the tie between SP2 and J27.

5. We are concerned that the Inspector's findings over J27, SP2 and the OAN for housing may be flawed.

- a. In his advice note of 21 May (ID12), the Inspector discusses policy J27. He says that he is *'content that while the policy 'makes provision' for various elements, it does not rule out a scheme that takes a different format and in particular, a less ambitious scheme that might not require the Outlet Shopping Village'*.
- b. But a 'less ambitious scheme' may create far fewer jobs. The Inspector says in ID12 that the OAN is 'soundly derived'. But it was based on a report by EDGE Analytix in August 2016. That report used employment projections in line with J27.
- c. A 'flexible' approach to policy J27 that may lead to far fewer jobs means that the OAN has not been 'soundly derived'.

- d. The Inspector's readiness to allow flexibility over J27 actually adds to the justification for the tie between SP2 and J27 to be retained.
- e. The Inspector seems, in effect, to be saying that the wording of a policy (J27) can be interpreted loosely. If that is the case, surely the same must apply to the precise wording of policies in the rest of the plan.

6. The Inspector recommends that the tie between SP2 and the addition of slip roads on the A361 be cut. This recommendation has not been properly justified.

- a. The Inspector refers to *'the helpful submissions of the Highway Authority, that the limitation on development until the completion of improved access works to the A361 is unnecessary'*.
- b. But the expert from the LHA who stated in the February 2019 Hearings that the tie was unnecessary could not explain, a few minutes later, why the tie had been imposed in the first place.
- c. The LHA officer said that the decision to impose the A361 condition in the first place was taken by a team that was not represented at the SP2 hearing session.
- d. The LHA expert was not the best person to give a judgment on whether the tie should be cut.