



Erewash Borough Council: Examination in Public into the Core Strategy Review

Hearing Statement of Varsity Town Planning on behalf
of Green 4 Developments

Matter 1: Procedural/Legal Requirements

7th December 2023

Issue

Whether the Council has complied with relevant procedural and legal requirements.

Plan Preparation and Scope

1. Has the preparation of the Core Strategy Review been in accordance with the Local Development Scheme in terms of its form, scope and timing?

The simple answer to this question is ‘no’. The LDS update published in March 2021 anticipated an EiP in June 2022 with adoption by December 2022. The timetable had slipped prior to this point but it appears that the delay is around 18 months. Green 4 Developments will rely on Erewash Borough Council to set out an explanation.

2. How did the Council engage with interested stakeholders on the allocation of land contained in Policy 1.4 of the Core Strategy Review? Was this appropriate?

Green 4 Developments do not have anything to add regarding the engagement process for the allocation to the north of Spondon. Their concerns regarding the consultation process are raised elsewhere.

3. Has the preparation of the Core Strategy Review complied with the Statement of Community Involvement?

The preparation of the Core Strategy Review within Erewash may be deemed as having adhered to the provisions outlined in the Erewash Statement of Community Involvement during the Regulation 18 and 19 stages. However, certain concerns warrant consideration, particularly in the realms of engagement, transparency, and the strength of the underlying evidence base.

It's crucial to underscore that the Planning and Compulsory Purchase Act imposes a duty on local authorities to conduct plan-making with the primary aim of contributing to the realisation of sustainable development. Furthermore, the Planning Act (2008) places an additional obligation on plan-making authorities, requiring that their development plan documents, when taken as a whole, incorporate policies designed to ensure that land development and usage within the local planning authority's jurisdiction actively contribute to sustainable development.

While the Core Strategy Review may meet the requirements of the local Statement of Community Involvement, it is vital to scrutinise the extent to which the process aligns with broader statutory obligations, emphasising sustainable development. Concerns surrounding engagement, transparency, and the quality of the supporting evidence must be addressed to ensure a comprehensive evaluation of the preparation process.

4. How does the Erewash Core Strategy Review relate to existing plans and how will they be affected by the adoption of the Core Strategy (adopted Erewash Core Strategy and made Neighbourhood Plans)?

Green 4 Developments are unconvinced that Erewash Borough Council has made a legitimate decision in choosing to review a Core Strategy. Core Strategies were intended to contain the strategic policies for an area from which a suite of other development plan documents would flow. Examples of these may include development management policies or area action plans. Erewash Borough Council's LDS Update of March 2021 only makes reference to a Core Strategy Review and so it is concluded that, if adopted, this will be the only Development Plan covering Erewash. Whist the Planning Practice Guidance (ref: Paragraph: 004 Reference ID: 61-004-20190315) allows Local Planning Authorities to set the policy framework locally and does not preclude that all policies could be contained in a single document, the implications of the Core Strategy Review are that this is not a complete policy basis for the District, and it is unclear what further guidance will be produced and by when.

Government guidance has moved away from the 'Core Strategy' approach and the language has returned to that of 'Local Plans'. It is unclear why Erewash Borough Council chose to review a Core Strategy that had demonstrably already failed to deliver on its strategic vision, evidenced through the findings of the Housing Delivery Action Plan (EBH11). Neither is the decision-making process that led to the decision to review transparent or recorded in committee papers.

The Erewash Core Strategy Review exhibits a notable lack of clarity regarding its alignment with existing plans and compliance with updated national policies. The only reference to the National Planning Policy Framework is under draft Strategic Policy 1.1 which sets out that the NPPF has been updated to reflect the findings of the 'Building Better, Building Beautiful Commission' and concludes that the allocations will create beautiful places. Green 4 Developments question whether a proper analysis has been carried out of the saved policies in the Core Strategy and their compliance with the NPPF. If this has been undertaken, then it is not clearly documented in the evidence base that is available.

This lack of clarity raises significant questions about the potential effects of its adoption on the existing plans. Further, Green 4 Developments are unsure what the intention is with regard to the two Core Strategies working together. Will there be a composite document that allows users to easily refer to policies? What further documents will be produced to guide sustainable development and to what timetable?

As a potential user of a Development Plan, Green 4 Developments wish to make a further point about clarity. Paragraph 16d of the NPPF sets out that Local Plans should, "contain policies that are clearly written and unambiguous, so it is evident how a decision-maker should react to development proposals". The format of the Core Strategy Review document is such that it is impossible to distinguish planning policy from supporting text resulting in significant ambiguity and the likelihood that both developers, council officers and third parties may have difficulty interpreting the intention of the plan, and it is therefore not in accordance with the NPPF.

Sustainability Appraisal

5. How has the Sustainability Appraisal (SA) informed the preparation of the Core Strategy Review at each stage? How has the SA been reported? Has the methodology for the SA been appropriate?

Green 4 Developments recognise the critical role that a Sustainability Appraisal (SA) should play in the preparation or review of a Development Plan. The SA process should be iterative and run in tandem with the preparation of the Development Plan. Its purpose is to assess the economic, social, and environmental impacts of the policy proposals, ensuring that the preferred option promotes sustainable development, minimises adverse impacts, and resolves conflicting outcomes.

This has not been the case in respect of Erewash's Core Strategy Review.

The NPPF unequivocally sets out that the preparation of local plans, including the CSR in question, should be informed by a Sustainability Appraisal. The NPPF further underscores the need to avoid significant adverse impacts, pursue alternative options for the mitigation of such impacts, and ensure that the overall plan aligns with the principles of sustainability.

Green 4 Developments contend that the Council's Sustainability Appraisal 1 - Strategic Growth Options in 2020 was fundamentally flawed and it follows that all subsequent policy options were not based on an accurate baseline appraisal. We elaborate on these claims in our responses to subsequent questions.

Further, iterations of the Sustainability Appraisal have not been published in tandem with the versions of the CSR that they should have been informing. For example, the first time that we see the Sustainability Appraisal 3 - Housing Allocations Options (which purports to have been carried out in 2021) is as an appendix in the Submission Version of the SA. Why was this version of the SA not published in 2021, so that respondents to the Plan could make reference to it? This example is not isolated. At the Regulation 19 stage, Green 4 Developments made representations about the lack of transparency, or simply lack of critical pieces of evidence. The clear implication is that these appear to have been produced post hoc to shore up the draft policies in the CSR.

6. What options were considered through the SA for the following: a. The overall scale of housing and other growth; b. The broad distribution of development across the Borough; c. Potential allocation sites and d. Policy approaches

In the Sustainability Appraisal (SA), several options were considered for the overall scale of housing and growth. It is important to note that the scale of the Land Around Hopwell Hall (SGA27) area has been incorrectly assessed within the SA process. This mis assessment raises concerns about the reliability of the SA results, as the outcomes may be skewed by this inaccuracy.

Our primary concern is that the SA's assessment of Land Around Hopwell Hall's scale does not accurately represent the potential for sustainable growth in this area. Erewash Borough

Council chose to assess a capacity of 7,504 homes through their Sustainability Appraisal 1 - Strategic Growth Area Assessment. The origin of this figure is unknown and we can only assume has been derived from an application of 35 dwellings per hectare to the overall site area. This would result in a significant over-development of the site of circa 300% and is not consistent with the position proposed by Green 4 Developments in promoting the site.

Erewash Borough Council made no attempt to contact the promoter or landowner to discuss their assumptions despite requests from Green 4 Developments to do so. The scale attributed to Hopwell in the SA is undeliverable and excessive in terms of the likely housing need, particularly given the size of the site. It fails to fully consider the supporting infrastructure that would be necessary to facilitate a new village settlement or sustainable urban extension in this location.

Erewash Borough Council made a different assessment of 'Land Surrounding Hopwell Hall' (Strategic Growth Assessment 9) for 3,360 dwellings. This is a more realistic proposition but was removed from the SGA at an early stage and without explanation. SGA9 no longer features in the assessments or on the SGA Maps and the only conclusion that we can draw is that it was replaced by the assessment for SGA27 when additional land was proposed but this is not clearly set out in the evidence base. Green 4 Developments was never given the opportunity to raise this with the Council, as no meetings with officers ever happened, despite being offered.

As part of Green 4 Developments' contributions to the Council's 'Revised Options for Growth' consultation, they presented a comprehensive appraisal of the scheme, and a series of technical reports for Hopwell Village (or the 'Land around Hopwell Hall'). These reports covered aspects such as access and movement, landscape, ecology, hydrology, ground conditions, and heritage. Collectively, these reports indicated that Hopwell Village could potentially deliver approximately 2,080 dwellings by 2037. Moreover, they identified various energy, transport, environmental, and community amenities that would not only benefit the site but also justify its release from the Green Belt above and beyond the provision of much-needed housing.

Despite these efforts and the supporting information provided, the Council chose not to revisit the Strategic Growth Area Assessment for Hopwell. Instead, the Council persisted with an inaccurate and unsupported uniform housing density of 35 dwellings per hectare across the entire site. This approach, in our opinion, contradicts the details presented in the indicative Local Plan and supporting representations we submitted, indicating a lack of alignment between the Council's approach and our proposals. We would go so far as to suggest that the Council simply ignored these legitimate representations and made no attempt to consider them, having already determined the course it wanted to pursue with the review in spite of any alternative evidence or proposals.

In conclusion, our main contention is that the assessment of Hopwell's scale within the SA process is flawed, which may have significant enough consequences for the SA's overall results that it jeopardises the conclusions set out. Given this concern, we strongly

recommend that a comprehensive reassessment of Hopwell's potential and its alignment with the broader development objectives is necessary to ensure the SA, and hence the Review, accurately reflects the possibilities for sustainable growth in this area.

The way in which decisions have been made through the Strategic Growth Assessments and subsequent rounds of Sustainability Appraisal suffer from a lack of transparency in the reporting process. Conclusions as to why certain sites were not carried forward (SGA27) or were removed from the appraisal process altogether (SGA9) is not given any explanation. It is impossible for any party outside of the Council to trace the process undertaken or outcomes of decisions made during the preparation of the CSR.

Green 4 Developments strongly recommends a review of the SA process to properly assess, among other things, the Land at Hopwell Hall. It is imperative to ascertain whether any aspects of the distribution of development require adjustment to promote a more sustainable and deliverable options. This step will help ensure that the Borough's development strategy accurately reflects its long-term sustainability goals and adheres to the most recent guidance.

7. What were the conclusions of the SA in relation to these options and how have they informed the preparation of the Core Strategy Review?

As set out above, Green 4 Developments consider that any conclusions drawn from the Strategic Growth Assessments were fundamentally flawed and that the Sustainability Appraisal was not prepared in advance of the CSR.

8. What are the overall conclusions of the SA?

The overall conclusions of the SA are flawed due to an incorrect assessment of the quantum of development at Hopwell, as stated in our former responses.

9. How have the requirements of the Strategic Environmental Assessment Directive been met?

Green 4 Developments will rely on Erewash Borough Council to respond to this question.

Habitats Regulations Assessment

10. How was the Habitats Regulations Assessment (HRA) carried out and reported and was the methodology appropriate?

Green 4 Developments will rely on Erewash Borough Council to respond to this question.

11. What was the basis for determining that an Appropriate Assessment was not required and is this a justified conclusion?

Green 4 Developments will rely on Erewash Borough Council to respond to this question.

Other Matters

12. Do the strategic policies look ahead a minimum of 15 years from adoption, to anticipate and respond to long term requirements and opportunities as required by paragraph 22 of the National Planning Policy Framework?

Green 4 Developments is concerned to note that the policies in the current plan do not clearly project a minimum of 15 years into the future, as required by paragraph 22 of the National Planning Policy Framework (NPPF). Strategic Policy 1 is clear that the CSR looks to 2037 whereas a fifteen-year time horizon should look to 2039. This omission raises a significant issue regarding the plan's alignment with the NPPF's essential criteria for addressing long-term requirements and opportunities.

We would have expected a Housing Topic Paper to be published that sets out how the growth trajectory will be altered to run for the full 15 years, and bearing in mind the predominant Green Belt status of the District, arguably with an overview for longer than that. The Housing Trajectory (EBH3a) also stops in 2037 but this is an undated document so it may be that it has not been updated since 2022.

13. Does the Core Strategy Review include policies designed to ensure that the development and use of land in the Borough contributes to the mitigation of, and adaptation to, climate change in accordance with the legislation? If so, which?

The Core Strategy Review does make reference to Climate Change through various adaptation and mitigation measures. However, additional guidelines are needed to enhance energy efficiency in both existing and new buildings, along with further measures related to green, blue, and grey infrastructure to effectively address climate change mitigation and adaptation.

In addition, the relative Climate Change impacts of the allocated housing sites has not been identified, and, hence, there may be additional benefits that could accrue from alternative approaches.

14. Has the Council had regard to the other relevant specific matters set out in Section 19 of the 2004 Act (as amended) and in Regulation 10 of the 2012 Regulations?

The CSR is solely focused on strategic and high-level policies. It doesn't contain anything in the form of 'development management' style policies which would be essential to guide development proposals in the District.

Section 19(1B) to (1E) of the Planning and Compulsory Purchase Act 2004 emphasise the need for local planning authorities to identify their strategic priorities and establish policies to address them in their development plan documents. The CSR limits itself to identifying strategic priorities but does not provide a structure for how they will be delivered.

15. How have issues of equality been addressed in the Core Strategy Review to ensure that due regard is had to the 3 aims outlined in s149 of the Equality Act 2010 in terms of those who have a protected characteristic?

Green 4 Developments will rely on Erewash Borough Council to respond to this question.