

Matter 10: Infrastructure

Preface to Inspector's Questions

Before responding to the individual questions set by the Inspector, we thought it would be helpful to set out Countryside's position on infrastructure delivery and viability more generally first.

Neither the IDP (EB059d) nor the Local Plan and CIL Viability Study (EB040a) form part of the LDP itself, but form part of the background Evidence Base. Whilst both are obviously important documents that together will help the Inspector decide whether or not the LDP is deliverable, the content of both is in our view correctly contained outside of the statutory LDP, because the findings can change over time, and can be refined in the light of more detailed assessment. Both documents represent 'high level' assessments, rather than detailed findings that provide a once-and-for-all definitive position.

In our experience, determining the extent and nature of infrastructure required in connection with a particular development project (and hence the viability of the scheme) is a two stage process. At the LDP level, a broad indication of the likely extent and cost of infrastructure can be determined, but that assessment is often based on high level modelling work, and at the second stage, the planning application stage, it is possible to review and refine the infrastructure requirements, obtain more detailed information in respect of costs, and tailor the viability appraisal to the detailed elements of the scheme proposed.

At the application stage, if a need can be shown for a specific piece of mitigation arising from the effects of the development, that mitigation will need to be provided, irrespective of whether or not it is specifically mentioned in Policies S4 or I1. By the same token, if at the application stage, a piece of infrastructure suggested by the LDP/IDP is shown not to be required, or where mitigation can be provided in a different form, then having that item of infrastructure listed in the LDP will not make it any more justified or necessary when the application is determined.

Because neither the IDP nor the high level Viability Study are part of the LDP, they have not been subject to formal representations by Countryside (although Countryside's representations to Policy I1/Table 1 have obviously been influenced by the content of those documents). Discussions between the Council and Countryside have been on-going and productive, and have, for example, resulted in the updated Infrastructure Phasing Plan to be submitted to the Examination as part of the Statement of Common Ground between the parties in respect of the NHGS.

Notwithstanding the specific comments raised in this statement, the Council's own high level Viability Study concluded that, with the adjustment of affordable housing to 25%, issues of viability are "largely resolved", although the report goes on to note at Paragraph 8.6 (of EB040d) that *"it will be necessary for the Council to continue to take a flexible approach to the scale of development, the details of the s106 requirements, and the precise mix of housing as the requirements for infrastructure are further clarified as the site promoters continue to move towards a planning application."*

The planning application that Countryside is preparing will be accompanied by a viability appraisal that will be submitted (separately and confidentially alongside the application, for independent

assessment by the Council), which will demonstrate that the North Heybridge Garden Suburb can be viably developed alongside the provision of the necessary infrastructure.

Ultimately, as noted in Countryside's letter of the 27th June 2014 at CED06, achieving a viable development at the application stage could have some further implications for affordable housing. This could be, for example, in terms of timing of delivery (i.e. whether to help compensate for other early infrastructure costs there needs to be some flexibility on the phasing of affordable housing), or quantum, or both. Countryside Properties has not however objected to Policy H1, and at this stage is working on the policy basis assumption of 25% affordable housing delivery.

The IDP schedule of Infrastructure - Contents

With reference to CED10 Appendix 13 our comments are as follows:

- The revisions to this table have been discussed with MDC and ECC. We do not seek to argue that any of the items listed in the table are wrongly included, and we consider they appropriately scope out the extent of infrastructure works associated with the NHGS and the Plan as a whole;
- For the reasons set out in our Matter 3 statement and in the Highways Statement of Common Ground between MDC, ECC and Countryside, we consider that the Hatfield Peverel works required are small scale (and can be covered already under the broad Passenger Transport heading).
- We consider generally that the cost figures for sports/open space items are likely to be an under-estimate, since they appear to relate only to the cost of physical provision, rather than the complete cost of land purchase, provision and maintenance (and in respect of sports provision in particular, no cost figure is currently entered).
- It is unclear why some items of CIL funded infrastructure (e.g. District Park/allotments elsewhere in the district) are included on the schedule and marked as CIL, but other CIL items (such as libraries and waste management) are not included.

Phasing of Infrastructure

As the starting point for a discussion on infrastructure phasing, the revised table is useful, but it has to be seen in that context, and it has to be recognised that, through the application processes, further consideration will be given to the details of phasing. This matter is covered in the separately submitted Statement of Common Ground, which includes the updated indicative phasing strategy.

In terms of the two major pieces of infrastructure for North Heybridge, the strategic flood alleviation and link road, Countryside will be seeking to deliver these over around a four year period from the commencement of the development, because it makes practical sense from the construction point of view to undertake these two tasks in tandem.

The Inspector's attention drawn to the original Viability Study (EB040a) which assumed at paragraph 10.10 that developer contributions were paid over the life of the development (the payment of CIL was also assumed to be over the life of the development, rather than upfront). There is therefore a discrepancy between the methodology of the Viability Study and the recommendations of the IDP, because the latter tends to push infrastructure costs towards the front of the development, which can have an impact on viability. The refined infrastructure phasing schedule included within the Statement of Common Ground between Countryside and the Council, whilst still indicative, shows the potential for a more balanced and 'business-like' phasing of development costs (particularly taking in to account the acceptance that the phasing of green infrastructure will require further consideration at the application stage).

Infrastructure Delivery Mechanisms

Our original representations to Policy I1/Table 1 covered three issues: firstly, the list of items covered in Table 1 and whether it correlated with the infrastructure requirements in the IDP/Policy S4; secondly, whether pooled contributions are the most effective means of covering all contributions; thirdly, whether the approach to site S2f of part s106/part CIL is appropriate.

In respect of the first matter, through subsequent iterations of the IDP, we consider that these concerns are now largely resolved, although Table 1 has not kept pace with updates to the IDP.

Dealing with the second matter, and as per our response to Matter 3 Q7, the use of pooled contributions for shared infrastructure is not uncommon, and is appropriate in this instance given the fact that infrastructure will be shared between the parties. In many cases, where infrastructure is to be delivered by a third party following pro-rata payments (e.g. education enhancements), pooling occurs in effect anyway.

We noted in our original representations that there may however be some items of infrastructure in this case that do not need to be delivered by pooling, provided that all parties still pay an equitable share of development costs, perhaps through different specific obligations. We consider that an opportunity exists to refine the approach to pooled contributions so that, in the event that a piece of infrastructure is provided wholly by one party (such as the North Heybridge link road), the other parties still pay a fair and equitable proportion of the overall costs of highway improvements in the area (of which the link road is just one element), but the funding is not ring-fenced to individual specific items of infrastructure. This revised approach could assist in infrastructure coming forward more quickly, because instead of accumulating a number of small pots of money earmarked to specific items of infrastructure, funds could be spent more quickly.

Turning to the third matter, we consider it important that site S2f make a full contribution towards the shared infrastructure for the Garden Suburb, rather than making a partial CIL contribution, not least because CIL may not be in place by the time an application on site S2f is approved. In our view, a revisiting of the structure of Table 1 and the distribution of pooled contributions, alongside the removal of some individual items for direct delivery, would enable all sites to make equitable and proportionate pooled S106 contributions without exceeding the number of parties permissible under Regulation 123, or the requirements for obligations under Regulation 122 (2).

Inspector's Questions

Q1. Is the approach to delivering infrastructure appropriate, justified, effective, soundly based and consistent with the IDP and national policy?

Yes, subject to our comments at that start of this section, and those below, we consider the broad approach set out in the LDP i.e. the delivery of site specific infrastructure through s106 agreements, with pooled contributions *where necessary*, and the use of CIL for district-wide infrastructure, appropriate.

Q2. Do policies I1 and I2 identify sufficiently the nature and type of infrastructure required ...?

Table 1 is now clearly out of date. In terms of format (and in the light of our comments above regarding the propensity for detailed requirements to change) we consider it preferable that Table 1 continues to adopt a more generic approach to the infrastructure headings, rather than list individual detailed schemes and solutions.

We believe a more beneficial approach to pooling, making the arrangements simpler and helping to deliver infrastructure earlier, could be devised.

Q3. Do the Plan and IDP give sufficient information and evidence about delivery, funding and viability of the specific infrastructure ...?

In terms of providing a high level viability assessment of the Plan and its proposals, we consider the Plan and IDP are sufficient – i.e. the evidence meets the requirement of demonstrating on a plan-wide basis that development is viable. The IDP provides sufficient additional evidence regarding potential sources of delivery and funding, albeit this needs to be seen as a 'live' document that will change (and which in fact has changed several times since the first iteration).

The application process provides a second mechanism by which the detailed viability of individual sites can be assessed in the context of refined assumptions about the cost and timing of infrastructure.

Q5. Does the Council's update to Table 11 of the May 2013 IDP in CED10 Appendix 13 provide the necessary clarifications of when infrastructure would be required for the Plan's housing delivery, the costs of infrastructure, and the contributions required from strategic sites?

The IDP provides a useful guide to overall infrastructure costs and delivery, and can be used for the purposes of a Plan-wide Viability Appraisal. The actual contents of the IDP should be capable of refinement over time (see updated Phasing Plan contained within the Statement of Common Ground, which has been further refined through helpful and productive discussions between ECC, MDC and Countryside on the appropriate phasing of infrastructure).

Q6. How much development can take place on each allocated site before a specified piece of infrastructure in CED10 Appendix 13 has to be provided?

The IDP represents an overall strategy for infrastructure phasing, intended to ensure that infrastructure is provided in a timely fashion. See the hearing statement on Matter 3 and NHGS Statement of Common Ground.

Q7. Much of the infrastructure relies on pooled funds from various sites ... will this pooling arrangement prevent the delivery of individual sites if monies are not available for key infrastructure because other sites have not progressed as fast?

Please see response to Matter 3, Q7, and comments on pooling above.

Q9. Is the approach to seeking developer contributions, including the type and scale of contributions listed, appropriate, justified, effective, soundly based and consistent with national policy, and have implications for the deliverability and viability of development been properly considered?

Please see comments above regarding the IDP and pooling generally.

Q11. Do the Council's suggested modifications at Refs 055 and 056 in SD04b resolve how and when infrastructure will be delivered?

We do not agree with these Modifications, in so far as they refer to the IDP. In effect, the reference seeks to 'bind' the contents of the IDP in to policy. The IDP is a 'live' document that will change over time, without any need for independent scrutiny. It cannot be appropriate to make the grant of planning permission conditional upon meeting the terms of such a document which does not form part of the development plan, if that is the purpose of these changes. If that is not the purpose, then it is not clear what function the changes perform.

Ultimately, it is the grant of planning permission and the conditions/s106 agreements that are linked to any planning permission that will determine finally what infrastructure is provided, and when. Planning applications themselves will need to be supported by robust evidence of impact, including in respect of transport impact, flood risk, archaeology, noise, utilities, ecology etc., or any other social/ environmental/physical infrastructure. Where the evidence at the application stage shows an impact that needs to be addressed, the appropriate mitigation will need to be provided, regardless of whether that infrastructure is included in the IDP or not, and regardless of whether that infrastructure is included in the LDP.