

AN ANALYSIS OF MSDC'S PLANNING DOCUMENTS IN SUPPORT OF ITS HOUSING NUMBERS OVER THE PLAN PERIOD:NAMELY THE SUSTAINABILITY APPRAISAL AND THE SHLAA.

INTRODUCTION

1.This paper looks at both difficulties and relative reliability aspects of plan making,in general, over the long term, and the specific relative reliability problems of the Sustainability Assessment and the SHLAA.

LONG TERM PLANS IN GENERAL

2.I have had considerable experience in short,medium and long term plans relating to (i) the introduction of new products and of new services(covering short and medium term plans);(ii)financial plans for a business at an overall level(short and medium term plans) ;and medium/long term plans for the direction of a business at a strategic level.

3 A common feature of the plans in paragraph 2 above is that although there is a variable,and often very limited, amount of reasonably hard data, much of the material in these plans depends upon estimating , forecasting,qualitative judgements etc.Even in the case of an operational plan and budget for the next 12 months only,it is commonplace for the 12 month budget to contain a contingency provision against uncertainties over even such a short period as 12 months.Rarely,if ever,in such generic plans is there a defined or prescriptive procedure/methodology to help with the eventual management decision that has to be taken on these plans.

THE SUSTAINABILITY ASSESSMENT(SA) AND THE SHLAA

4.Compared with the sort of Plans referred to in paragraphs 2 and 3 above ,the SA and SHLAA have a considerable advantage in that they are based on housing projections that are, to a considerable extent, prescribed in terms of the NPPG, and absolutely prescribed in the NPPG in terms of the output numbers which emerge from the affordable housing calculation.In terms of the SA and SHLAA, the only judgements that need to be made are the qualitative judgements on whether sites and housing can be provided for a given total housing number.Thus, compared with the plans in paragraph 2 above , final decision making on the SA and the SHLAA,are much 'easier' simply because of the relative robustness of the total housing need number.That housing need number is always one of the range of options on housing numbers tested in the SA.The SHLAA then looks at all of the possible sites needed to meet that preferred total housing need number and it is this 'fixed/preferred' housing need number which makes the qualitative judgements in the SA and the SHLAA so much 'easier' relative to the decision making problems associated with the sort of plans referred to in paragraph 2 above.

5.What we also know is that in the June 2015 pre submission plan,MSDC argues ,in its Sustainability Assessment on page 80, that 650 dpa was the limit/'tipping point' beyond which the SA and SHLAA could not provide sufficient housing without dipping

into sites where the constraints/ qualitative assessment indicated that the 'adverse impacts of doing so would significantly and demonstrably outweigh the benefits' i.e the NPPF paragraph 14 test. Page 80 of the Sustainability Assessment for June 2015 described option (c), the proposed 650dpa total housing provision, as being "the 'tipping point' in sustainability terms between acceptability and unacceptability when weighing up whether positive impacts on social and economic objectives outweigh any negative impacts on environmental objectives".

6. Yet only 5 months later, in the November 2015, the Sustainability Assessment, on page 91, MSDC concludes that the increased total housing provision of 800dpa (option (c)) is "the 'tipping point' in sustainability terms between acceptability and unacceptability when weighing up whether positive impacts on social and economic objectives outweigh any negative impacts on environmental objective". Thus in the space of only 5 months, MSDC have altered the markings in the Sustainability Assessment to allow them to increase the total housing requirement from 650dpa to 800dpa. And in the space of 5 months have found extra housing of 150dpa in the SHLAA and other, already, committed sites to meet this large increase in the total housing requirement.

7. The evidence of what happened, in paragraph 6 above demonstrates that when MSDC, themselves, decided to increase their total housing requirement over the plan period, that the SA and the SHLAA, which are based, essentially, on qualitative assessments/judgements, were 'soft enough' documents to permit MSDC to re-mark the SA and revisit the SHLAA to provide the extra 150dpa housing that they required.

8. The SA is not only based almost wholly on qualitative assessments but the marking system of pluses, minuses, zeros and questionmarks against specified objectives, clearly results in a significant degree of 'softness' in terms the weight of 'robustness' than can be put on the summation of those markings and the resulting conclusions attributed to each of the specified objectives. Indeed, as mentioned in paragraphs 6 and 7 above, it proved relatively easy for MSDC to adjust its own SA markings to a significant degree, from the markings in the SA to support a 650dpa housing need to the altered markings in their SA to support a 800dpa housing need.

9. Turning now to the SHLAA, this document has, in effect, a 'hurdle level' whereby following a qualitatively based assessment of every site, those sites awarded 3 ticks are deemed to be sustainable sites which can be used to contribute towards meeting the total housing need of Mid Sussex. Sites only awarded 2 ticks or 1 tick are included in the SHLAA but such sites are not deemed to be sustainable and are not used to contribute to the total housing requirement of Mid Sussex,

10. So far as paragraphs 5 to 9 above are concerned, then it is clearly the case, in my view, that the SA and the SHLAA are somewhat 'heavily' qualitatively based /marking assessment driven documents. As such, they cannot be held up as being 'hard and incontrovertible evidence' to support a precise total housing

requirement figure of 800 dpa and certainly cannot be used to argue that MSDC cannot take a single dpa of additional housing or even an extra 50 dpa of additional housing over the 800dpa plan provision as MSDC seems to be trying to assert to be the case. There is no evidence, in my view, that doom and gloom will descend on Mid Sussex and that the sustainability of sites will be hugely compromised if site provision goes above 800dpa as MSDC seem to be asserting.

11. It is clearly not the case that MSDC can argue, convincingly, the SA and the SHLAA qualitative judgement markings, and the rigid 'hurdle level' in the SHLAA for MSDC's sustainable site test are so 'solid' in their qualitative marking system that MSDC, therefore, cannot provide any flexibility whatsoever for an increase in the planned housing need figure of 800dpa. Having carefully listened to the arguments and the papers produced on the subject of sustainability (including MSDC 5), I still remain of the view that the total housing requirement for Mid Sussex can be increased to about 900 dpa over the plan period and that sufficient sustainable sites can be found, and are likely to become available (the NPPF paragraph 47 bullet point 3 test) to meet this housing figure. The calculations, evidence and arguments are set out in my Paper Nos 1 to 4 tabled to the Examination on 5 January 2017 where in terms of the justifiable total housing need figure for Mid Sussex I put the figure as being between about 880dpa and 920 dpa (in round numbers) and explain why I believe that the final figure should be about 900dpa.

FURTHER ASSESSMENT OF THE QUALITATIVE MARKINGS IN THE SA AND THE SHLAA

12. Both MSDC and the Forum have agreed to table about five sites each of their own choosing and to assess those sites for their likely availability and sustainability. I presume that both sides markings will be tested in discussion at the Hearings on 8/9 February. This process, it is hoped, will give some sort of better feel/scope for the possibility, or not, of MSDC being able to provide housing, sustainably, beyond the current 800dpa plan provision figure.

13. I very much hope that both the Forum and MSDC engage constructively and positively in the process in Paragraph 12 above and I also hope that it will be of assistance to all of us who will be providing comment/ evidence to the planned Hearings on 8/9 February 2017. That said, my expectations are not high. It would not be exaggerating to say that so far, the approach of MSDC and the Forum on every issue at the Hearings to date has been extremely resistant from moving at all from their declared positions at the start of the Examination. The only issue on which there is now a common position is the method required by the NPPG to calculate the affordable housing number; and that has taken a lot of work (including work by me set out in my Paper No 1 of 5 January 2017 and my note of a conversation with the DCLG of 6 January 2017 and my paper submitted to the Examination on 11 January 2017). MSDC have been reluctant from the outset to accepting that the NPPG calculation for affordable housing must be based on a comparison of net need, compared with net likely

delivery and for some long time have been asserting that their methodology of calculating affordable housing of net need compared with gross planned total housing was the correct approach and they only conceded that they were wrong when the evidence(mathematical, logic and the clear intent of the NPPG wording and my conversation with the DCLG) provided 'proof beyond any reasonable doubt'.In my view, the Forum have tried hard to support their views by providing evidence(e.g.6 different methods for considering an uplift in the OAN and constructive evidence on the unmet needs issue).But MSDC have not only refused to budge an inch on almost everything ,they have also,on a number of occasions, used the words to defend their District Plan provisions that "there is nothing we have heard or seen which will alter our view(sic on housing numbers)". The problem I have with MSDC's rigid resistance to their housing figure of 800dpa is that any fair, rational and logical assessment of that housing number would conclude that such a fixed attitude to that precise number can only be supportable if it is based upon hard indisputable facts.But that is not the case:it relies,to a significant extent, on qualitative judgements and thus by definition has 'soft spots'and areas where there must be a degree of uncertainty and thus some flexibility.In my view, there is nothing to support MSDC's view that 800dpa is a figure 'which beyond any resonable doubt is the correct figure beyond which MSDC cannot go in terms of sustainability'; the only test that can be applied where qualitative evidence is being presented to support 800dpa is that of whether that figure is reasonably based on 'a balance of probabilities'.

14.In short, I fear that the Hearings on 8/9 Febraury will be a replay of what has occurred to date with neither side conceding anything and MSDC,in particular,refusing'to give an inch' on their qualitative marking of the selected sites under discussion.

CONCLUSIONS

15 My conclusions are that subject to the outcome of the Hearings on 8/9 February(of which I ,personally,do not expect any solid new evidence or soft new evidence to emerge):-

(i)That based on the above evidence/comment / argument, there is already sufficicient evidence to support an increase in the total housing need figure for Mid Sussex which will exceed the 800dpa figure in the District Plan.

(ii)That MSDC's total housing requirement should be increased to about 900dpa and that such a figure can be provided sustainably in Mid Sussex.

NEIL KERSLAKE

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