



Independent Examination of Fenland District Council's Core Strategy submission

Matter 13 – Delivering Infrastructure, Question 1.

Written Statement of Cambridgeshire County Council

Matter 13 - Delivering Infrastructure

Q1. Will the LP be effective in delivering the infrastructure required to support the growth envisaged in Fenland?

1. Part of the Core Strategy that is unsound

- 1.1. Cambridgeshire County Council (CCC) considers policy CS13 contained within Fenland District Council's submitted Core Strategy is unsound. It is not robust enough to ensure that the infrastructure necessary to support the development proposed in the Fenland Core Strategy over the period to 2031 will be provided.
- 1.2. Policy CS13 should make it clear that planning obligations will be required, and that they must address the infrastructure shortfalls identified in the Infrastructure Delivery Plan for Fenland (IDP). It should provide certainty by setting out the types of infrastructure provision that will be secured through planning obligations; and also be clear about the supplementary guidance that will be prepared.

2. Soundness criterion to which that part of the Core Strategy fails.

- 2.1. CCC consider policy CS13 unsound under the following criterion: 1) positively prepared, 3) effective, 4) consistent with National Planning Policy.

3. Why that part of the Core Strategy fails.

3.1. Positively prepared

- 3.1.1. The NPPF requires local plans to be prepared based on a strategy which seeks to meet objectively assessed development and infrastructure requirements (para 182, bullet 1). Whilst the Fenland Core Strategy is supported by an Infrastructure Delivery Plan (IDP) which assesses infrastructure requirements, Policy CS13 of the Core Strategy does not require developers to meet the infrastructure shortfalls identified within it through a planning obligation; and therefore the Plan's strategy cannot ensure that the assessed infrastructure needs for Fenland over the plan period will be met.
- 3.1.2. The strategy of the Fenland Local Plan is to provide further guidance on the implementation of Policy CS13 at a later (unspecified) date. Policy CS13 states:
'Further guidance on how the Council will implement this policy will be set out in a separate document(s), the content of which will depend on whether the Council prepares and adopts a Community Infrastructure

Levy (CIL)...'(Fenland Local Plan Core Strategy September 2013, Policy CS13)

However, this is at odds with the Implementation and Monitoring Framework of the Core Strategy which states:

'An Infrastructure Delivery Plan (IDP), or similar will be prepared in conjunction with a CIL, and will set out details on the necessary infrastructure projects that are required to support the policy.' (Fenland Local Plan Core Strategy September 2013, page 85)

The Core Strategy's strategy on how it will meet infrastructure delivery requirements needs to be clear, and if the intent is to prepare a CIL this should be clearly expressed in Policy CS13.

- 3.1.3. In the interim period, until the further guidance such as a CIL is provided, it appears that the strategy of the Plan in respect of infrastructure delivery is to be reliant on Policy CS13. It is therefore vital that this policy is robust and it clarifies what infrastructure requirements must be addressed. As well as being linked to the IDP to ensure that identified shortfalls are met, the policy should provide certainty to developers and service providers about the scope i.e. the types of infrastructure that need to be addressed. At present it fails in this respect.
- 3.1.4. In addition, from April 2015 (recently revised from April 2014), if a CIL is not implemented, section 106 payments from a maximum of five sites will be allowed to be pooled (see Appendix A). The policy makes no reference to what would happen should a CIL not be implemented.
- 3.1.5. The Core Strategy should make clear, for at least the first five years of the period which it covers, what infrastructure is required, how it is going to be funded and provided, and how it relates to the anticipated rate and phasing of development. The IDP does contain a brief and vague reference at paragraphs 5.35 and 5.36 regarding what will happen after no more than five section 106 payments can no longer be pooled, but it does not provide any additional information about how infrastructure would be funded post April 2015 should a CIL not be implemented. It is severely lacking in respect of information regarding how infrastructure will be funded, simply citing "developer funded" as a source of funding against a significant proportion of the identified infrastructure required.
- 3.1.6. CCC submits that Policy CS13, in its current form, is not robust enough to ensure that objectively assessed infrastructure requirements will be met and the lack of detail provided in the IDP contributes to this deficiency.

3.2. Effective

- 3.2.1. The Core Strategy will not be effective as Policy CS13, for the reasons already outlined in Section 3.1, is not robust enough to ensure that the infrastructure necessary to support proposed development will be delivered.
- 3.2.2. Policy CS13 does not clarify the requirements to be met under Section 106 obligations. With regard to 'major developments' in particular, it is essential that the necessary infrastructure is delivered effectively and efficiently. In the absence of a CIL the only means of securing funding from a developer is via a planning obligation. It is therefore vital that the Core Strategy contains a clear policy specifying exactly what infrastructure should be delivered through Section 106 provisions. This should cover the main

types of infrastructure in order to provide certainty for both developers and service providers, and should include as a minimum the following:

- Community hub facilities, including libraries and public health services
- Education facilities including primary, secondary and special school
- Sport, leisure, open space and recreation facilities
- Transport infrastructure
- Broadband and wireless
- Flood mitigation and improvement measures
- Environmental improvements, including renewable & low carbon energy and associated infrastructure.

- 3.2.3. Using broadband infrastructure as an example, new residential and commercial development will require connection to broadband services. Policy CS13 is not effective, because without it being linked directly to the IDP it cannot ensure that such infrastructure requirements would be delivered. The IDP is an evidence document which informs the Core Strategy, it is not policy itself hence it needs to be delivered through an effective policy.

3.3. Consistent with National Planning Policy

The Core Strategy is not consistent with national policy for the reasons in Section 3.1 and 3.2. It will not ensure that the strategic priority of ensuring the provision of necessary infrastructure is met. The NPPF requires local plans to set out the strategic priorities for their area and include strategic policies to deliver:

'The provision of infrastructure for transport, telecommunications, waste management, water supply, wastewater, flood risk and coastal change management, and the provision of minerals and energy (including heat.)' (NPPF, para 156)

Crucially, the NPPF requires local plans to:

'plan positively for the development of infrastructure required in the area to meet the objectives, principles and policies of this Framework. (NPPF, Para 157)

- 3.3.1. Paragraph 5.1.2 of the Core Strategy states that:
"the proposed level of growth will place an increased demand on our existing infrastructure and services, leading to the need for new and improved provision."
Paragraph 21 of the NPPF states very clearly that planning policies should *"recognise and seek to address potential barriers to investment, including a poor environment or any lack of infrastructure"*. Though some of the 'key' elements of the IDP are referenced on page 58 of the Core Strategy, clarity on the types of infrastructure required is not provided within the policy itself, neither is the policy linked to the IDP, which could be perceived as a barrier to investment.
- 3.3.2. The importance of the provision of a range of infrastructure to support sustainable development is a theme which runs throughout the NPPF. The third 'core planning principle' in the NPPF states that planning should *"proactively drive and support sustainable economic development to deliver the homes, business and industrial units, infrastructure and thriving local places that the country needs."* (NPPF, para 17)

3.3.3. The requirement for communications infrastructure is supported by paragraph 42 of the NPPF, which clearly states that “*advanced, high quality communications infrastructure is essential for sustainable economic growth.*” Essential broadband infrastructure is not referenced within policy CS13 or its supporting text.

3.3.4. Paragraph 93 of the NPPF states how “*planning plays a key role*” in addressing climate change through the delivery of renewable and low carbon energy and associated infrastructure. The use of low carbon energy and associated infrastructure are placed within policy CS14, with no cross-reference to policy CS13. In addition, there is no reference to this form of infrastructure within the IDP. Accordingly, policy CS13 may not be able to meet those particular delivery requirements. Furthermore, the use of the wording ‘carbon offsetting’ as an infrastructure ‘theme’ within policy CS13 is not referred to within the IDP.

3.3.5. Paragraph 153 of the NPPF refers to the use of Supplementary Planning Documents (SPDs) as being an aid to infrastructure delivery. Although the District Council has stated that an SPD will be forthcoming, the lack of clarity regarding its nature and timing leaves a weak policy with little assurances as to how infrastructure will be secured in the future.

4. How the Core Strategy can be made sound

4.3.1. Cambridgeshire County Council considers that the Core Strategy can be made sound by revising the wording of Policy CS13; it must ensure the delivery of necessary infrastructure through a strong policy link to the IDP; a clear requirement for developers to enter into planning obligations; clarity on how future infrastructure requirements will be met i.e. by S106 and CIL; and by providing clarity on what types of infrastructure will be required through planning obligations. The revised policy will be robust, clear, effective and flexible. These suggested changes will ensure that policy meets the tests of soundness, specifically being ‘positively prepared’, ‘effective’ and ‘consistent with National Planning Policy’.

5. The precise change and wording required

5.3. Cambridgeshire County Council proposes the following amendments to policy CS13 The additional wording to the policy changes have been underlined, whereas the ~~strike through~~ has been used for the deleted wording:

“Policy CS13 – Supporting and Managing the impact of a Growing District

All new development ~~should~~ must be supported by, and have good access to, infrastructure. ~~The Council will consider proposals based on the following:~~

a) Infrastructure

Planning permission will only be granted if it can be demonstrated that there is, or will be, sufficient infrastructure capacity to support and meet all the requirements arising from the proposed development. Conditions or a planning obligation are likely to be required for many proposals to ensure that new development meets the principle.

Development proposals must address ~~consider~~ all of the infrastructure implications ~~needs arising from the~~ of-a scheme including the infrastructure

requirements set out in the Fenland Infrastructure Delivery Plan; and not just those on the site or its immediate vicinity.

Consideration must be given to the likely timing of infrastructure provision. As such, development may need to be phased either spatially or in time to ensure the provision of infrastructure in a timely manner. Conditions or a planning obligation may be used to secure this phasing arrangement.

b) Developer Contributions

Developers will either make direct provision or will contribute towards the provision of local and strategic infrastructure required by the development either alone or cumulatively with other developments. ~~Where a p~~ Planning obligations is required, in order to meet the above principles of infrastructure provision, this will be negotiated on a site-by-site basis and could cover, but not be limited to, the following:

- Community hub facilities, including libraries and public health services
- Education facilities including primary, secondary and special school
- Sport, leisure, open space and recreation facilities
- Transport infrastructure
- Broadband and wireless
- Flood mitigation and improvement measures
- Environmental improvements, including renewable & low carbon energy and associated infrastructure

This infrastructure will be required in addition to the affordable housing requirement as set out in Policy CS5.

The Council will prepare a Community Infrastructure Levy to provide further guidance on this matter.”

~~Further guidance on how the Council will implement this policy will be set out in a separate document(s), the content of which will depend on whether the Council prepares and adopts a Community Infrastructure Levy (CIL). Such a document(s) will cover items such as (but not exclusively):~~

- ~~• The infrastructure themes where contributions will be sought (e.g. education, open space, carbon offsetting)~~
- ~~• How contributions will be collected~~
- ~~• How contributions will be spent~~

5.4 If the District Council is not minded to amend Policy CS13 it should include within the Local Plan a standalone policy on Planning Obligations. The County Council suggests the following wording:

‘When granting planning permission, the Council may seek planning obligations from applicants and developers in accordance with Government policy and regulations. All such obligations must meet the three tests set out in Regulations. Obligations may be sought to secure one or more of the following:

- Community hub facilities, including libraries and public health services
- Education facilities including primary, secondary and special school

- Sport, leisure, open space and recreation facilities
- Transport infrastructure
- Broadband and wireless
- Flood mitigation and improvement measures
- Environmental improvements, including renewable & low carbon energy and associated infrastructure.

Appendices

Appendix A

Community Infrastructure Levy: Consultation on further Regulatory Reforms – Government Response, dated October 2015.