Kettering Site Specific Part 2 Local Plan

Inspector’s Initial Questions

Dear Ms Baish,

1. Following the submission of the Kettering Site Specific Part 2 Local Plan (the Plan) I have begun my initial preparation and identified a number of initial questions that would benefit from early clarification. In answering these questions it would be helpful if the Council could consider whether it might be necessary to advance any potential Main Modifications to the Plan.

Procedural and Legal Compliance Matters

2. The Publication version of the Plan has been submitted alongside a schedule of proposed changes to it, and a Submission version of the Plan which takes the form of the Publication Plan with the proposed changes from the schedule shown as track changes. The proposed changes have not been consulted on. On this basis, and in the interests of clarity, I confirm that the Publication version of the Plan (which was published for consultation in December 2019) should be the basis of the examination and I will consider the proposed changes as proposed modifications to the Publication version of the Plan.

3. Any such proposed changes that materially affect the Plan’s policies can only be included in the Plan if I consider them to be necessary for soundness or legal compliance and recommend them as Main Modifications (MMs). I note that these proposed changes have been categorised into Main Modifications and Additional Modifications and ask that these schedules are kept up to date throughout the examination with any further proposed changes being similarly categorised.

4. S33A of the Planning and Compulsory Purchase Act 2004 (as amended) sets out the duty to co-operate (DtC). This applies to the preparation of Local Plans so far as relating to a strategic matter. The Plan confirms at paragraph 1.14 that strategic matters are dealt with through the North Northamptonshire Joint Core Strategy (JCS). However, it also refers to ‘any cross boundary issues relevant to the SSP2’ in the final sentence. Can the Council confirm whether the Plan relates to any strategic matters and whether it considers the DtC to be engaged in this case?

5. Regulation 8 (4) of the Town and Country Planning (Local Planning) (England) Regulations 2012 requires policies to be consistent with any adopted development
plan. Can the Council confirm whether the Plan in accordance with the JCS? Policy DES6 and proposed MM30 indicates that an employment site in excess of 5 hectares is allocated. Can the Council provide a local justification for this approach if it is contrary to the JCS? Can the Council also advise of any other such areas of inconsistency with the JCS and provide the background and justification for any departures?

6. Do the timetable and milestones for the relevant documents in the Local Development Scheme (LDS) reflect what has happened? If not, the LDS should be updated prior to the hearings (I note for example the table on page 11 indicates the submission of the Plan in April 2020 and the timelines for the other intended DPDs may also require review).

7. Thank you for the work you have done in terms of providing and presenting the representations to the Plan. On a minor point, can the Council clarify the number of representations that were received at Regulation 19 stage? The Regulation 22 statement at paragraph 2.46 refers to a total of 260 comments, but there are 262 comment IDs.

The Scope of the Plan

8. It is necessary for me to be clear about the role and purpose of the Plan and is it not for me to re-examine issues that were covered in the examination of the JCS or other examinations. I must establish the true scope of the Plan and what it is setting out to do and its relationship with other existing plans. Paragraph 1.4 of the Plan indicates that it will not address issues covered in the JCS, Kettering Town Centre Area Action Plan (TCAAP), or Broughton Neighbourhood Plan (NP). I have not been provided copies of the TCAAP or the Broughton NP and request that these are included in the list of submission documents on the Council’s examination and given an appropriate reference.

9. In terms of the Kettering TCAAP, whilst I do not have a copy of the policies map associated with that document, I note that the policies map relating to Kettering in Appendix 3 of the Plan (figure 18.4) covers Kettering town centre and includes open space and green infrastructure designations in that general area (and possibly the HOU1 designation). Can you confirm that the Plan is not seeking to alter or supersede the designations in the TCAAP area?

10. I understand that the allocation of gypsy and traveller accommodation is intended to be progressed through a standalone Development Plan Document (DPD). What are the reasons for the deferral of this important provision? Please can an update on the progress of that DPD be provided? I note that the LDS indicates that consultation took place between December 2019 and January 2020 with submission anticipated in July 2020. Paragraph 9.52 of the JCS identifies a need for 13 residential pitches and 1 transit pitch in Kettering (2011-2022) based on the 2011 Northamptonshire Gypsy and Traveller Accommodation Assessment (GTAA). The LDS refers to an updated GTAA in March 2019. Please can the Council confirm what the updated requirements for
Kettering are, and provide a copy of that document?

11. Aside from the Broughton NP, are there any emerging Neighbourhood Plans in the borough, and if so please can you provide details? Paragraph 4.7 of the Plan indicates that there are 6 parishes with NP designations, however 9 NP Groups are listed at paragraph 3.8 of the LDS. Please can this be clarified and a full and up to date list provided?

**Housing**

12. In line with the Oxted Residential judgment\(^1\), I am mindful that the Plan is not required to rectify any shortcomings in the Core Strategy’s approach to housing land supply. The Plan does not need to re-consider objectively assessed need since its scope is clearly limited to allocating sites to meet the need established in the Core Strategy. This principle also applies to the provision of a five year housing land supply which does not arise. As such, whilst I will need to satisfy myself that the proposals in the Plan are such that the aims of the parent plan (JCS) will be met and development delivered in accordance with it, it is not necessary for me to consider whether the Council has a five year housing supply as part of this examination (since that would require consideration of sites already allocated in other plans that are not before me). However, paragraphs 4.8 to 4.10 of the Plan refer to five year housing land supply matters. With paragraph 74 of the National Planning Policy Framework (the Framework) and the associated advice in the Planning Practice Guidance in mind, please can the Council clarify whether it is intending to ‘confirm’ its 5 year housing land supply through the Plan?

13. Paragraphs 68 and 69 of the Framework refer to the need to identify land to accommodate at least 10% of housing requirements on sites no larger than one hectare. Can the Council confirm whether this is the case and where evidence of it can be found?

**Evidence Base/Documents**

14. I note that the Habitats Regulations Assessment (HRA) has been updated following consultations to address the concerns raised by Natural England (update dated May 2020). Please can written confirmation from Natural England that this update addresses their concerns in relation to the HRA be provided?

15. Are the findings of the auditing and assessment of the Borough’s playing pitches and indoor and outdoor sports provision referred to in MM5 available? Were they available at the time of consultation of the Plan? What are the timelines for the production of the Playing Pitch Strategy and Sports Facility Strategy?

16. An Open Space Audit and Needs Assessment Report was published in March 2020. Was this consulted upon? This and MM6 refers to the formulation of an Open Space Standards Paper to support Policy NEH4? Is this available, and if not what are the timelines for its production? Additionally, what is the timetable for the production of

\(^1\) Oxted Residential Ltd v Tandridge DC [2016] EWCA Civ 414
the Open Space Provision in Kettering Borough SPD also referred to here?

17. I have identified a number of documents which are referred to in the Plan and which I cannot on first inspection find as submission documents (although some are provided via links in the document itself). In addition to the TCAAP, the Broughton NP and the GTAA mentioned above, please can the following documents be provided and added to the list of documents and referenced:

- North Northamptonshire Authorities Monitoring Report (annual)
- Kettering TCAAP monitoring update report (annual)
- Annual Monitoring Report for the Borough
- KBC Housing Strategy (2015-2020)
- The North Northamptonshire Strategic Housing Market Assessment Update 2015
- Housing and Support Needs of Older People Across Northamptonshire (para 4.25 of the Plan – also referred to a para 4.30 under a slightly different name)
- Employment Background Paper (referred to in para 5.10, but maybe Employment Allocations Background Paper referred to in para 5.12 which is in the submission doc list? See also paras 5.21 and 5.22 for another title)
- Property Market Review and Assessment of Employment Sites (2018) (referred to at para 5.12, is this the Employment Land Review (Aspinall Verdi) in the documents list?)
- North Northamptonshire JCS Employment Background Paper Jan 2015
- Northamptonshire Health and Wellbeing Strategy
- North Northamptonshire Strategic Sports Facilities Framework 2014
- NCC Local Flood Risk Management Strategy
- Northamptonshire Flood Toolkit
- Northamptonshire Biodiversity Action Plan

18. Where it is just that documents have been mis-titled please can these be amended in the Plan to ensure consistency and for the sake of clarity.

**Supplementary Planning Documents (SPDs)**

19. Is it clear from the Plan which SPDs are to be prepared? Can a comprehensive list be provided showing their status and purpose and their programme for preparation?

**The Policies Maps**

20. The role of the adopted policies map is to illustrate geographically the applications of the policies in the development plan. Where necessary do the policies in the Plan make it clear that their geographic application is illustrated on the policies map? From what I can see, the Housing and Employment Site Policies do not refer to the maps and nor do the Town Centre Policies. Additionally, I note that throughout the Plan reference is made at times to proposals maps rather than policies maps (see for example at para 6.6, TCE1, TCE3, TCE7 and in the LDS although these instances are not exhaustive). The correct terminology needs to be applied in the interests of accuracy and consistency.
21. Additionally some of the MMs (see MM48, MM49, MM50, and MM51 for example) propose changes to the policies maps. The policies map is not a development plan document and I cannot recommend MMs to the policies map. The role of the policies map is to illustrate geographically the application of the polices in the development plan and as such, the MMs need to relate the relevant policy (and its geographic illustration) rather than to the policies map. (although to ensure fairness, changes to the geographic illustration of the policies which are necessary to achieve soundness should be consulted upon, along with the MMs to which they relate). This should be rectified prior to the hearings.

The Statement of Community Involvement (SCI)

22. Further to the government’s recent Written Ministerial Statement on virtual working and planning – responding to the Covid 19 restrictions, the recent planning update and changes to the Planning Practice Guidance encourages local planning authorities to immediately review and update their Statement of Community Involvement (SCI) where necessary so that plan-making can continue. It would be helpful if this matter could be considered by the Council now in the context of the North Northamptonshire SCI so that any work on this document that may be necessary can be undertaken expediently.

Sustainable Urban Extensions (SUEs)

23. A position statement to provide an update on the status of the SUEs in Kettering would be helpful. Paragraph 2.4 of the Plan refers to the East Kettering SUE, and two smaller SUEs at Rothwell and Desborough. However, the Plan’s Glossary indicates that the JCS identifies two SUEs in the borough at Hanwood Park and Rothwell North. Please can this inconsistency be clarified? Additionally, whilst the policies maps show Rothwell North (Fig 18.10) and Desborough North (Fig 18.8) as a yellow annotation (which I take to be the SUEs) no such annotation is shown in Kettering for a SUE. Please can this also clarified? Additionally, the separate maps (x3) for Kettering are hard to navigate and interpret, as such, would it be possible to produce a comprehensive map showing the whole of Kettering on a single sheet (with the SUE annotated)?

Retail

24. How will the minimum net increase of 12,500 square metres of net comparison shopping floorspace in Kettering identified in the JCS be provided for in the Plan?

Other Matters

25. The Framework establishes that Local Plans should set out clear policies on what will and will not be permitted and where. Only policies that provide a clear indication of how a decision maker should react to a development proposal should be included. They should be effective and clearly expressed so that they can be applied to day to day decision making (and not simply statements of intent or support). I am concerned that a number of the policies in the Plan, or parts of them, (for example HOU3, TCE1, HWC1, HWC3, NEH2, and NEH4) do not meet these requirements and it would be helpful if the Council could consider this matter in advance of the hearings.
26. There are objections from the Environment Agency to KET9 housing allocation in terms of flood risk associated with reservoir breach. Can an update be provided on the ongoing work with the site promoter and the Environment Agency to confirm that an agreement has been reached? A Statement of Common Ground with the Environment Agency would be helpful in this regard.

27. Finally, it would be helpful to know if it is the Council’s intention to have any further discussions with representors or to prepare any Statements of Common ground in advance of the hearing sessions?

Next Steps

28. I have not carried out a comprehensive analysis of the Plan at this stage. An early response to these queries would be appreciated and I look forward to receiving your reply by Friday 3 July 2020. If any of the queries cannot be answered within that period, an indication of when they will be available should be provided. I will then begin to formulate my Matters Issues and Questions, Guidance Notes and draft hearings programme in due course.

29. In light of the current Covid 19 restrictions the organisation and planning of hearings presents a number of challenges. It is possible that hearings could be carried out virtually, that is on-line via video conference or telephone (or a combination of both). As you may be aware a pilot of such an approach is due to take place in South Oxfordshire in July and will provide important learning on this work. It is also possible that at some stage over the coming months we may be able to hold face to face events or use a hybrid approach. At this stage I am keen to maintain flexibility as to how the examination can be progressed, particularly as the participants in the hearings are yet to be established. In determining the conduct of the examination I am also aware of my responsibilities under the Public Sector Equality Duty and the principles of openness, fairness and impartiality to which I am subject.

30. Nevertheless, as previously discussed, I am hopeful that we can provisionally aim for hearings in October 2020. As you will be aware, the Council will need to ensure that the start date of the hearings is notified at least 6 weeks in advance of the start date of the sessions. If you require any clarification on any of the matters raised please contact the Programme Officer. A copy of this note and the Council’s response should be placed on the examination website.

Elaine Worthington

Examining Inspector 19 June 2020