

# Independent Examination of the Central Lincolnshire Local Plan



Hearing Statement: Matter 1

Hearing Day: Tuesday 1 November 2016

Session: AM

Statement prepared by:  
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LP/MB/M1

October 2016

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This paper sets out our comments in response to the questions to be discussed at the Local Plan Examination under Matter 1. Some of the questions appear to be **directed at the Local Planning Authorities. In those cases, we have answered 'no comment', although we reserve the right to respond to the Planning Authorities' statements and those of other respondents on the day.**

MATTER 1 – COMPLIANCE WITH THE LOCAL DEVELOPMENT SCHEME, CONSULTATION, HABITATS, THE ACT AND REGULATIONS, AND NATIONAL PLANNING POLICY.

Issue 1a – Duty to Cooperate

1. QUESTION 1

What strategic, cross-border matters have arisen through the preparation of the Local Plan and what cooperation took place to resolve them? Has the cooperation between the authorities been constructive and proactive?

1.1. No comments.

2. QUESTION 2

The South East Lincolnshire Joint Planning Unit initially expressed concerns that in particular the level of housing growth proposed for Sleaford was disproportionate and represented a threat to housing growth in Boston. How were concerns regarding the balance of employment and housing in Boston Borough and North Kesteven (Sleaford) reconciled?

2.1. No comments.

3. QUESTION 3

Has the Duty to Cooperate under section s22(5)(c) and 33A of the 2004 Act and Regulation 4 of the 2012 Regulations been complied with, having regard to advice contained in the Framework and the National Planning Practice **Guidance (the 'PPG')**?

3.1. No comments.

Issue 1b – Public Consultation

4. QUESTION 4

Has public consultation been carried out in accordance with **the Council's** Statement of Community Involvement (SCI), the Framework and the PPG, and the requirements of the 2004 Act and 2012 Regulations?

4.1. Clearly the basic requirement to publish documentation has been undertaken, and to make that material available on a website and at certain locations Across the plan area. The SCI has not detailed where, **in addition to the four Councils'** main offices, that material would be available. Some events have been held as part of each consultation, but not all background evidence was provided at each event and basic material has been provided at area offices and libraries, although the number of venues appears to have reduced as the plan has proceeded.

- 4.2. A reliance has been placed on the use of the Central Lincolnshire Local Plan website as a source of information. The website, however, is difficult to navigate, especially for members of the public that are not familiar with the local plan process. The poor format of the website means that; although the spirit of the regulation is met, it must be questioned whether the material is presented in a clear and effective way that would allow individuals to fully understand the issues the plan has attempted to address. This is not helped by the fact that, across every consultation exercise, some essential material has only been uploaded to the website after the consultation period has commenced. Not all the information necessary to formulate a response has been available for the full duration of the consultation period.

## 5. QUESTION 5

Were adequate opportunities made available for participants to access and make comments on the Local Plan and other relevant documents across Central Lincolnshire?

- 5.1. No. Although a number of consultation exercises have been held, in each case background evidence has been published after the commencement of the consultation.
- 5.2. The format of the Central Lincolnshire website is such that it is difficult to find consultation material. In the case of the Further Draft consultation the inset maps were in large part only available as the appendices to committee papers and were not presented as part of the consultation exercise on the website. Other background reports and material is difficult to identify, locate and navigate. The material may, eventually, have been available in theory, but was not presented in a concise and coherent manner or provided in a timely fashion.

## 6. QUESTION 6

Were representations adequately taken into account?

- 6.1. It is difficult to say, but the conclusion must be no. At no time have the decision makers been presented with any analysis of objections, the implications of the issues raised or the rationale for any suggested changes at the time they have been asked to approve a plan for consultation. The evidence reports the Local Planning Authority rely on to demonstrate representations have been taken into account were only published in April, whereas the committee made its decision in March at

a time when it did not have any information in front of it to justify changes to the plan. The evidence reports themselves refer to changes to policy or approach, but there is no indication to demonstrate how representations relate, if at all, to any changes. To all intents and purposes the changes and the representations appear to be parallel (that is, not touching) exercises. Indeed, the committee paper seeking authority to publish the pre-submission plan reads **"As stated, officers have carefully considered all representations received at the last consultation stage, and aimed to address as many concerns as possible. For example:**

- Four of the proposed Gypsy and Traveller sites have been deleted, these receiving a considerable number of objections.
- A small number of housing sites have been either added or deleted, mostly reflecting recent permissions or other new evidence.
- **Reliance on the large scale 'sustainable urban extensions' (SUEs)** has been slightly reduced, not in terms of their location/allocation, but in terms of their delivery in the Local Plan period to 2036.
- **A variety of other policy 'tweaks' to ensure all policies are clear,** in line with national policy, or reflect accurately local desires and requirements."

6.2. This is the sum total of the report that assesses representations made to previous stages of the plan process. The decision makers have not been aware, except in a most cursory fashion, of the scale and scope of representations made and there is no analysis as to how this expensive and time consuming exercise has influenced the plan, or how the planning authority has met its regulatory requirements. This concern was raised with the planning authority in our letter of the 22nd April, but was not resolved to our satisfaction. (A copy of the letter is reproduced at Appendix A.)

6.3. We are also concerned that some representations have not been fed into the local plan process at all. A number of sites' representations, which have been acknowledged as received by the Local Planning Authority, do not appear in the assessment of sites, although one such site (CL4721) has subsequently been promoted as an allocation. Another site on

Station Road, Waddington still does not feature in the SHELAA assessment. This site was promoted a few weeks after the closure of the call for sites in November 2014, and was re-submitted as part of the consultation in November 2015. Receipt of the submission by the owner was received from the Local Planning Authority in both cases. These examples demonstrate submitted and received documents are not feeding into the decision making process, which leads to the conclusion that representations have not fed into the development of the plan over time.

#### Issue 1c – Local Development Scheme

##### 7. QUESTION 7

Has the Local Plan been prepared in accordance with the published Local Development Scheme?

- 7.1. The plan has progressed broadly in accordance with the SCI. However, the SCI did not spell out in advance the different stages of plan production. The individual consultation exercises themselves did not, necessarily, spell out what regulation they were meeting.

#### Issue 1d – Sustainability Appraisal

##### 8. QUESTION 8

Have the likely environmental, social and economic effects of the Local Plan been adequately assessed in the Sustainability Appraisal (contained within the Integrated Impact Assessment)?

- 8.1. We have no comment regarding the scale and scope of indicators selected for use in the Integrated Impact Assessment (IIA). This does not imply support or objection to the process.
- 8.2. Our key concern, however, is with the detailed policy concerns assessed through the process. The general approach of the plan, in many cases, **is to assess two options, "do nothing" and "do something"** (frequently just one action). The assessment regime then fails to assess the detailed policy approach. Policy LP4, for instance, sets a generic target of 10% increase in household numbers for category 5 and 6 villages. The IIA however, does not address the specific impact of the 10% target. Without assessing the detail of the policy it can only be concluded that the likely effects of the plan have not been assessed.

## 9. QUESTION 9

Does this test the submitted plan against all reasonable alternatives where these exist, such as different options for the distribution of housing?

- 9.1. The plan has not assessed the detailed provisions of policies, specifically the proposed a 10% cap on growth in smaller settlements. The assessment has also failed to assess alternative caps on growth in order to assess the impact on the sustainability of each community. This failure to assess alternatives is common throughout the IIA.

### Issue 1e – Habitats Regulations

## 10. QUESTION 10

Have the requirements of the Habitats and Species Regulations 2010 been complied with, having regard to relevant national policy and guidance? It is likely that the Plan would have a significant effect on a European site? If so, has an appropriate assessment been carried out?

- 10.1. No comments.

Appendix A

RDC letter to Central Lincolnshire Local Plan Team Dated 22 April 2016



Your ref:  
Our ref: 100 RJCD MAG

22 April 2016

Central Lincolnshire Local Plan Team  
c/o North Kesteven District Council  
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Dear Sirs

### **CENTRAL LINCOLNSHIRE LOCAL PLAN "PUBLICATION VERSION"**

We write as a locally based Planning Consultancy that represents a wide range of landowners and developers across Central Lincolnshire.

We note and welcome in principle the Joint Committee's decision at its meeting on the 14 March 2016 to agree a final version of the plan for publication, prior to submission to the Secretary of State. The plan making process is a long and involved one, both for the Local Planning Authority and those who seek to get involved in the process, and it will be good to see an adopted plan in place. We are, however, concerned that in the committee report it is stated in relation to representations made to early stages of the plan that, "It is also important to emphasise that, as set down by legislation, any objections made at earlier consultation stages are not carried forward to the next stage in the process; and as such, if a representor remains unsatisfied with the Local Plan, that representor must repeat their objection at the next consultation stage, if the representor wants it to be considered."

We are aware that the Local Development Regulations do state that only representations made to a consultation under Regulation 20 (the upcoming consultation) need to be passed in full to the Inspector. That view is not in question. Regulation 18.(1) (3), however, states that, "In preparing the local plan, the local planning authority must take into account any representation made to them in response to invitations under paragraph (1)." In order to demonstrate how this regulation has been met, the Local Planning Authority is required, under Regulation 22 (1) (C), to provide:

"a statement setting out

- (i) which bodies and persons the local planning authority invited to make representations under regulation 18,
- (ii) how those bodies and persons were invited to make representations under regulation 18,
- (iii) a summary of the main issues raised by the representations made pursuant to regulation 18,
- (iv) how any representations made pursuant to regulation 18 have been taken into account."

It is this fourth point that is of interest at this time. We are aware of statements that have been submitted to the Committee setting out a summary of issues raised at each stage, the Committee has only been asked to note the summary. There is no evidence to demonstrate, however, that positive action has been taken by Members, as the Local Planning Authority, to actively "take into account" any of these issues.

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22 April 2016

Central Lincolnshire Local Plan Team  
c/o North Kesteven District Council

Furthermore, at no time has there been any effort to set out "how representations made pursuant to regulation 18 have been taken into account". The most recent committee report did not even refer to the level and type of representation made in response to earlier consultations. It is, therefore, inferred that Members are not aware of the scale, nature and validity of comments raised and have not been able when making decisions on the plan making process to take this information into account, as required by regulation.

Given the advice in the committee report that parties who remain aggrieved by the plan should re-submit their comments if they would want the Inspector to consider the issues raised, and the lack of any evidence that the local authority has responded to any comments made, we can anticipate a situation where many respondents will resubmit all the comments made to earlier stages of the plan. This can hardly be efficient use of our clients', or your, resources. Failure to follow the regulations on such a fundamental point would also lead to the Inspector finding the plan unsound.

We accept that the Planning Authority may be preparing an appropriate statement to demonstrate how comments have been taken into account, and this may be made available when the plan is submitted to the Secretary of State. We should be grateful, however, if the required statement setting out the comments received and how they have been taken into account when arriving at the current version of the plan, is published alongside the Submission version of the plan. We consider this approach may

- improve the wider understanding of the plan making process,
- reduce the scale, number and severity of responses made at this time, and
- reduce the risk of the submitted plan being found "unsound".

I look forward to receiving your comments on the issues raised in this letter in the near future.

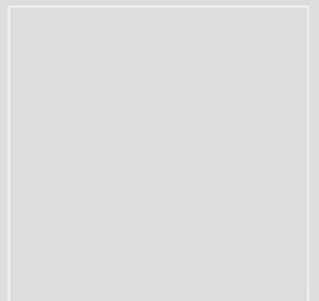
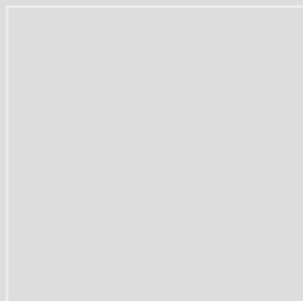
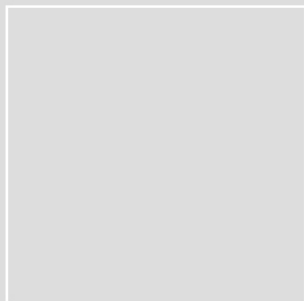
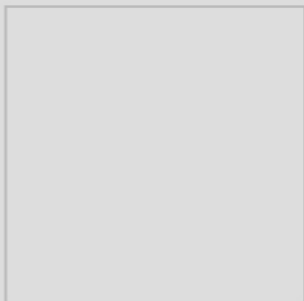
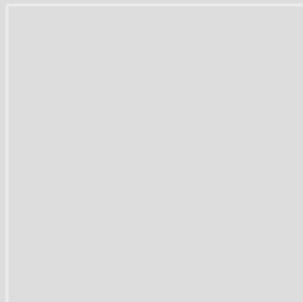
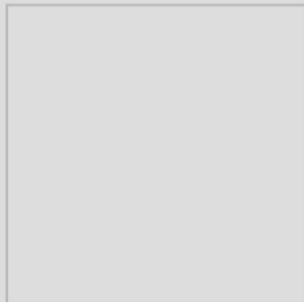
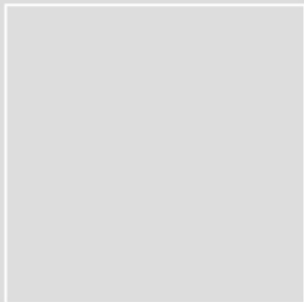
Yours faithfully

A black rectangular redaction box covering the signature of Robert J C Doughty.

Robert J C Doughty MRTPI

**rdc**

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