

HDCB/Issue 5

**STATEMENT BY
HORSHAM DISTRICT AND
CRAWLEY BOROUGH COUNCILS**

ISSUE 5

**Chapter 4: Policies WB23 – 26: Former Inert Landfill
Remediation; Access Infrastructure; Western Relief Road;
Railway Station; Transport; Sustainable Transport; Utilities
Infrastructure – Waste Water, Water and Gas**

**HORSHAM DISTRICT AND CRAWLEY BOROUGH LOCAL
DEVELOPMENT FRAMEWORKS**

**WEST OF BEWBUSH JOINT AREA ACTION PLAN DEVELOPMENT
PLAN DOCUMENT**

JANUARY 2009



**Horsham
District
Council**



ISSUE 5: Chapter 4: Policies WB23 – 26: Former Inert Landfill Remediation; Access Infrastructure; Western Relief Road; Railway Station; Transport; Sustainable Transport; Utilities Infrastructure – Waste Water, Water and Gas

1. Introduction

- 1.1 This Statement relates to Issue 5 and the justification for the Councils' decision to include these policies, reasoned justification and supporting chapters, both in terms of their objectives and the specific wording, within the submission West of Bewbush Joint Area Action Plan (JAAP).
- 1.2 A number of issues relating to these policies, reasoned justification and supporting chapters were raised in the original representations on the submission JAAP. Subsequently, the Inspector has identified main matters and questions for Examination.

2. Main Matters

- 2.1 There are several main matters and questions raised in the Inspector's Issues for Examination. Fundamentally, the Inspector asks **'Whether the JAAP provides sufficiently clear and comprehensive guidance to developers on the various necessary requirements to provide a functioning neighbourhood'**. This section sets out the relevant questions and the Councils' responses.

General Questions

Is the wording of the policies clear, reasonable and flexible?

- 2.2 The Councils consider the wording of policies WB23 – 27 to be clear, reasonable and flexible and achieve this balance.
- 2.3 In terms of being clear and providing clarity it is considered that the policies clearly outline what is required to be undertaken, developed or delivered to ensure the timely delivery of the neighbourhood. Importantly, the requirements of the policies are based upon the JAAP's evidence base. Therefore, clarity is provided as the origin of the policy requirements can be established. It is essential these policies are clear to ensure timely development delivery and avoid any lack of clarity regarding what is required to be undertaken, developed or delivered. It is considered this series of policies meet the objective of being clear.
- 2.4 With regard to whether the policies are reasonable the Councils believe the policies to be reasonable for several key reasons. Firstly, the policies are based upon and convey a robust and credible evidence base and therefore the requirements and approaches outlined in the policies are considered reasonable. Secondly, the policies are now either subject to Statements of Common Ground or were not objected to by key stakeholders at submission. This has to be further demonstration of the reasonableness of the policies. Finally, the Submission JAAP was formulated with continued dialogue and

input from the key stakeholders, which the Councils believe has assisted the Statements of Common Ground and the absence of objections from key stakeholders.

- 2.5 The Councils believe the policies convey flexibility to address any change in circumstances, where required. For example, Policy WB 24 Western Relief Road and Policy WB 25 Railway Station clearly outline the policy approach should a western relief road be required beyond this development, or a train station is unable to be delivered. However, elements of the policies are not particularly flexible as the evidence base and dialogue with stakeholders has established that certain requirements are required to be undertaken, developed and delivered to ensure the delivery of the development.

Policy questions

WB 23: Has the Licence surrender taken place (the dates are different in ¶s 1.21 and 4.90)? The Licence Area includes part of phase 1 – is this a timing problem due to reprofiling etc? What landform modifications (in general) are required? Should this be stated in the policy? How will Bewbush Brook be treated? The SLR report says that there will be additional investigation and remediation design from June 2008 – what is the result? There are different remedial solutions in the SLR report from those indicated in the JAAP (e.g. Brook treatment, surface water ponds) – have these been discounted?

- 2.6 The landfill licence surrender application was submitted to the Environment Agency (EA) in early October 2008 and in a letter from the EA to SLR dated 22nd October 2008 the EA confirmed the application had been duly made. The application determination period expires on 3rd February 2009.
- 2.7 Although the Licence Area includes parts of Core Phase One it is considered that this has no implications for the delivery programme for Core Phase One. Critically, this is due to the parts of Core Phase One within the Licence Area not having been subject to landfilling.
- 2.8 Generally, the landform modifications required are to restore the profile of the former inert landfill and provide an appropriate development platform, which is regular and gently graded. The modifications concentrate on the northern side of the landfill on the eastern flank and are associated with diversion of Bewbush Brook.
- 2.9 The Councils consider that the specifics of the landform modifications should not be included in the policy as this would be too prescriptive and could prove to be inflexible in light of changing circumstances. Policy WB 23 currently states that landform modifications should be implemented in accordance with the remediation strategy and the Conceptual Masterplan, which equates to the Councils having a policy to consider and manage the landform modifications. The landform modifications will form part of the hybrid (outline application) and will be subject to consultation with stakeholders, so the Councils believe sufficient policy weight exists to control this matter.

- 2.10 Bewbush Brook is to be permanently diverted into a new channel south of the railway. This diversion and clay lining will facilitate gentle site gradients and will ensure that the Brook is protected from potential leachate during development, or in the longer term.
- 2.11 The additional landfill site investigation works completed in June 2008 have confirmed that the key potential contaminant of concern at the site, if remedial action were not taken, would be methane in ground gas. The investigation has improved understanding of methane concentrations and flow rates and has confirmed that, across the majority of the former landfill site, any potential risks posed by the levels of methane recorded can be removed by installation of gas protection measures in new buildings.
- 2.12 However, two localised areas of relatively high methane emissions have been confirmed to the south of the current alignment of the Brook. Consequently, it has been concluded in light of current data that, excavation and off-site waste disposal of methane source materials (soils) in these areas is necessary.
- 2.13 The Councils maintain that the remediation solutions outlined in SLR report of May 2008 are consistent with those indicated in paragraph 4.91 of the JAAP. The Councils' ultimate policy objective is the delivery of 'fit for purpose' remediation. As part of this objective the Councils believe the most important factor is that the selected remedial solutions break or render ineffective the linkage between a source of contamination and the potential receptor(s). There may be more than one effective remedial solution to break the identified linkages and refinement to the remedial solutions will continue as further monitoring data, planning detail and technical solutions emerge.
- 2.14 To demonstrate this, a possible more detailed remediation strategy has been developed since submission of the JAAP, in the context that the solutions outlined in paragraph 4.91 remain valid and none have been discounted. Currently, the remediation strategy to be employed is appended to the Viability Appraisal appended to the Councils' issue 6 statement. The key components of the remediation strategy (to be undertaken during Core Phase One) are remediation (excavation of contaminated waste soils in Core Phase Two) of Core Phase Two, completion of earthworks local to Core Phase One and creation of a new channel for the Bewbush Brook. The residual works will be undertaken during the development of Core Phase Two.
- 2.15 In essence, the Councils believe Policy WB 23 should not be too prescriptive, so it provides flexibility regarding the remediation solutions to be employed and allows for changing circumstances to be taken into account. Critically, the final remediation strategy will be influenced by further work to inform the hybrid (outline) application, the landfill licence surrender determination and consultation with key stakeholders, such as the EA. On this basis, the councils consider that to be too prescriptive at this stage would be to prejudice the process and the delivery and implementation of 'fit for purpose' remediation, which is the Councils' ultimate policy objective.

WB 24: is the safeguarded land for a by-pass in the correct location? How would the line of the by-pass flow around the JAAP site (please provide a diagrammatic plan)? Would it involve the loss of open space land, itself reserved for housing (see Issue 6 below). Page 33 of the July 2007 URS report said the second access could also be used full-time – should this be considered?

- 2.16 Issues relating to Policy WB 24 are addressed in a Statement of Common Ground between Horsham District Council, Crawley Borough Council, West Sussex County Council, Peter Brett Associates (on behalf of Crest Nicholson Developments Ltd) and Crest Nicholson Developments Ltd submitted on 31st December 2008.
- 2.17 It is considered, supported by the evidence base, that once the development is complete only the A264 primary junction should provide access to the A264 for cars. This is an important part of the demand management measures to discourage car use and encourage use of the accessible sustainable transport measures. Employment of a secondary access for car use would undermine this sustainable objective.

WB 25: See related questions in Issue 6 below – should the answers to these be incorporated into the policy? Should the multi-modal interchange (¶ 4.128) be included in the policy? What happens to the land if the station is not provided (¶ 4.132) – should this be considered now and included in the policy? For instance, if this and the CHP land is not used, should the phase 3 area to the west (south of Kilnwood) be reduced?

- 2.18 The Councils consider that the reference to a multi-modal interchange should not be included in Policy WB 25. It is the Councils' view that a genuine multi-modal interchange must include a railway station in this instance, hence the reference to a multi-modal interchange appearing under the Railway Station section. However, as conveyed in paragraphs 4.128 to 4.131, although significant progress has been made towards the delivery of a station, uncertainty still exists regarding its delivery. Therefore, WB 25 outlines a policy approach to safeguard the land required to deliver a station, which is considered to facilitate this opportunity whilst providing flexibility if a station were unable to be delivered. Furthermore, on the basis a station is essential to achieve a multi-modal interchange, it is important to note that the other elements of the interchange, such as a bus network and Fastway will be delivered into the neighbourhood centre as a consequence of development according with Policy WB 26.
- 2.19 The Councils do not believe that Policy WB 25 should refer to the future role of the safeguarded land if a railway station were not to be delivered. Significant progress has been made towards the delivery of a station and the Councils in conjunction with the current developer remain confident a station will be delivered, so believe adding the intent of JAAP paragraph 4.132 to Policy WB 25 will add little to the JAAP. This is compounded by the location and nature of the safeguarded land. If the station were not to be delivered the land would lend itself best to forming part of the informal open space corridor south of the railway. However, as stated in paragraph 4.132, if other land

uses were proposed they would have to conform with the neighbourhood principle, the Conceptual Masterplan and the other policies of the JAAP. On this basis, the Councils believe sufficient policy context exists in the JAAP to consider and manage the safeguarded area if it was no longer required.

- 2.20 If a railway station was not delivered and consequently safeguarding no longer required this would not equate to a reduction in the area of Core Phase Three. It is considered that a reduced Core Phase Three would undermine the integrity of the Conceptual Masterplan and the proposed delivery strategy and programme. This would also be true if the CHP were not to be delivered. Notwithstanding that, this area is likely to accommodate a variety of uses as an Environmental Infrastructure Area and this area not being developed is very unlikely.

WB 26: should the policy (or the JAAP elsewhere) make clear how these infrastructure elements will be funded?

- 2.21 With regard to Policy WB 26 and its reasoned justification (paragraphs 4.94 to 4.133 excluding paragraph 4.117 and Policy WB 24 relating to the Western Relief Road) it is important to note two Statements of Common Ground will inform the JAAP Examination.
- 2.22 The first, a Statement of Common Ground between the Highways Agency and Peter Brett Associates (on behalf of Crest Nicholson Developments Ltd) was submitted on 24th December 2008.
- 2.23 The second, a Statement of Common Ground between Horsham District Council, Crawley Borough Council, West Sussex County Council, Peter Brett Associates (on behalf of Crest Nicholson Developments Ltd) and Crest Nicholson Developments Ltd will be submitted prior to the commencement of the JAAP Examination.
- 2.24 The Viability Appraisal appended the Councils' Issue 6 statement outlines the cost of the components of Policy WB 26 and indicates that the transport infrastructure is to be development funded. Furthermore, tables 2, 3 and 4 of Chapter 5 of the JAAP outline the funding sources to be employed to deliver the development.
- 2.25 Notwithstanding the above, the Viability Appraisal includes a range of potential third party funding sources that could assist transport infrastructure delivery, such as Regional Infrastructure Funding.
- 2.26 Finally, a proposed amendment to WB 26 is included in the proposed changes of this statement to accord with the Councils' Issue 4 statement.

WB 27: stating the obvious?

- 2.27 The Councils acknowledge that Policy WB 27 could be argued to be stating the obvious, but when considered in conjunction with the reasoned justification it is considered the policy is an important part of the JAAP.
- 2.28 Policy WB 27 and particularly the reasoned justification is based upon close dialogue with the utility providers throughout the formulation of the JAAP, which is evident from the Position Statements that form part of the JAAP's evidence base. It is considered that all stakeholders should be aware of the utility providers' position and what parties are undertaking to ensure the timely delivery of development. In essence, WB 27 may state the obvious and not be distinctive, but when considered in conjunction with the reasoned justification an understanding of the local perspective is achieved.
- 2.29 As part of this ongoing dialogue with stakeholders the position has changed further since submission of the JAAP and consequently factual changes to paragraph 4.137 are proposed.
- 2.30 Finally, to ensure that development delivery is timely and accords with Chapter 5 of the JAAP it is essential the Councils have the policy control to require the developer to demonstrate that utility infrastructure will be delivered in tandem with the utility provider, which is conveyed in Policy WB 27.

3.0 Responses to the matters raised by original representations

- 3.1 The Councils do not wish to respond to specific representations relating to Issue 5.

4 Proposed changes to the JAAP

- 4.1 The Councils therefore propose the following wording changes to the JAAP.
- 4.2 **1.21**The remediation works will be undertaken before ~~any development takes place~~ the commencement of Core Phase Two, through a full programme of agreed land remediation works. The first stage of these works is the surrender of the Waste Management Licence. An application for the surrender is made after a programme of monitoring has been agreed by the Environment Agency and has been completed. ~~It is anticipated that an~~ The application for the surrender ~~will be~~ was submitted, by the prospective developers, to the Environment Agency in mid October 2008 and ~~agreed~~ will be determined in early 2009.
- 4.3 **4.84** The depth of the tipped area fill ranges between 0.35m and 12m.
- 4.4 **4.86** Since the Preferred Options stage further evaluation of the options for land remediation work has been undertaken by the consultants on behalf of the developers, which has informed this Joint Area Action Plan.

4.5 **4.87** To date, assessments have identified some issues of contamination throughout the site, primarily related to soil contamination, groundwater leachate and methane concentrations.

4.6 **4.90**The Closure Plan has effectively been agreed ~~is in the final stages of agreement~~ with the Environment Agency. ~~It is anticipated that~~ The application for the Waste Licence surrender ~~should be~~ was submitted to the Environment Agency in autumn 2008 following two years of post closure monitoring. The Environment Agency have four months to determine the surrender application. It has been concluded, in consultation with the Environment Agency, that the surrender of the Waste Licence should be forthcoming provided the developers promoting the site carry out the programme of works they have agreed with the Environment Agency.

4.7 **Policy WB 26**

Transport

- Pedestrian and cycle access into:
 - Ifield West
 - Bewbush
- Pedestrian, cycle and equestrian access into:
 - rural areas to the north and south across the A264 to the AONB

4.8 **4.137** In relation to Crawley Borough Council's Core Strategy (through an Examination Statement of Common Ground) Thames Water confirmed that the current Asset Management Plan (AMP4 (April 2005 to March 2010)) will deliver sufficient capacity to meet West Sussex Structure Plan (2001) requirements to 2010, which development forthcoming in Crawley forms a part. Post 2010, through AMP5 (April 2010 to March 2015) Thames Water ~~will be applying for funding to secure infrastructure upgrades to meet anticipated development levels, as set out in the~~ provide capacity up to 2021 based on and in accordance with the housing requirements of the Secretary of State's South East Plan Proposed Modifications, which includes the provisions of this JAAP and the development allocated in Crawley Borough Council's Core Strategy (November 2007) and this JAAP. AMP5 is to be submitted to OFWAT October 2009 and if the application for funding is successful new infrastructure upgrades could be in place by 2012.

5 Conclusion

5.1 It is considered that the responses to the Inspector's questions, the proposed changes and Statements of Common Ground demonstrate that the JAAP provides sufficiently clear and comprehensive guidance regarding transport infrastructure and utility infrastructure, which is essential to meet the relevant Tests of Soundness, particularly Tests 4,6,7, and 9.