

# **STATEMENT OF EVIDENCE – ISSUES 3 - 5**

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CB Richard Ellis

On behalf of the Homes and  
Communities Agency (formerly  
English Partnerships)

**Horsham District Council**

**Crawley Borough Council**

**Examination into the West of  
Bewbush Joint Area Action Plan  
(JAAP)**

December 2008

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# 1

## INTRODUCTION

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- 1.1** CB Richard Ellis is instructed as planning consultant for the Homes and Communities Agency (HCA), formerly English Partnerships. The HCA has significant landholdings in Crawley and the surrounding area and has been working with both Crawley Borough Council and Horsham District Council for many years to bring forward its landholdings for development.

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# 2

## STATEMENT OF EVIDENCE

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**Issues 3 to 5: Policies for Development – Whether the JAAP provides sufficiently clear and comprehensive guidance to developers on the various necessary requirements to provide a functioning neighbourhood.**

### **Chapter 4 (policies WB 5 to WB 27)**

#### **General Questions**

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**Are there too many policies in Chapter 4? Could some be amalgamated – WB5 to 9?**

- 2.1** The Homes and Communities Agency (HCA) supports the logical structure and clarity of the Joint Area Action Plan (JAAP), identifying the key development components of the neighbourhood centre at the outset before progressing onto JAAP policies focusing on specific topic areas. Having regard to the need for brevity, the HCA is of the opinion that Policies WB 5 to WB 9 should be amalgamated. The HCA is of the opinion that the objectives for development of the neighbourhood centre should be merged into a single policy.

**Do the policies make clear which infrastructure elements are to be funded by the development itself? This applies to policies WB 5 to WB 8 in particular.**

- 2.2** In so far as the JAAP illustrates the infrastructure elements that development West of Bewbush requires, the HCA is of the opinion that the policies within the JAAP should illustrate how the infrastructure elements are to be funded by the development itself.

- 2.3** The HCA recognises that the Inspector’s task is to consider the soundness of the JAAP, based upon the tests of soundness set out in the 2004 version of PPS12, Local Development Frameworks. That document refers in paragraph 4.9 to the need for local planning authorities to ensure that the delivery of housing is not compromised by unrealistic expectations about the future availability of infrastructure, transportation and resources, as part of the development of a “robust and credible” evidence base. Annex B of the old PPS12 provides further advice on these matters, and in particular paragraph B5 of Annex B refers to the emphasis on a plan-led system ensuring that the links between infrastructure and development are “properly investigated” as the proposals are drawn up. In the HCA’s view, such “proper investigation” should include funding proposals and delivery responsibilities, as now required under the new PPS12, Local Spatial Planning, paragraphs 4.8 and 4.9.

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

**2.4** The HCA does not wish to offer a view on this question.

## Policy Questions

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**WB 8: The word 'consideration' implies this provision is not definitive. Is that the case?**

**2.5** The HCA does not wish to offer a view on this question, and considers instead that it should be directed to Horsham District Council and Crawley Borough Council.

**WB 9: Should the last sentence of paragraph 4.13 be placed within the policy to make it clearer? Is this level of retail provision viable?**

**2.6** The HCA does not wish to offer a view on this question.

**WB 10: Should the policy provide more detailed information on the mix of dwelling size and type for each phase of development?**

**2.7** The HCA is of the opinion that Policy WB 10 should not provide any further detail than currently drafted. It is acknowledged that PPS3 states that Local Planning Authorities should plan for a mix of housing on the basis of different types of households that are likely to require housing over the plan period, having particular regard to current and future demographic trends and profiles, the accommodation requirements of specific groups and the diverse range of requirements across the area.

**2.8** The HCA considers that Policy WB 10 should allow for future flexibility. This is especially prevalent in the current economic climate.

**WB 11: Is this policy too inflexible in its tenure split requirement; wheel chair percentage; and Lifetime Homes percentage? Could the viability exception result in the provision of no affordable homes?**

**2.9** The HCA does not wish to offer a view on these questions.

**2.10** The Inspector may wish to consider the Court of Appeal Judgement in Blyth Valley Borough Council Vs Persimmon Homes (North East) Limited and Others [2008] EWCA Civ 861, 29 July 2008 in relation to the viability of the affordable housing policy within the JAAP (Policy WB11). The Court quashed Blyth Valley District Council's attempt to introduce a 30 per cent affordable housing policy

within its Core Strategy as the Local Authority had failed to comply with the requirement of PPS3 to carry out an informed study of the economic viability of its targets for affordable housing. The Core Strategy Policy sought to lower the threshold requiring an element of affordable housing from fifteen to ten homes. Persimmon Homes, Barratt Homes and Millhouse Developments brought the case to court on the basis that their housing plans were prejudiced by the policy.

**2.11** PPS3 indicates that affordable housing targets should reflect an assessment of the likely economic viability of land for housing taking account of risks to delivery and draw on informed assessments of the likely levels of finance available for affordable housing and the level of developer contributions that can reasonably be secured.

**2.12** Mr Justice Andrew Collins (Senior Planning Judge) stated that the planning Inspector, on whose recommendation the Council had adopted the policy, had failed to consider the economic viability of the policy. As a result, Mr Justice Collins ruled that the Inspector had failed to consider a material consideration, and that the policy was therefore unsound. Mr Justice Collins ordered the Council to reconsider the Core Strategy Affordable Housing policy.

**WB 12: Should there be a requirement for a landscaped western edge to prevent further expansion as per Horsham Core Strategy CP 6? Should the main structural areas of open space be listed?**

**2.13** The HCA is of the opinion that a landscaped western edge to the proposed development West of Bewbush should be required, in order to prevent further expansion to the west. The HCA notes that the Urban Rural Fringe Study for Crawley, produced by LDA Design as part of the evidence base to the JAAP, concludes that for land between Faygate and Bewbush, development should be visually contained by existing and new woodlands and hedgerows, to minimise adverse landscape and visual impacts on the AONB, the historic park to the north-west, Faygate village to the west, and the rural landscape in general.

**2.14** Horsham District Council Core Strategy Policy CP 6 states that the western edge of the new development should provide a firm boundary, which can be defended against further development. Furthermore, Policy CP 6 seeks to maintain the sense of separation between Horsham and Crawley, and that the impact of development on this separation is minimised, especially on the Strategic Gap.

**2.15** The HCA recognises that the Inspector's task is to consider the soundness of the JAAP based upon the tests of soundness set out in PPS12: Local Development Frameworks published in September 2004. Test of Soundness 6 within PPS 12 (2004) states that policies in the document should be consistent within, and between, documents prepared by the authority and by neighbouring authorities, where cross boundary issues are relevant. The HCA considers that in order for the JAAP to be considered sound and consistent with adopted local planning

policy, there should be a requirement for a landscaped western edge.

- 2.16** The HCA is of the opinion that a landscaped western edge should not preclude development coming forward elsewhere in the Area of Study, subject to consideration through reviews of both Councils' Core Strategies.

**WB 13: Should there be mention of measures to protect the integrity of nearby off-site nature conservation areas?**

- 2.17** The HCA does not wish to offer a view on this question.

**WB 14: Has this assessment already been carried out? If so, is the policy necessary?**

- 2.18** The HCA does not wish to offer a view on this question.

**WB 15: What links are there to the west on the Conceptual Masterplan?**

- 2.19** Having regard to the nature of its representations to the West and North West of Crawley JAAP Preferred Options document, the HCA does not wish to offer a view on whether there should be Green Linkages to the west on the Conceptual Masterplan.

- 2.20** The HCA would welcome amendments to the Conceptual Masterplan of further Green Linkages to the proposed development, extending northwards into the Area of Study. This would further integrate the proposed development into the existing urban fabric west of Crawley and allow flexibility for accommodating future provision, post 2018. The HCA acknowledges that the strategy for accommodating future provision, post 2018, will be tested through reviews of the Councils' Core Strategies.

**WB 16: Paragraph 4.36 says "60 dBA or above". Which is it?**

- 2.21** The HCA does not wish to offer a view on this question, and considers instead that the question should be directed to Horsham District Council and Crawley Borough Council.

**WB 17: Would SuDS work given the underlying Weald Clay? Would development add to the risk of flooding in existing residential areas in Crawley?**

- 2.22** The HCA does not wish to offer a view on this question.

**WB 18: Should the site provide a household waste recycling facility (paragraph 4.43)?**

**2.23** The HCA does not wish to offer a view on this question.

**WB 19: Should the provisions of paragraph 4.50 be in the policy?**

**2.24** The HCA does not wish to offer a view on this question, and considers instead that the question should be directed to Horsham District Council and Crawley Borough Council.

**WB 20: Should this be amended to “2-3 form entry” to reflect paragraph 4.55? Should the policy refer to the phasing/timing of the provision? Are there two schools (paragraph 4.103)?**

**2.25** The HCA does not wish to offer a view on this question.

**WB 21: Is paragraph 4.64 a hostage to fortune?**

**2.26** The HCA does not wish to offer a view on this question, and considers instead that the question should be directed to Horsham District Council and Crawley Borough Council.

**WB 22: Are the targets viable and feasible in line with paragraph 33 of PPS1 supplement “Planning and Climate Change”? Has the potential impact on the delivery of housing supply been fully explored? Will the policy have an impact on affordable housing delivery? Could the viability exception result in the provision of no sustainable construction beyond that stipulated nationally?**

**2.27** The HCA does not wish to offer a view on this question.

**WB 23: Has the Licence surrender taken place (the dates are different in paragraphs 1.21 and 4.90)? The Licence Area includes part of phase 1 – is this 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?**

**2.28** The HCA does not wish to offer a view on these questions, and considers instead

that they should be directed to Crest Nicholson and Savills.

**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). Page 33 of the July 2007 URS report said the second access could also be used full time – should this be considered?**

**2.29** The HCA supports the reference in Policy WB 24, and the supporting text, that the new junction and access road of the development will be designed so that it does not preclude the ability to be extended, at some point in the future, if considered necessary, and/or appropriate, to form part of the Western Relief Road between the A264 and the A23. This is considered particularly important in the context of the longer term approach to the Area of Study set out in Chapter 6 of the JAAP, acknowledging that it will be for the review of both Councils' Core strategies to determine the appropriate location for future development.

**2.30** The Inspector should be aware that the HCA considers that its land holding within the Area of Study, West of Ifield, is capable of being accessed separately from the North, and is not necessarily dependent on an extension to the main access road from West of Bewbush.

**WB 25: See related questions in Issue 6 below – should the answers to these be incorporated into policy? Should the multi-modal interchange (paragraph 4.128) be included in the policy? What happens to the land if the station is not provided (paragraph 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?**

**2.31** The HCA does not wish to offer a view on these questions.

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

**2.32** The HCA recognises that the Inspector's task is to consider the soundness of the JAAP based upon the tests of soundness in PPS12: Local Development Frameworks published in September 2004. The HCA considers it important to recognise revised PPS12: Local Spatial Planning published in June 2008. PPS12 (2008) allows emerging Core Strategies to allocate strategic sites for development, where the strategic sites are central to the achievement of the strategy and where investment requires a long lead-in. In addition, PPS12 (2008) states that the Core Strategy should be supported by evidence of the physical, social and green infrastructure needed to enable the amount of development proposed to come forward. The Core Strategy should draw on and in parallel influence any strategies and investment plans of the Local Authority and other

organisations.

**2.33** In many ways, the area covered by the JAAP can be regarded as the equivalent of a strategic site in the 2008 PPS12. In this context, the HCA considers that Policy WB26 should make it clear how the infrastructure elements of the development will be funded. The HCA recognises the importance of demonstrating the deliverability of the development's infrastructure, especially in the current economic climate.

### **WB 27: Stating the obvious?**

**2.34** The HCA acknowledges that Policy WB27 may perhaps be "stating the obvious" and may therefore not require inclusion within the JAAP. However, the HCA considers that the supporting text to Policy WB27 is of considerable importance not just to the JAAP, but also to the potential longer term approach referred to in Chapter 6.

**2.35** Paragraphs 4.136 and 4.137 of the JAAP confirm Thames Water's responsibility for sewerage within the Area of Study, and that the Crawley Sewerage Treatment Works (STW) would need to be upgraded to service the proposed neighbourhood. Reference is made in paragraph 4.137 to infrastructure upgrades, which could take up to 5 years to implement, and ten years for a new STW, which is Thames Water's preference, located within the area of West and North West of Crawley.

**2.36** However, the HCA considers that the need for any new STW, and its location, should only be arrived at through a review of the Councils' Core Strategies, and this should be made clearer within the JAAP.