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**23rd February 2018**

**HAMPSTHWAITE ACTION GROUP**

**PUBLICATION DRAFT LOCAL PLAN COMMENT**

**THE SEA DIRECTIVE – CUMULATIVE IMPACT**

**The legal position and guidance**

Section 19 of the Planning and Compulsory Purchase Act 2004 requires a local planning authority to carry out a sustainability appraisal of each of the proposals in a Local Plan during its preparation. More generally, section 39 of the Act requires that the authority preparing a Local Plan must do so *“with the objective of contributing to the achievement of sustainable development”.*

Sustainability appraisals incorporate the requirements of the Environmental Assessment of Plans and Programmes Regulations 2004 (commonly referred to as the ‘Strategic Environmental Assessment Regulations’), which implement the requirements of the European Directive 2001/42/EC (the ‘Strategic Environmental Assessment Directive’) on the assessment of the effects of certain plans and programmes on the environment (more commonly referred to as ‘the SEA Directive’). Sustainability appraisal ensures that potential environmental effects are given full consideration alongside social and economic issues.

When preparing a Plan the SEA Directive requires information to be assessed on: *“The likely significant effects on the environment, including on issues such as biodiversity, population, human health, fauna, flora, soil, water, air, climatic factors, material assets, cultural heritage including architectural and archaeological heritage, landscapes and the interrelationship between the above factors. These effects should include secondary, cumulative, synergistic, short, medium and long-term permanent and temporary, positive and negative effects.”*

The above information is taken from the Government’s Strategic Environmental Assessment and Sustainability Appraisal Guidance website.

The SEA Directive itself has this objective: *“The objective of this Directive is to provide for a high level of protection of the environment and to contribute to the integration of environmental considerations into the preparation and adoption of plans and programmes with a view to promoting sustainable development, by ensuring that, in accordance with this Directive, an environmental assessment is carried out of certain plans and programmes which are likely to have significant effects on the environment.”*

A report must be prepared which sets out (amongst other things): *“the likely significant effects on the environment, including on issues such as biodiversity, population, human health, fauna, flora, soil, water, air, climatic factors, material assets, cultural heritage including architectural and archaeological heritage, landscape and the interrelationship between the above factors”* and these effects should include *“secondary, cumulative, synergistic, short, medium and long-term permanent and temporary, positive and negative effects.”*

Whilst it is the Government’s view (and guidance) that sustainability appraisals may incorporate the requirements of the SEA Directive, the objectives and assessment of likely significant effects including cumulative effects must still be considered and reported and the legal requirements of the SEA Directive must be followed.

**The council’s approach to cumulative impact**

Paragraph 1.2 of Harrogate District Council’s Sustainability Appraisal Non-Technical Summary states: *“The plan must be prepared in accordance with the requirements of Sustainability Appraisal (SA) as set out in the 2004 Planning and Compulsory Purchase Act and the EU Directive on Strategic Environmental Assessment (SEA). This Sustainability Appraisal undertaken to inform the Local Plan incorporates the requirements of the SEA.”*

Paragraph 1.10 of the Non-Technical Summary goes on to state: *“The cumulative impacts of draft allocations have been identified on a settlement basis for Harrogate, Knaresborough, Ripon and Boroughbridge and cumulatively for the local plan as a whole.”*

Although the council states that its sustainability appraisal incorporates the SEA Directive it does not address certain cumulative effects as required by the SEA Directive, particularly the cumulative effects of multiple housing site allocations on communities such as Hampsthwaite. Significantly, the cumulative impacts described by the council were not undertaken on a settlement basis – the sustainability appraisals were undertaken on a site by site – individual - basis and then listed in the document by settlement. The council’s statement in paragraph 1.10 is misleading and wrong.

Housing growth in Primary Service Villages is identified in the Plan as part of the Growth Strategy. HAG is therefore very concerned cumulative impacts studies have not been undertaken for Primary Service Villages such as Hampsthwaite. If the council had considered these cumulative impacts they would have concluded that the housing site allocations taken as a whole do not represent sustainable development.

Finally, paragraph 1.15 states: *“The cumulative impacts of the local plan as a whole, in relation to each of the 16 sustainability objectives, has been assessed in a table included in chapter 10 and also includes the identification of combined, short, medium and long term effects. For example the provision of quality housing available to everyone (Objective 1 above) together with objectives 4, 10 and 15 suggest that significant positive social and economic cumulative effects are likely to be achieved in the medium and long term with more people able to both live and work in the district and adopt more sustainable travel behaviour. However, whilst meeting social and economic objectives concerns have been expressed that the effects of future growth on environmental objectives may not be so positive. The local plan however seeks to redress the balance through local plan policies and the requirements for further assessment, enhancement and mitigation identified for each draft allocation. Cumulative impacts of the draft site allocations in Harrogate, Knaresborough, Ripon and Boroughbridge have also been undertaken on a settlement basis.”*

These cumulative study conclusions are useful for gaining an understanding of the environmental effects of the Local Plan as a whole but they do not help to understand the impacts of future growth on social, economic and environmental objectives at a Primary Service Villages level (Hampsthwaite for example).

**Why is this a problem for the legality and soundness of the Plan?**

HAG is concerned that the SEA Directive has not been fully complied with because cumulative impacts of multiple site allocations at the Primary Service Village (PSV) level are not considered. Because concentrating housing growth in Primary Service Villages is a part of the Plan’s Growth Strategy, a cumulative impact study at that level should have been undertaken. It means the Local Plan has not been prepared in accordance with legal procedural requirements set out in the SEA Directive and the Local Plan is not legally compliant.

This may seem a harsh claim, but the Directive objectives and requirements are very clear and the council’s inadequate assessment does not meet those objectives and requirements.

The likely significant environmental effects of multiple housing allocations in Hampsthwaite and failure to consider those cumulative effects are matters which were raised with the council in October 2017 via the Cabinet Member for Planning and Sustainable Development with overall responsibility for the Local Plan. HAG does not believe any action was taken by the council to address the matters raised and is unable to find any evidence in the documents supporting the Publication Draft Local Plan that a cumulative impact study was undertaken for Primary Service Villages, and Hampsthwaite in particular. Concentrating growth in Primary Service Villages such as Hampsthwaite is an important part of the delivery of housing to meet the Districts housing needs.

Policy GS2: Growth Strategy to 2035 describes how *“The need for new homes and jobs will be met as far as possible in those settlements that are well related to the key public transport corridor. The scale of development will reflect: the settlement’s role and character, its relationship to the public transport corridor, the need to deliver new homes and jobs, and the need to maintain or enhance services and facilities in rural villages, and have regard to the capacity of infrastructure within the settlement and the time frame for any necessary investment and improvement.”*

The policy describes how new development [i.e. housing allocations] will be provided in Primary Service Villages, of which Hampsthwaite is one.

Hampsthwaite has two housing allocation sites listed in the Publication Draft Local Plan. They are HM7 and HM9. The council made these housing site allocations in the knowledge of other committed sites, particularly a large current housing construction site in the village which was originally a draft housing site allocation (HM1). HM7 was allocated in the draft Local Plan in 2016 and HM9 was allocated as an additional site in 2017 and is the subject of a planning application. No cumulative study was undertaken before the sites were allocated.

The knock-on effect is both draft allocated sites have been considered at a development control level as being justified for development now because they are proposed in the Local Plan. A planning application for housing on HM7 was amended to align with the draft site allocation and the council granted planning permission on 20th February 2018. Similarly, a planning application for HM9 has been amended to align with the draft site allocation and is awaiting a decision. There will be very real harm caused to the infrastructure and environmental capacity of the village of Hampsthwaite because of these two allocations because of the absence of a legally required cumulative impact assessment in accordance with the SEA Directive.

**Actual housing growth in Hampsthwaite**

The village of Hampsthwaite had grown from 410 houses in the year 2000 to 527 houses in 2017. The Local Plan would provide for an additional 39 houses at HM7 and 82 houses at HM9 making a cumulative 60% increase in a single generation. This increase does not even include the many speculative planning applications currently facing the Hampsthwaite community which, if they all got planning permission, would increase the number of houses by 84% in a single generation – nearly doubling the size of the village. This is evidence the council could have taken into account when they were considering the HM7 and HM9 allocations.

Paragraph 2.4 of the Local Plan states: *“A range of evidence has been commissioned or undertaken by the council to underpin the Local Plan and this can be viewed on the council's website. The preparation of the draft plan has also been informed by the following … sustainability appraisal”*

HAG asks the question: why does the sustainability appraisal fail to consider the cumulative impacts of multiple housing site allocations in the village of Hampsthwaite against the clear evidence of disproportionate and unsustainable housing growth?

**No cumulative impact study at a village level**

Paragraph 2.8 of the January 2018 Sustainability Appraisal report states that it addresses *“the cumulative impacts of the plan as required by the SEA Directive. Cumulative impacts are assessed first on a settlement by settlement basis for sites in Harrogate, Knaresborough and Ripon. The cumulative effects of the Local Plan as a whole is then assessed in chapter 10.”*

The council has undertaken individual sustainability appraisals of HM7 and HM9 but no sustainability appraisal incorporating the requirement of the SEA Directive has been undertaken for HM7 and HM9 combined or in combination with other committed and recent housing developments in the village.

The absence of any cumulative study for Hampsthwaite means the council did not have proper regard to the capacity of infrastructure within the settlement or the cumulative impacts of the scale of development on the the settlement’s identity and character.

**Evidence to demonstrate cumulative impacts will not result in sustainable development**

The following examples demonstrate how the council is unable to assess the compatibility between the Hampsthwaite allocations and the requirements of its GS2 Growth Strategy policy. It shows that the council has no idea if the two sites combined with other committed housing in the village are able to deliver sustainable development.

It thus creates a fundamental failure which means the Local Plan not only fails the test of being legally compliant, but it is also not sound because it is not positively prepared, justified, effective or consistent with the requirements of the NPPF with regard to delivering sustainable development.

Paragraph 3.20 of the Local Plan defines Primary Service Villages like Hampsthwaite and states: “*Together these villages represent the most sustainable in the district and in order to support and enhance service provision in these villages, allocations of land will be made for new development.”*

But where is the evidence that housing development of the scale proposed in Hampsthwaite will maintain sustainability and support and enhance service provision?

HAG provides evidence (see below) showing how sustainable development cannot be achieved in Hampsthwaite with housing sites HM7 and HM9 on top of all the other recent housing growth.

**Draft Infrastructure Delivery Plan**

The council published an infrastructure Capacity Study in 2015. Paragraph 1.1 states *“A sound Local Plan sets out how the objectively assessed development and infrastructure needs of an area can be met. Planning for growth and change requires a strategic understanding of the opportunities and constraints in a given area and its adjoining areas. It is important that infrastructure provision both shapes future development patterns and enables the delivery of sites within that pattern of growth”*

The council published a draft Infrastructure Delivery Plan on the first day of the Publication Draft Local Plan consultation. The document is date January 2018 and, in addition to being a draft document, it is incomplete and ‘work in progress’.

In a recent email the council stated: *"Planning for infrastructure is a continuous and iterative process and information on infrastructure requirements and delivery will change over the course of preparing the Local Plan. The Infrastructure Delivery Plan is therefore a ‘live’ document that will be updated at appropriate stages during the plan making process and beyond. The purpose of the 2018 report is to provide an update of work that has been on-going since the Infrastructure Capacity Study Stage 3 report 2016 and acts as an addendum to that Report. It draws together the latest evidence and information available to the council at the time. As such, and being a ‘live’ document it will not necessarily be ‘finalised’ but will be regularly updated with new evidence. Another updated version will be provided as part of the Submission of the Local Plan to the Secretary of State in Summer this year.”*

HAG agrees infrastructure requirements should be updated and an Infrastructure Delivery Plan may change to reflect changing circumstances. However, paragraph 177 of the NPPF states: *“it is important to ensure that there is a reasonable prospect that planned infrastructure is deliverable in a timely fashion”*. The paragraph further states that *“to facilitate this, it is important that local planning authorities understand districtwide development costs at the time Local Plans are drawn up. For this reason, infrastructure and development policies should be planned at the same time, in the Local Plan.”* This does not mean a Publication Draft Local Plan can be produced for consultation and a council can say they will look into completing infrastructure requirements at a later date. This renders the Plan ‘not sound’.

The draft Infrastructure Delivery Plan states: *“To address the updated evidence base [HEDNA] on the need for new homes and jobs in the district over the plan period, an Additional Sites consultation was undertaken in July and August 2017. Of relevance to the IDP this included: Additional draft allocations needed to meet revised forecasts of housing and employment needs…The Infrastructure Schedule reflects these updated housing and employment requirements. The council's strategy for infrastructure planning in the Publication District Local Plan is to optimise existing infrastructure, directing development to the most sustainable locations, reducing the need to travel to access services and facilities and seeking the delivery of new infrastructure in a timely manner where required to support development”.* (paragraphs 2.3 to 2.5) *… “infrastructure required to mitigate the impacts of development was assessed at a relatively high level”* (para 3.4) *… “The infrastructure schedule identifies the infrastructure needs that will underpin the implementation of the Local Plan growth strategy (as contained in the Publication District Local Plan) from individual larger sites or cumulatively across a number of sites in the same area”* (para 3.8).

So the document confirms additional sites are of relevance to the IDP and there is a claim its schedule reflects the additional site requirements. The document also acknowledges the need to identify the delivery of new infrastructure to support the allocations but work to identify those requirements has so far only been informed by a high level study.

The council is wrong to state the schedule in the draft identifies meaningful infrastructure requirements in the schedule. That schedule shows a developer of HM9 will be required to contribute £408,000 through a s106 agreement for a new classroom at Hampsthwaite school. This is not mentioned in the Local Plan and there is no reference or reason given for ignoring the other key housing site allocation HM7. Neither is there any reference to the inability of the school to expand without overcoming significant space constraints and a joint statement made between the NYCC education service and the school regarding the difficulties of expanding the school to meet an increased child demand. There is no mention of the need to increase the capacity of the GP Surgery in this village location and there is no mention of the substantial infrastructure capacity issues relating to drainage and sewers. All these issues are considered elsewhere in HAG’s comments.

The evidence leads to a conclusion the whole approach to gathering infrastructure requirements to deliver many of the site allocations is inadequate and is work in progress. It also demonstrates a lack of any consideration of cumulative impacts at a Primary Service Village level. This is an inevitable fault because of the failure to undertake the cumulative impact assessments in accordance with the SEA Directive at an earlier stage in the Plan process.

There is no evidence to support the Hampsthwaite allocations HM7 and HM9 (together with the other recent housing developments) could be supported by existing infrastructure capacity. Neither is there is an Infrastructure Delivery Plan which sets out how infrastructure can be improved to deliver sustainable development in the village.

**Cumulative Infrastructure Impacts**

HAG sets out below some examples to demonstrate the council’s failure to undertake cumulative impact studies at appropriate levels and the consequences of that failure.

**HAG has undertaken research to establish the current position of primary school provision in the village.**

The survey was carried out with the full co-operation of the local primary school A copy of the study is attached.

The findings were:

The HM1 committed site financial contribution towards additional child places at the local Academy primary school has now resulted in a capacity issue at the Primary School in terms of classrooms and pupil numbers. The school cannot expand further to meet pupil requirements from HM7 and HM9. This is a classic example of where a failure to consider cumulative impacts creates serious infrastructure delivery problems. If HM7 and HM9 remain as allocated housing sites in the Local Plan and are built, pupils will have to be transported many miles to a primary school with spare pupil capacity. This is not sustainable development.

A recent joint statement between the North Yorkshire County Council (the education authority) and the School confirms HAGS’s earlier findings: *“The Governing Body of Hampsthwaite CE Primary School and North Yorkshire County Council Children and Young People’s Service have agreed the following joint response: The school site is limited and further extension to the school buildings would not be able to take place without detriment to the existing outdoor facilities. A necessary extension is already planned that will accommodate children from the Grange Park Site. Both NYCC and School maintain that education contributions don’t always meet the full costs of a building project. Any future expansion would need to involve remodelling of part of the existing building and extending to a second storey; this would require a significant single investment and could not be achieved through a piecemeal approach.”*

**HAG has undertaken research to understand the impact of multiple new housing on the economic sustainability of the village.**

A survey of local businesses was carried out to find out if housing growth of the scale proposed in the Local Plan would help or hinder the local economy. A copy of the study is attached.

The findings were:

There are limited opportunities for employment in Hampsthwaite and even taking into account the opportunities that might accrue through the building of potentially 300 houses employers identify a limited amount of growth. The existing development at Brookfield Grange and the infill developments proposed provide more than enough accommodation for projected growth if the current commuting patterns remain the same. The industrial estate in Hampsthwaite is full therefore the opportunities for new businesses to develop in the Parish are very limited.

New housing will primarily attract new commuters who will work outside of Hampsthwaite. The nearest employment land supply is Harrogate East or Knaresborough which will involve a large number of car journeys to work, many of which will have to pass through the village. A number of businesses identify the scale of housing development as a negative to growth which could undermine their development plans. They cite traffic congestion, building competition, and impact on landscape as being major obstacles to their plans. The style and price of housing and the limited amount of affordable housing in Hampsthwaite will continue to encourage commuters to buy executive houses in the village.

In summary, housing growth of the scale proposed will cumulatively have an adverse effect on the local village economy.

**HAG undertook a study of the medical facility provision in the village and whether (1) the existing GP Surgery could meet the cumulative housing demand and (2) whether there was any scope for expansion or a new facility.**

The findings were:

The existing premises are not fit for purpose but a proposal to provide a new facility would need to be agreed with the CCG/NHS England and a business case would be required. But this is subject to economic viability and appropriate funding. Whilst the surgery would welcome the opportunity to move into a brand new surgery, the increased cost in rent and general running costs of a new building would not currently be supported by the local CCG or NHS England. This is because there is no extra funding currently available within the NHS. Therefore, just building a new surgery as part of a new housing development and expecting the branch surgery to move in is just not workable or feasible without approved extra funding from the local and national NHS bodies. Submitting a business plan to the CCG and NHS England will not guarantee increased funding for rental and building upkeep.

In summary, there are significant financial constraints which would stop the local surgery from expanding within the village to cope with additional housing. New patients from the new houses would need to travel some distance to the nearest surgery for appointments and this would not be sustainable development.

**Finally HAG undertook a study of the drainage and sewer capacity in the village and identified the current over-capacity problems and challenges to address the problems**

The findings were:

Problems associated with drainage and sewerage overflows in the village of Hampsthwaite had existed before HM1 was built. The Parish Council and community raised this problem with the council and Yorkshire Water many times. Each new house which is built adds to the problem and over time the infrastructure itself requires constant repairs. Sewerage overflow is a nuisance and health hazard. It has been a regular event in properties at the lower end of the village and sewerage build up in the pipes has resulted in outflows in the ‘Feast Field’ where children play. There have also been serious flooding issues during construction of HM1.

The HAG study concludes: *“This document has attempted to briefly record the flooding incidents and causes in and around the area of Church Lane and St Thomas A Becket Walk. There is a very high risk that if further housing is built in Hampsthwaite flooding risks will increase at the lower end of the village. It should be noted that part of site allocation HM9 lies within Flood Zone 2 and this area flooded as recently as 2000. Housing development at HM9 would require an expensive new surface water sewer to the River Nidd. With regard to foul sewage outfall the existing system is overloaded in times of heavy rainfall, the existing storm water overflows are outdated and do not deal with storm water conditions in a satisfactory way. In heavy rainfall they cause pollution to the local watercourses and ultimately the River Nidd. The existing foul pumping station in St Thomas A Beckett Walk is not fit for purpose and no further housing should be added to it until it has been fully upgraded.”*

**Cumulative environmental impacts**

The above studies deal with examples of infrastructure topics but environmental cumulative impacts are also very relevant. One of the best examples to provide in this context is the impact on the village itself as set out in the council’s own Conservation Area Character Appraisal for Hampsthwaite.

The documents states: *“The special character and appearance of Hampsthwaite Conservation Area is vulnerable to erosion and significant harm through often well-intentioned, but misguided alterations and inappropriate change.”* It also concludes with the observation that: *“New development should not adversely impact on the historic skyline.”* The cumulative impact of large scale housing developments is more likely to have an adverse impact on both the conservation area and its historic skyline.

There are further examples which could be cited including the cumulative impact in terms of the urbanising effect on a village located just 200 metres from the boundary of the Nidderdale AONB or the cumulative impact on the setting of the local landscape designation.

**Conclusions**

A failure to comply with the SEA Directive means none of the above examples have been assessed cumulatively in relation to the housing site allocations in Hampsthwaite. HAG concludes the Publication Draft Local Plan is not legally compliant and it is not sound because it is not based on appropriate evidence.

HAG believes this matter could retrospectively be dealt with by the council if it undertook cumulative assessments of the housing site allocations affecting individual communities rather than the current approach of just carrying out sustainability appraisals of individual site allocations. Those cumulative assessments would then inform the SEA report which would have to go out for consultation.

Alternatively, if it is considered the SEA Directive with regard to cumulative impacts is legally compliant but the evidence supporting the housing site allocations HM7 and HM9 is weak, it is appropriate to consider the cumulative impacts of the allocations using evidence provided here and elsewhere. HAG have demonstrated that if the council had undertaken a cumulative study in relation to Hampsthwaite, they would have found that a combination of HM7 and HM9 allocations together with the committed sites would not result in sustainable development.

In those circumstances HAG believes sites HM7 and HM9 should be deleted from the Publication Draft Local Plan and the proposed development limit for Hampsthwaite should be correspondingly amended.