



**HART LOCAL PLAN STRATEGY AND SITES 2016-32 EXAMINATION**  
**HEARING STATEMENT – MATTER 1: LEGAL REQUIREMENTS**

On behalf of:  
**Wilbur Developments Ltd**

**Respondent ID: 124**

Date:  
**October 2018**

Reference:  
**LR/06014/LP Examination Matter 1**



## 1.0 Introduction

- 1.1 This statement is prepared on behalf of Wilbur Developments Ltd, the promoters of land West of Hook, in relation to **Matter 1: Legal Requirements** and provides their response to **Questions 1.3** and **1.4** raised by the Inspector. The issues raised by these questions are inextricably linked and our response below therefore deals with them together.
- 1.2 We demonstrate below that the SA is inadequate and flawed because it is based on an unsound process and testing of reasonable alternatives in particular when testing existing options against the delivery of the new settlement at Murrell Green/ Winchfield (MG/W) option.

## 2.0 The Sustainability Appraisal (SA)

- 2.1 The representations submitted by Wilbur Developments Ltd to the Proposed Submission Plan raised concern regarding the scope of the February 2018 SA and the extent to which it assessed reasonable alternatives, in particular the benefits of the new settlement Area of Search (AoS) compared to options involving settlement extensions, and the scoring of their land at West of Hook.
- 2.2 The February 2018 SA adopted a 'fait accompli' approach to the new settlement AoS and did not consider its merits relative to the other reasonable alternatives, including the settlement extensions. Whilst Wilbur Developments Ltd welcome the production of the Post-Submission Interim SA, August 2018, which is intended to consider the original alternatives with and without the new settlement AoS, as well as a more thorough assessment of the shortlisted options for the new settlement AoS, they have fundamental concerns as to the adequacy and rationality of the submitted SA and the basis it provides for plan formulation for the following principal reasons:
- a) The scoring of the alternatives has altered since the February 2018 SA and is in places manifestly irrational and skewed in favour of the proposed plan strategy, including the new settlement AoS; and
  - b) The SA does not make a 'like for like' comparison of alternatives as the new settlement AoS is assessed on a purely conceptual basis and the other options considered constitute 'real' options with some, such as West of Hook, being the subject of a fully worked up 'live' planning applications/appeal<sup>1</sup>. In order to make a fair comparison it was necessary for the authority either to consider in more detail the consequences of the constraints on the MG/N option or to make a realistic allowance for them in the scoring against alternatives.

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<sup>1</sup> Planning Application Reference: 17/02317/OUT & Appeal Reference: APP/N1730/W/18/3206951

2.3 Paragraphs 1.1.3 – 1.2.4 of the Post-Submission Interim SA Report advise that it has been prepared as a response to the Regulation 19 representations to "supplement the justification for identifying a new settlement... AoS" and that as an interim report it focuses on a specific matter, namely the appraisal of spatial strategy alternatives. As such, its purpose is not to replace the February 2018 SA but rather to provide supplementary information. On its face the assessment is compromised as a large number of changes have been made to the scoring of alternatives even where there has been no change in circumstance in the intervening period.

2.4 Nowhere is this more apparent than in relation to the scoring of the West of Hook option (Options 4 and 4a - Do Minimum + West of Hook). **Table 1** below provides a comparison of the scoring for this option in the February 2018 SA and Interim SA reports, together with a commentary on the conclusions drawn. This illustrates that, as with so many of the other alternatives, the scoring has been irrationally altered and selective use has been made of available evidence to enable the Do Minimum + new settlement AoS option (Option 1b) to be conferred a high-ranking position in the table.

**Table 1: Comparison of SA Results for West of Hook (option 4a)**

Topic/Option	Option 4/4a		
	February 2018	August 2018	Diff +/-
<b>Accessibility</b>	2	4	+2
<p><b>Comment:</b> the adverse scoring has increased significantly from '2' to '4' yet there is no change of substance in the detailed assessment – in fact what change there is represents an improved position with the proposals for improved pedestrian connections put forward as part of the current planning application. The summary text at page 39/40 points to the change in scoring being related to the secondary school but this was also the explanation in the February 2018 SA when the site scored '2' and it fails to reflect the fact that educational needs arising from the development of the site can be provided for in other ways. Indeed, the conclusion at page 22 explains that "no significant negative effects are predicted for any option, as the significance of the secondary school issue is not entirely clear. There might feasibly be options for addressing capacity concerns in the future without a new settlement". Note that in response to Wilbur Developments Ltd's planning application for Land at West Hook, no objection was raised on education grounds with the local education authority confirming that the provision of a financial contribution towards secondary school provision is an acceptable response. The increase of the score to 4 is therefore illogical and unreasoned and should score no more than '2'.</p>			
<b>Biodiversity</b>	2	4	+2
<p><b>Comment:</b> the scoring has increased from '2' to '4', this is despite no new adverse issues being identified (contrary to the impression given by the text, the proximity to the Hook Common SSSI is not new to the SA, and has, in any event, been resolved as part of the recent application as the text suggests). Natural England have agreed that the proposed SANG makes appropriate provision for the proposals and offers sufficient capacity for all development to the West of Hook. Such provision would be the condition of any development and therefore the 'precautionary approach' that the Interim SA has applied (as did in February 2018) is no longer justified as it does not reflect the reality in which Natural England has found that the site can be delivered without any adverse impact on the integrity of TBHSPA. The scoring should be improved to '1' because the 'uncertainty' referred to in the February</p>			

2018 SA has now been addressed. There is certainly no justification for the (unreasoned) increase in the scoring to 4.			
<b>Climate Change Migration</b>	2	4	+2
<b>Comment:</b> The scoring has increased from '2' to '4' but again there has been no change in the commentary. The consideration of climate change focusses on the potential to support renewable/low carbon energy infrastructure and in relation to West of Hook reference is made to the absence of any proposals for minimising CO <sub>2</sub> emissions as part of the recent planning application. The reality is though that Hart District Council (HDC) has at no time expressed any requirements for the inclusion of such measures within the scheme and it is in their power to secure them via condition as part of any planning permission, in the same way as they would as part of a new settlement. The only rational position would be a parity in scoring on this topic, viz a score of 2.			
<b>Communities</b>	=	=	=
<b>Employment &amp; the Economy</b>	=	2	+2
<b>Flood Risk/ Climate Change Adaption</b>	2	=	-2
<b>Comment:</b> The scoring has altered so that all options perform on par. While the recognition that West of Hook performs as well as Options 1a & 1b is welcomed, to rank it on par with all other options is not reflective of the fact that all matters relating to flood risk and drainage were signed off by the relevant bodies as part of the recent planning application; this is not the case for the other options (with the exception of Pale Lane) where such matters have yet to be fully tested. The rational score would therefore be 1.			
<b>Historic Environment</b>	2	4	+2
<b>Comment:</b> The scoring has doubled from '2' to '4' and yet the commentary is identical to that included in the February 2018 SA. The score should revert to '2'.			
<b>Housing</b>	2	4	+2
<b>Comment:</b> The scoring has again doubled from '2' to '4' without any justification. Rationally the score should revert to '2'.			
<b>Land &amp; other Resources</b>	2	2	=
<b>Landscape</b>	3	3	=
<b>Transport</b>	2	2	=
<b>Water</b>	2	2	=

Source: Summary Findings and Conclusions Tables - page 140 February 2018 SA Report & page 39 August 2018 Interim Report

- 2.5 The new settlement AoS is purely conceptual at this stage having yet to be fully tested. With this in mind, a comparison of the scoring and associated commentary reveals that something of a 'leap of faith' has been taken in the formulation of the Plan. Indeed, it is simply not possible to undertake a true comparative assessment as the options being considered in the Interim SA are not 'like for like' – the AoS is a concept while other options, such as the settlement extensions, represent defined sites that have already been thoroughly tested through the application process. Unlike the AoS their constraints have

been fully identified and the extent to which these can be mitigated has either already been agreed or is the subject of advanced discussion.

2.6 As is more fully explained in relation to Matter 4, no certainty can be afforded at this stage to the new settlement AoS. The detailed work necessary to identify constraints, establish how far it is possible to mitigate these, and therefore, define its exact location, has yet to be undertaken and will not occur until the preparation of the DPD. Accordingly, it is not possible to undertake a sufficiently robust assessment of it against the alternatives. The commentary within the Interim SA suggests as much repeatedly using phrases such as *"it is difficult to draw a strong conclusion"* (page 36) or referring to the *"considerable degree of uncertainty"* (pages 25, 26, 31, 37 etc). The Interim SA also places a disproportionate amount of weight on the absence of objections from key statutory consultees, namely Natural England, Historic England and Thames Water. However, these are at best initial, high-level responses offering non-committal advice reflective of the conceptual option before them.

2.7 **Table 2** provides a comparison of the scoring for Options 1b and 4a and a commentary on the conclusions drawn by the Interim SA. Based upon this, it suggests alternative scoring "( )" considered to more accurately reflect the realities of the constraints and opportunities presented by each.

**Table 2: Comparison of SA Results for West of Hook**

Topic/Option	Option 1b	Option 4a	Diff +/-
<b>Accessibility</b>	1	4 (2)	+3
<p><b>Comment:</b> A new settlement would offer the opportunity to provide new facilities accessible to residents, but as the commentary on page 22 notes <i>"the degree of 'self-containment' achieved at the new settlement will be limited. Residents will need to travel to access many community services/facilities in Hart, and beyond notably Basingstoke"</i>. A settlement extension at West of Hook would also bring with it new facilities, namely a primary school, nursery, community facility and convenience store and therefore would provide day to day services within walking distance of the new homes and improve access for existing residents.</p> <p>While the commentary regarding the new settlement AoS refers to a new bus service linking it with Hook and Basingstoke, no corresponding reference is made to the extension to the existing Route 10 service operated by Stagecoach proposed by the West of Hook planning application, which would provide access between the site, Hook and Basingstoke, or to the provision of a community bus service in Hook.</p> <p>It is accepted that a new settlement would provide a new secondary school. However, the weighting in favour of this is disproportionate given that no significant negative effects are identified for the West of Hook option and the secondary education needs of the site can be provided for in other ways (see Table 1 above).</p>			
<b>Biodiversity</b>	1 (3)	4 (1)	+3
<p><b>Comment:</b> The majority of sites in Hart are the subject of SPA and other ecological constraints and will require the provision of appropriate assessment and mitigation measures. The new settlement is no different and the SA notes there is nothing to suggest that appropriate provision cannot be made for SANG and the achievement of a net gain in biodiversity. We do not necessarily disagree with this but would point out that so too can an extension to the West of Hook.</p>			

<p>Unlike the new settlement where the necessary and robust assessment work has yet to be undertaken, the provision made for SANG at West of Hook and the net gains in biodiversity it would provide, have been agreed with Natural England. Natural England may not have raised objection to the new settlement but neither have they considered and assessed detailed proposals and their capacity to mitigate the effects of the development. There is no justification therefore for the difference in the scoring of the two options.</p>			
<b>Climate Change Migration</b>	1	4 (2)	+3
<p><b>Comment:</b> A new settlement by reason of size could provide an opportunity to make a meaningful contribution towards reducing CO<sub>2</sub> emissions, but so too can development at West of Hook. As explained in Table 1 above, the Interim SA commentary suggests that Option 4a has been marked down because the planning application does not make any provision for minimising CO<sub>2</sub> emissions. However, this misses the fact that it is within HDC's power to secure such measures via condition as part of the forthcoming appeal and that there is no certainty at this stage regarding exactly what could be secured at the new settlement with the site promoter remaining "non-committal" on the subject. Again, it is considered that the scoring has been too heavily skewed in favour of Option 1b and is not reflective of the opportunities offered by Option 4a.</p>			
<b>Communities</b>	=	=	=
<p>No comment required.</p>			
<b>Employment &amp; the Economy</b>	1	2	+1
<p><b>Comment:</b> A new settlement offers an opportunity to deliver new employment land that the other alternatives don't. Such provision as the Interim SA notes would be of limited strategic significance, and as such, there is no objection to the scoring.</p>			
<b>Flood Risk/ Climate Change Adaption</b>	= (3)	= (1)	=
<p><b>Comment:</b> The scoring ranks West of Hook on par with all other alternatives, including Option 1b. This fails to reflect the fact that all matters relating to flood risk and drainage have been signed off by relevant bodies as part of the planning application and that there are "significant flood risk constraints" associated with Option 1b that have yet to be tested (page 29). The scoring should place Option 4a ahead of the other untested options, including Option 1b.</p>			
<b>Historic Environment</b>	1 (4)	4 (3)	+3
<p><b>Comment:</b> Another significant difference in scoring in favour of Option 1b despite the impacts arising from it having yet to be identified and assessed. Having noted that "there are a range of notable heritage constraints given listed buildings and conservation area; and, more generally, a rural landscape with historic character", the Interim SA places "considerable weight" on the lack of any objection from Historic England. Given the conceptual nature of the AoS it is not a surprise that Historic England does not raise an objection but rather seeks to ensure that any future detailed proposals would conserve and where possible enhance the character, significance and setting of heritage assets and that they are involved in the preparation of any DPD and masterplan. What the SA fails to note is that Historic England did not raised any objection to the proposals at West of Hook either, but more importantly, that the constraints referred to in relation to it are 'known' constraints identified and quantified through the formal application process.</p>			
<b>Housing</b>	2	4	+2
<p><b>Comment:</b> The key consideration is the quantum of housing each option would provide; the more housing an option would provide the better it scores. It is a quantitative rather than qualitative assessment, and therefore, the scoring of Option 4a relative to Option 1b is accepted.</p>			

<b>Land &amp; other Resources</b>	1 (2)	2 (1)	+1
<b>Comment:</b> It is evident from the text that the AoS comprises a variety of agricultural land grades, potentially including BMV land. The ability to avoid or minimise the loss of BMV has not however been thoroughly investigated. By comparison, it has been confirmed through the application process that West of Hook does not comprise BMV agricultural land, and yet, it is given a poorer score. So far as the extent to which BMV affects the AoS is unknown, Option 4a should perform better than Option 1b and the scores should reflect this.			
<b>Landscape</b>	1 (3)	3	+2
<b>Comment:</b> Having concluded on page 36 that <i>"it is very difficult to draw a strong conclusion"</i> on this matter for MG/W and noting that much of the land in the AoS has "clear landscape value/ sensitivity" some of which is acknowledged to be significant, it is surprising that it has been awarded a score of '1'. Reference to impact on the Local Gap is made in relation to West of Hook, and yet no similar reference is made in relation to the Local Gap that exists within the AoS. Without further investigation there is no justification for Option 1b being awarded a better score.			
<b>Transport</b>	1 (2)	2	+1
<b>Comment:</b> Option 1b has again been afforded a higher score than other options despite the commentary that relates, among others, the concerns of HCC and those of BDBC, concluding that <i>"with regards to the question of a new settlement AoS, it is (once again) challenging to draw a conclusion"</i> . Again, it is not possible for the SA to be definitive because no detailed assessment and modelling work has been done, unlike, West of Hook where transport matters have been considered in detail, issues having been identified and discussions having taken place to find a resolution to this. The absence of any detailed highways work is highlighted by Proposed Modification 29, requiring a transport assessment to inform the transport strategy for the new settlement, including the identification of impacts and suitable mitigation. There is no justification for the AoS being afforded a better score.			
<b>Water</b>	1 (2)	2 (1)	+1
<b>Comment:</b> Although there is no reason to believe that water resources would present an insurmountable constraint to the new settlement, it is clear from Thames Water's response that further work is required. No reference has been made to the fact that no objection has been raised by Thames Water to the West of Hook proposals, which presented both on and off-site options, such that water does not represent any constraint to its development. Again, there is no justification for Option 1b scoring better than 4a at this stage.			
<b>TOTAL</b>	<b>11 (24)</b>	<b>29 (22)</b>	<b>N/A</b>

Source: Summary Findings and Conclusions Table, page 39 August 2018 Interim Report

- 2.8 For the reasons set out above, Wilbur Developments Ltd consider that the Plan's formulation and identification of sites, has not been based on a sound, rational or consistent process of sustainability appraisal and testing of reasonable alternatives, and that the alternatives to the delivery of a new settlement have not been robustly considered. The Plan strategy is based upon an irrational comparative site assessment and therefore is seeking to bring forward untested and unsound solutions to avoid making

difficult and unpopular decisions regarding site allocations. Accordingly, it fails the legal compliance test<sup>2</sup> and HDC cannot be relied upon to discharge its duties to produce a sound plan.

### **3.0 Proposed Change/ Additional Work**

- 3.1 To rectify this, HDC should be required to undertake an objective review of its sustainability appraisal process and amend the strategy accordingly. The need to do so, is made all the more important by the need for HDC to plan for a higher level of growth than it currently does (see statement on Matter 1), and as a consequence, to allocate sites capable of meeting that additional need by delivering at the earliest opportunity. Wilbur Developments Ltd's land West of Hook represents one such site.

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<sup>2</sup> Specifically, Regulation 12 of the Environmental Assessment of Plans and Programmes Regulations 2004 on the basis that the SA fails to rationally and lawfully identify, describe or evaluate the likely significant environmental effects of either implementing the draft plan or of reasonable alternatives