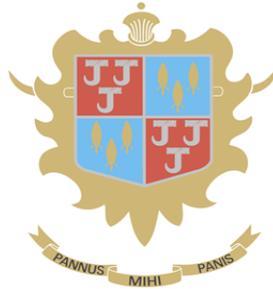


KENDAL TOWN COUNCIL



SUSTAINABLE DEVELOPMENT IN KENDAL

Submission to the Planning Inspector

SLDC Land Allocations DPD - Submission Edition March 2012

Approved by Council: 2nd April 2012

Town Hall
Kendal
Cumbria
LA9 4DQ

Phone: 01539 797597
Fax: 01539 735984

Summary

During 2011, Kendal Town Council provided written submissions to the two formal consultation exercises held by South Lakeland District Council (SLDC) during the preparation of its Land Allocations DPD. Council members have had discussions with SLDC members and officers, and SLDC representatives have made presentations to and answered questions from meetings of the Town Council.

The Council has now reviewed the published DPD, in so far as it affects development sites within and around the Council boundary. The purpose of this submission is to draw to the Inspector's attention issues which the Council believes demonstrates that the DPD contains fundamental flaws which leads it to fail the "soundness" test from Section 20(5)(b) of the Act, at least in its impact on Kendal.

The Council believes that the DPD **is not justified** because:

- key decisions are not supported by the evidence base or the evidence supports a different conclusion
- the evidence base is incomplete
- the LPA has failed in its duty to compare against reasonable alternatives.

The DPD is also **not effective** in that it is not deliverable, with key elements of the dependent infrastructure not understood.

The evidence why the Council believes the DPD is not sound as it affects Kendal and its residents is given in the body of this paper, where the Council also requests the Inspector to make a series of interventions to bring the quality of the DPD and its supporting evidence base up to the required standard.

The Council asks the Inspector to record its right to appear and be heard in any hearings which the Inspector may call.

Introduction

Background

South Lakeland District Council (SLDC) is the Local Planning Authority (LPA) for Kendal Town Council. The LPA published a first “Land Allocations DPD - Emerging Options Consultation Edition”¹ in January 2011 and the Council’s formal response to this was published on 4th April². At the end of July, the LPA announced a further round of consultation³, and the Council’s formal response to this was published on 5th September⁴.

Following discussions with the LPA, the Council also commissioned a Local Level Landscape Character Assessment⁵ to contribute to the evidence base for evaluating possible development sites. This evidence was used in its response to the LPA to rate proposed sites as to their ‘desirability’.

All these documents may be inspected at the Town Hall.

Purpose of this Document

The Council has now reviewed the published Land Allocations DPD⁶, in so far as it affects development sites within and around the Council boundary. The purpose of this submission is to draw to the Inspector’s attention issues which the Council believes demonstrates that the DPD contains fundamental flaws which leads it to fail the “soundness” test from Section 20(5)(b) of the Act.

The Council has no mandate to comment on the DPD, other than as it concerns the town and its residents.

Comments to the Inspector

Summary

The Council believes that the DPD is not **justified** because it fails the following tests of soundness:

- the LPA has failed in its duty to compare against reasonable alternatives
- key decisions are not supported by the evidence base or the evidence supports a different conclusion
- the evidence base is incomplete

The DPD is also not **effective** in that it is not deliverable, with key elements of the dependent infrastructure not understood.

Failure to compare against reasonable alternatives

The search for development sites in South Lakeland has a long history, with work starting on the two key documents as far back as 2007 - the Employment and Housing Land Search Study (EHLSS)⁷ and the Strategic Housing Land Availability Study (SHLAS)⁸:

“The SHLAA, which is the first to be produced for South Lakeland, considers a range of potential housing sites (covering both greenfield and previously developed land) that are wholly within, or which straddle, settlement boundaries.”

The latest published Land Allocations can be traced directly back to these early studies. However, the assumption upon which the work was based - that sustainability was best achieved through selecting sites “that are wholly within, or which straddle, settlement boundaries”- was increasingly challenged during the period.

For rural market towns, the evidence was pulled together in July 2008 by the Taylor Review⁹, setting out the policy framework necessary to deliver the “vision of a living, working sustainable countryside”. Taylor provided compelling evidence that “doughnut development” was the wrong approach for sustainable rural market towns, and that a “hub and spoke” model represented the best pattern for sustainability.

The preparation of a Land Allocations DPD provided an ideal opportunity for the LPA to draw its breath after concluding its Core Strategy, and seriously investigate this alternative approach to achieving the objectives of the Strategy. The LPA’s failure to do so indicates to the Town Council that the LPA has clearly failed in its duty to compare against an alternative which is not only “reasonable”, but according to the best practice collated by Taylor, is also more sustainable, causes less problems with town centre infrastructure, and is more acceptable to residents.

The evidence in the EHLSS indicates that suitable sites could be available (the scope of the SHLAA only covered sites within existing settlement boundaries, and is of less relevance), and there are options both for completely new communities on green field sites, or for breathing new life into existing communities.

The evidence in Taylor also shows that adopting this approach would make it considerably easier to deliver the dependent infrastructure - the issues covered in the next section of this document.

The Council requests the Inspector to instruct the LPA to produce a robust evaluation of alternative approaches to land allocations to meet the housing targets identified for Kendal in the “Core Strategy”, with a particular focus on the recommendations of the Taylor Report.

Key decisions are not supported by the evidence base

Transport Improvements

Kendal residents identify “The level of traffic congestion” as their second highest priority for improvement¹⁰ - coming in just ahead of “Affordable decent housing”. So the LPA has been keen to demonstrate that the developments in the LDF can be delivered without exacerbating congestion in town.

In 2009, the LPA commissioned a *Kendal Transport Assessment*¹¹, based on an earlier preliminary land allocation, from independent consultants WS Atkins. As stated in the preamble to the study:

National planning policy guidance emphasises the requirement for development plans to be founded on a robust and credible evidence base. Therefore it is important that the proposed level and pattern of growth in Kendal takes account of and addresses the potential impacts on the local highway network.

The Assessment concluded¹² that the the existing highway network plus proposed improvements would just about accommodate the forecast level of traffic, provided three large sites were removed. The consultants could find no mitigation which would permit these sites to be developed within the parameters given for the Assessment (e.g. no compulsory purchase orders for major junction redevelopment).

In the “Emerging Options” Land Allocations, these three sites were not only included, but were actually expanded in size¹³. The LPA was challenged by the Town Council to justify this inclusion against the published evidence which the LPA had themselves commissioned from independent consultants.

In reply, the LPA chose not to re-engage independent consultants, but asked Cumbria County Council (CCC) to re-run their traffic models against the latest allocations. “Initial Results” were published in October 2011¹⁴, and “Revised Results” in January 2012¹⁵.

There are two significant differences between the independent consultant’s report and this CCC work.

1. The first task in a study is to predict what the situation would be on the target date without the LDF. W.S. Atkins’ study had used the Government TEMPRO data to predict a 14% increase between 2008-2025 due to ‘natural’ traffic growth due to economic factors, such as increasing car ownership due to rising income levels. It then added in already known developments to this base case, and finally added in the impact of the LDF growth - all cumulative.

CCC’s “Interim Results” used TEMPRO to predict a similar growth rate for cars between 2010-2025 of 13.3% for the morning peak and 12.6% for the afternoon peak. However, the modellers then discounted the TEMPRO prediction: *In order to avoid double-counting the impact of potential developments, the 2025 LDF assessment was then created by adding the expected trips generated by the LDF developments directly to the 2010 base flows and committed development trips without using the TEMPRO growth rates.*

This is a significant difference of approach from Atkins - it appears to result in discounting the LDF impact down from 15.6%/18.7% morning/afternoon down to just 2.3%/6.1% (although the text of the study is somewhat obscure on this point).

Even with this much more generous approach, the Interim study reached much the same conclusion “that the existing highway network would not be able to accommodate the proposed levels of LDF

development without significant increases in congestion ... Overall, the level of congestion resulting from the LDF development is not fully mitigated by any of the improvement schemes.”

2. Three months later, the “Revised Results” came up with a different approach, and a different answer. The purpose of using quantitative models like SATURN is to enable the outcome of interventions to be predicted. The modeller feeds in the intervention (e.g. adding a filter lane to junction x) - the model gives the outcome (e.g. reduction in queue times of y). However, in this study, the modellers introduced a “Scenario 2”, where they tabled a list of “Sustainable Transport Improvements”, assumed these would result in a reduction of car journeys of 5% (no workings shown), and then fed this *outcome* into the model. This “Scenario 2” is sufficient to mitigate the predicted LDF impact, and enabled the LPA to state that the traffic impact of the LDF could be fully mitigated.

Given that this approach has differed significantly from the independent consultants’, the Council asks the Inspector to order an independent audit of this latest work by W.S. Atkins or equivalent to ensure it meets accepted professional standards of objectivity and integrity. The Council further asks the Inspector to ensure that no sites are included in the DPD which the evidence shows are not deliverable on transport grounds.

Air Quality Issues

The issues with traffic directly impact on the air quality in Kendal town centre.¹⁶ The air quality in Kendal currently fails statutory guidelines, and has deteriorated since 2008-09. Nine monitoring sites currently exceed the annual mean nitrogen dioxide objective, and seven are close to the objective.¹⁷ Slow-moving traffic waiting at junction approaches is widely believed to be the major contributory factor, although no formal modelling has been carried out into cause and effect.¹⁸ The *2011 Air Quality Progress Report for South Lakeland District Council* reported:

The road network is already working at capacity, with the effect that NO₂ levels in the town centre are close to or above the Objective. The Council is currently working with CCC on both the LDF and the LTP to ensure capacity is built into the road system to deal with the level of development required.

The CCC modelling work now shows that this “capacity” is simply not deliverable. Applying the precautionary principle, the Council believes any planned Land Allocations which would be rejected on traffic grounds must also be rejected on air quality until a robust plan is in place. Meeting statutory air quality guidelines is not optional, and must be delivered through SLDC’s Air Quality Action Plan (AQAP).

The current AQAP places action B1 on the LPA to produce an SPD or Local Development Document formalising a number of improvement measures and linking infrastructure, traffic and air quality. The Council asks the Inspector to instruct the LPA to include this SPD in its LDS.

Incomplete evidence base

Following the publication of the Land Allocations “Emerging Options”, the Town Council obtained the LPA’s agreement to a consultants’ brief to prepare a Local Level Character Assessment for the Town Council area. Previous LCAs in this area had been carried out at a higher level, but the Town Council believed a more granular analysis was required if sites had to be prioritised within the town.

The work was financed by the Town Council and completed within the very tight timescales set by the LPA for consultation responses. There were no questions raised over the quality of the work and it was duly submitted to the LPA for addition to the evidence base.

However, it later emerged (page 114 of Appendix 8 of the “Kendal Land Allocations Consultation Responses Emerging Options (Part A)”) that the LPA had decided that the LCA “is an independent piece of work undertaken on behalf of Kendal Town Council and does not form part of SLDC’s landscape evidence base”.

The Council believes that this refusal to accept the LCA leaves a gap in the evidence base, which undermines the process used for site selection within Kendal, and requests the Inspector to instruct the LPA to adopt the LCA.

Deliverability

In its first submission to the Land Allocations consultation process, the Council argued that Kendal’s infrastructure cannot be made fit for purpose piecemeal, simply by waiting for developer-driven planning applications. It requires long term planning, with an evidence-based, published, and defensible roadmap for developing the town and its infrastructure to underpin planning policies.

With the “doughnut” development model, developments in one area of the town may require infrastructure mitigation some miles away. With Kendal’s ageing infrastructure, improvements are so substantial that they are likely to need contributions from several partners to deliver. These improvements cannot be delivered piecemeal by waiting for developers to submit planning applications. There needs to be an overall credible plan for infrastructure; the LDF provides the opportunity for the LPA to publish such a document (the “Core Strategy” refers to a *South Lakeland Infrastructure Delivery Plan*¹⁹), and in a meeting in February 2011, LPA officers confirmed such a Plan was due for delivery towards the end of summer 2011.

This document never materialised, with the blame being laid on delays from delivery partners, particularly Cumbria County Council. The LPA did undertake at a meeting of the Town Council on February 6th 2012 that the Infrastructure Plan would be published by the start of the consultation period (March 2nd). This document has still not appeared.

Without a robust infrastructure “Master Plan” linked to sites, the Council fears it will prove impossible to enforce the necessary Section 106 obligations, which are governed by the government’s Circular 05/2005:²⁰

Matters agreed as part of a S106 must be:

- relevant to planning
- necessary to make the proposed development acceptable in planning terms
- directly related to the proposed development
- fairly and reasonably related in scale and kind to the proposed development
- reasonable in all other respects.

A council’s approach to securing benefits through the S106 process should be grounded in evidence-based policy.

Without these agreements, the infrastructure to support the Land Allocations and mitigate against their worst affects will simply not be deliverable. Similar issues will arise with setting a Community Infrastructure Levy if the scale of the infrastructure has not been ascertained²¹.

The Council asks the Inspector to withhold approval of the DPD until there is a credible infrastructure plan showing the impact of the major sites on the overall town infrastructure, and with high level solutions identified and costed with enough detail to enable the economic deliverability of the sites to be proven.

References

- 1 SLDC, [South Lakeland Local Development Framework Land Allocations Development Plan Document Emerging Options Consultations Edition](#) , January 2011
- 2 Kendal Town Council, [Response to Consultation prepared in response to South Lakeland Local Development Framework Land Allocations Development Plan Document Emerging Options Consultation Edition January 2011](#), April 2011
- 3 SLDC, [Land Allocations Document Further Consultation](#), July 2011
- 4 Kendal Town Council, [Sustainable Development in Kendal - Prepared in response to: South Lakeland Local Development Framework Land Allocations Development Plan Document Further Consultation Summer 2011](#), September 2011
- 5 Galpin Landscape Architecture, [Kendal Local Level Landscape Character Assessment](#), March 2011
- 6 SLDC, [South Lakeland Local Development Framework Land Allocations Development Plan Document incorporating changes to the Proposals Map Proposed Submission Edition](#), March 2012
- 7 SLDC, [Employment and Housing Land Search Study](#), 2008
- 8 SLDC, [Strategic Housing Land Availability Study](#), March 2009
- 9 Matthew Taylor, [Living Working Countryside - The Taylor Review of Rural Economy and Affordable Housing](#) , Department for Communities and Local Government, July 2008
- 10 *South Lakeland Place Survey, 2008*, cited in the SLDC Information Unit Draft Kendal Local Area Partnership Profile, v1 Nov 2010 - page 5
- 11 W.S.Atkins, [Kendal Transport Assessment Final Report](#), June 2009 - page 8
- 12 *Kendal Transport Assessment Final Report* - page 10
- 13 *Response to Consultation prepared in response to South Lakeland Local Development Framework Land Allocations Development Plan Document Emerging Options Consultation Edition January 2011* - page 8
- 14 Cumbria County Council, [Kendal Local Development Framework Transport Study Initial Modelling Results](#), October 2011
- 15 Cumbria County Council, [Kendal Local Development Framework Transport Study Revised Modelling Results](#), January 2012
- 16 AEA Energy & Environment, *Detailed Assessment for Kendal Town Centre 2008* , Issue 2 June 2009 - p.28
- 17 SLDC, *2010 Air Quality Progress Report for South Lakeland District Council* , 30 June 2010 - p.40
- 18 This is a recognised weakness of the current Action Plan: there is no quantified assessment of how much each of the various actions will contribute to solving the air quality problem. Many of the actions also lack of milestones (“Indicators”) for delivery.
- 19 *Local Development Framework Core Strategy* - page 36
- 20 Local Government Improvement and Development [Section 106 Agreement](#)
- 21 Department for Communities and Local Government *The Community Infrastructure Levy - An Overview* November 2010 - page 8