HABITAT REGULATIONS ASSESSMENT (HRA)

Introduction

1 This Technical Note has been prepared on behalf of Rydon Homes Ltd., to address highway related questions raised by the Inspector in relation to the Habitat Regulations Assessment, which include Questions 24 and 27.

Question 24

24: Specifically, is the evidence, methodology, and the underlying assumptions on which the HRA has been formulated, realistic, robust, accurate, transparent, appropriate, and sufficiently replicable to allow sensitivity testing, so as to justify its conclusions? Has a qualitative, proportionate approach been taken to the potential impacts on the integrity of the sites? If not, should this be the case?

A review of the impact methodology has been undertaken by RPS included in Appendix 4 of the representations provided on behalf of Rydon Homes Ltd. This review considers that the methodology used in determining the level of impact and concludes that the model significantly over-estimates the impact of new development traffic. This is because it includes for the following:

i) The assessment assumes the inclusion of traffic growth. The Department for Transport Road Traffic Forecast 2018 includes the following within the introduction to this document:

“Understanding future demand for road travel is essential to shape the policies we implement and the investments we make. However, forecasting future demand is complex and there is significant uncertainty about the extent to which existing trends and relationships will carry on into the future. We need to ensure that we understand and communicate this uncertainty.”

Hence the application of growth factors can result in significantly overstating the likely traffic flows within the area.

ii) Additional trips associated with new development allocations are included within the assessment. This together with the application of background growth, which in turn includes both employment and housing developments results in double counting of new trips to the local road network thereby overstating the future levels of traffic.

iii) In relation to the new trips these have been derived from a selection of sites using data from the TRICS database of various sites covering the whole of England. This is not considered to provide a proportionate approach to the potential impacts and a more detailed assessment using data specific to the relevant sites should be used.
Accordingly by adopting this overall approach, it is considered that using this method provides a too precautionary approach and prejudices development taking place.

27: What is the relevance of the recent CJEU Ruling on C-293/17 and C-294-17, as well as C-461/17, to the Council’s approach set out in HRA?

In respect of C-461/17, Para 3 ‘Article 6(3) of Directive 92/43 must be interpreted as meaning that, where the competent authority rejects the findings in a scientific expert opinion recommending that additional information be obtained, the ‘appropriate assessment’ must include an explicit and detailed statement of reasons capable of dispelling all reasonable scientific doubt concerning the effects of the work envisages on the site concerned.’

In respect of C-461/17, Para 3 It is considered that the appropriate assessment does not dispel all reasonable scientific doubt on the basis that the modelling undertaken to determine the levels of emissions is considered to be significantly over-estimating the potential impacts and is not site specific.

I do not consider C-293/17 and C-294/17 to be relevant in respect of Highways.