
1.00 PURPOSE

- 1.01 This document is the Further Written Statement (FWS) prepared by John Sharkey & Co, together with the University for the Creative Arts (UCA), which deals with various matters raised by the Inspector :-
- a. Matter 1: Point 1.6
 - b. Matter 1: Items 7
 - c. Matter 1: Item 8
 - d. Matter 2: Item 1
 - e. Matter 3: Item 4
- 1.02 This FWS contains more than 3,000 words as it deals with all the Matters identified by the Inspector as being relevant to UCA. This approach has been taken as UCA feels it will be easier for the Inspector to deal with UCA's comments in this way, rather than reading a number of FWSs each of which would deal with an individual Matter.
- 1.03 Moreover, the total number of words used is less by combining UCA's responses in one FWS.

2.00 WHY THE AAP IS UNSOUND

- 2.01 When preparing FWSs, representors are advised to have five factors in mind:-
- What part of the Development Plan Document (DPD) – in this instance, the Area Action Plan called Plan E (AAP) - is unsound?
 - Which aspect of soundness, set out in PPS12, does it fail?
 - Why does it fail?
 - How can the AAP be made sound?
 - What is the precise change/wording that is being sought?
- 2.02 This section deals with the first three of the factors set out above, while the next section deals with the last two of those factors. This section also deals with the questions posed by the Inspector, and will therefore be dealt with under the following subheadings:-
- a. Questions posed by the Inspector
 - b. Parts of the AAP that are unsound
 - c. Why the AAP fails the tests of soundness
 - d. Tests of soundness that the AAP fails.
- 2.03 Each of the above will now be dealt with in turn.

QUESTIONS POSED BY THE INSPECTOR

- 2.04 UCA's original Representations are included in Appendix A of this document, and the vast majority of those Representations are relevant to the Matters being addressed in this FWS.
- 2.05 This FWS will deal with the Inspector's questions in an order such that the FWS is in as understandable a format as reasonably possible.
- 2.06 **The first relevant question** posed by the Inspector is in 1.6 of Main Matter 1: "Overall has it" (the AAP) "emerged from an open and transparent process that demonstrates how and why its elements were selected, in consultation with the public and other stakeholders?"
- 2.07 Unfortunately, UCA's response would have to be "No", so far as the inclusion of its Epsom campus within the AAP area boundary is concerned. The Issues and Options (I&O) version of the AAP outlined a number of options for that boundary, one of which was called "Option 3 (Option 1 plus UCA extension)." In the Submission version, UCA's campus has been excluded from the AAP area boundary, yet no coherent reasons have been put forward and the local planning authority (LPA) has not contacted UCA to explain the situation.

- 2.08 It is interesting to note that the Sustainability Report (January 2010) (SR) states :-
- a. "A more compact area is preferred for the town centre boundary (Option 1) in comparison to the other options tested, reflecting a desire to focus Plan E on the commercial areas. This will allow the retention of existing uses with higher density residential redevelopment at the most easily accessible location in the borough. By comparison to Option 2 and Option 3 this may help limit the incidences where incompatible uses are adjacent to one another since this is more likely to occur on the edge of the town centre." (paragraph 3.2.7).
 - b. It is difficult to reconcile this statement with the LPA's following statements in the I&O version of the AAP (page 24) :-
 - i. "The College's students and employees positively contribute to the town centre, making use of its retail, leisure and public transport opportunities."
 - ii. Option 3 "... extends the town centre boundary to include the high density residential uses along Ashley Road"
 - c. "Option 3 could offer the benefit of improving integration of education facilities within the town centre. Again, the preferred option would not preclude measures to achieve this." (paragraph 3.2.9). While the SR acknowledges that option 3 has the benefit of better integration of "education facilities within the town centre", and although it says the preferred option "would not preclude measures to achieve this", there is no explanation of how that would happen.
- 2.09 **The second relevant question** is part of Item 8 in Main Matter 1, and is "Is there any factual evidence about the college, for example student and staff numbers and college floorspace that is relevant and if so why?" Appendix B contains a Statement of Facts about UCA that will hopefully be self-explanatory, and that information is relevant for a number of reasons, with three of the main ones being that it will assist in answering some of the Inspector's questions, it demonstrates that UCA is a major employer in the borough, and that UCA's campus has been, and will be, the scene of significant new development.
- 2.10 **The next relevant questions** are parts of Item 7 in Main Matter 1, and is "What is the rationale (sic) for the town centre boundary and how was it formulated? Provide explanation that it is consistent with the Core Strategy and PPS 4?"
- 2.11 The starting point for the rationale for the AAP boundary is the recognition that the document being dealt with is an AAP (and parts of Planning Policy Statement 12 – PPS 12 - are relevant), and that PPS 4 (which deals with town centres) marks a shift towards an emphasis on economic development.
- 2.12 Paragraphs 5.4 to 5.6 of PPS 12 deal specifically with AAPs, and state that AAPs "..... should be used when there is a need to provide the planning framework for areas where significant change or conservation is needed." Paragraph 5.4 continues to say that AAPs should "..... resolve conflicting objectives in areas subject to development pressures"
- 2.13 As Appendix B demonstrates, UCA has further development intentions for its Epsom campus. UCA's campus is close to residential areas, and part of the campus is within a Conservation Area – the campus is also close to other Conservation Areas: please see the plan in Appendix C (prepared by the LPA). It would also seem from the LPA's schedule of comments received on the I&O version of the AAP that "One respondent expressed the opinion that the lower residential densities present around the University (such as at Swail House) should be protected and maintained."
- 2.14 There are therefore understandable "conflicting objectives" occasionally, and given the close proximity of the campus to the main shopping area, it would appear sensible to follow the advice in PPS 12 and include the campus in the area covered by the AAP.

- 2.15 PPS 4 is now the government's main planning policy document on town centres, yet its title does not refer to town centres, rather it is "Planning for Sustainable Economic Growth" – the government's previous policy advice was PPS 6 whose title was "Planning for Town Centres". Paragraph 4 of PPS 4 states that "..... economic development includes development within the B Use Classes⁵, public and **community uses** (our emphasis) and main town centre uses." Given that many LPAs regard education as falling within community uses, higher and further education is included within the definition of economic development. In case someone should express a different view, it is instructive to consider another part of paragraph 4, which states that "The policies also apply to other development which achieves at least one of the following objectives ...", one of which is "provides employment opportunities", and higher/further education demonstrably does that.
- 2.16 While UCA acknowledges that education is not one of the "main town centre uses" set out in PPS 4, there is nothing in PPS 4 to prevent LPAs including education in town centres, the phrase is "**main** (our emphasis) town centre uses" which clearly implies that there can be other (non main) town centre uses. Moreover, education falls within the term "economic development" which is at the heart of PPS 4.
- 2.17 The exclusion of UCA's campus from the AAP boundary does not comply with two parts of the Core Strategy :-
- a. Policy CS 14 :-
 - i. Part of the Policy states that "Measures to improve Epsom town centre, including new development, will be encouraged especially where they help it to adapt and reinforce its role in " :-
 - "meeting the needs of the local community". UCA, and its students, are important parts of the local community – indeed UCA is an important stakeholder in the town – and the exclusion of the campus from the AAP boundary does not meet their needs.
 - "acting as a focus for a range of activities". The LPA itself (in its schedule of comments received on the I&O version of the AAP) acknowledges that "higher education and other community facilities do positively contribute to the overall vitality and viability of town centres".
 - ii. Another part of the Policy states that "Development should contribute to the following key objectives for the town centre "Ensuring that physical and land use changes recognise and build on the distinctive character different parts of Epsom town centre already have, and contribute to conserving and developing a sense of place". The exclusion of UCA's campus means that the main planning policy document dealing with Epsom will not include reference to one of the town's biggest employers, and one of the biggest group of users of the other facilities in the town centre. The LPA is missing an excellent opportunity of making the AAP locally distinctive.
 - b. Policy CS 13 states, in the final paragraph, that "The provision of new community, cultural and built sports facilities, and the upgrading of those existing, will be encouraged, particularly where they address a deficiency in current provision, and where they meet the identified needs of communities both within the Borough and beyond." It will be difficult to encourage further development of UCA's campus if it is excluded from the AAP boundary and if there are no policies in the AAP that relate to (the development of) that campus, bearing in mind that part of Policy CS 8 of the Core Strategy (which deals with housing) states that areas not included in Epsom town centre and other local centres will only be permitted "lower densities".
- 2.18 In addition, the exclusion of the campus does not comply with parts of the AAP itself :-
- a. Paragraph 1.9 states that "Epsom Town Centre is the main focus for economic activity within the Borough." If UCA's campus is excluded, that statement is incorrect as UCA is one of the main focus points for economic activity in Epsom.
 - b. Para 2.11 states that, in terms of identity, a number of key issues have been identified, one of which is "Strong historical associations are not adequately reflected in the town centre Epsom is a town of international repute. It is also a centre for creativity, with ... the University for the Creative Arts being within Epsom"
 - c. In paragraph 4.11, the LPA acknowledges that some "of the areas outside of this boundary have important links with the Town Centre, for example ..." UCA.

- 2.19 Moreover, excluding the campus does not comply with the SA Report (January 2010), as the text beside SA Objective 15 (on page 13) is “As the most easily accessible location in the Borough to most of the population, the town centre is a desirable location for the provision of community facilities.”
- 2.20 **Another of the Inspector’s questions** in Item 7 of Main Matter 1 is “What implications does the exclusion of parts of the town centre shown on the Local Plan proposals map have?” One of the main implications is that areas that the LPA itself has described as “the high density residential uses along Ashley Road” (in the I&O version) will be excluded. This does not accord with Policy CS 8 of the Core Strategy (third paragraph).
- 2.21 **The next relevant question** is part of Item 8 in Main Matter 1, and is “UCA lies outside the town centre boundary. What implications do you see that having on decisions about development relevant to that institution, particularly the provision of student housing and any on site development proposals?”
- 2.22 UCA’s biggest concern is that if its campus is not included within the AAP boundary, and if there is not a part of the AAP that contains a policy on (the development of) the campus, the local planning policies could be construed to be unsympathetic to any further significant development. This is because the argument could be put forward that, as there is no separate LDF document dealing (either in part or in whole) with the campus, then neither the campus nor UCA itself is important to the borough; and that the presumption must be that only lower densities would apply (see Policy CS 8 of the Core Strategy), and that any new development that might be permitted would have to fit in with the scale/height of the surrounding residential development. This would clearly be an anomalous situation, which would not comply with PPS 12, PPS 4, the LPA’s own Core Strategy, the SA Report, the South East Plan (see later comments) etc.
- 2.23 Another major concern is that there would be no explicit policy basis for supporting/justifying the provision of student residential accommodation in Epsom’s town centre: indeed, at the moment, there is no reference to “students” in the AAP. Again, that is not in accordance with the documents set out in paragraph 2.22: further, it is not in accordance with PPS 3, where (in Annex C) LPAs are required to identify the accommodation requirements of specific groups, one of which is students.
- 2.24 At a regional level, it should also be remembered that Policy S4 of the South East Plan (SEP) - the Regional Spatial Strategy (RSS) for the south east of England - stated that LPAs “should work with the higher and further education sectors to ensure that these Sectors’ needs are addressed in LDFs”. Moreover, the supporting text to the Policy contained some material highly relevant to this exercise :-
- a. “The Higher and Further Education sectors in the region are critical to the South East’s productive capacity and are powerful drivers of technological change and to local and regional economic development.”
 - b. “Moreover the Higher and Further Education providers are An important economic entity in their own right A direct support to the development of industry and the regional economy A cultural and recreational resource ...”
 - c. “A framework for an effective and efficient higher education offer would need to recognise the importance of ancillary services for higher education establishments; including **student accommodation** (our emphasis), sports facilities ...”
- 2.25 A copy of S4 is included in Appendix D.
- 2.26 While UCA appreciates that the new coalition government has revoked RSSs, it is understood that a major house-builder (Cala Homes) is seeking a judicial review of that decision which it believes to be unlawful: Cala Homes’ concern centres on development proposals of theirs in the area covered by the SEP. In any event, the SEP is a document that has been published, and was subject to thorough independent examination: UCA would therefore be extremely surprised if any reasonable LPA in the region disagreed with Policy S4 even if the RSSs are eventually abolished by legislation.

- 2.27 **The next relevant question** is Item 1 of Main Matter 2, and is “Explain the use of the word “principally” in line 2 of Policy E1? Where else would the policies apply? How does this policy relate to the plan area boundary? Should this policy include a wider mix of uses such as education and student housing? Would these uses be incompatible with Policy E1 as drafted?”
- 2.28 The inclusion of UCA’s campus within the AAP boundary would be in line with the current wording of Policy E1, as part of that Policy states “In principle, Town Centre uses will be permitted within this area, subject to other relevant policies. These uses will include retail, employment, higher density housing and **community facilities** (our emphasis).” Thus, by definition, the inclusion of education and student housing would not be incompatible with Policy E1 as drafted. Nevertheless, if only for the avoidance of doubt, it would seem appropriate for the Policy and/or the supporting text to state that education and student housing fall within the term “community facilities”: such a change would be in accordance with the documents set out in paragraphs 2.22 and 2.2.3.
- 2.29 **The next relevant question** is part of Item 4 in Main Matter 3, and is - in respect of Policy E17 – “Should residential uses include student housing”. As the sites are within the AAP boundary, UCA believes that, where residential development is deemed appropriate, student housing should be one of the forms of development considered to be acceptable, not least because this would be a particularly sustainable form of development, as all the sites are within (easy) walking distance of the campus.
- 2.30 Moreover, student housing is, not infrequently, built to reasonably high densities, and the inclusion of such housing in the sites concerned would therefore comply with the relevant part of CS 8 quoted earlier “... the strategy will be to direct higher density development to central locations, such as Epsom town centre”. It would also be in line with the I&O version of the AAP (page 24) “The College’s students and employees positively contribute to the town centre, making use of its retail, leisure and public transport opportunities.”
- 2.31 UCA believes that, read as a whole, the AAP is not “welcoming” to UCA or its students, and making the necessary changes to Policy E17 would go part of the way to redressing that situation.

PARTS OF THE AAP THAT ARE UNSOUND

- 2.32 The parts of the AAP that are unsound, so far as UCA is concerned, are :-
- a. The AAP boundary, as set out in Map 8 of the Submission version, and as set out in the Proposed Change where the boundary is referred to as the “Town Centre Plan Area Boundary”.
 - b. The absence of a Policy on UCA’s Epsom campus.
 - c. Paragraphs 4.10, 4.11 and 4.12.
 - d. The supporting text to Policy E2.
 - e. Parts of the Policies and/or supporting text on Policies E14, E15, E16 and E17.
 - f. Map 9 (Building Height).

WHY THE AAP FAILS THE TESTS OF SOUNDNESS

- 2.33 In preparing this document, regard has naturally been had to PPS 12, and guidance issued by the Planning Inspectorate. Therefore, UCA is aware that the Inspector has to determine whether the AAP is sound, and that there are specific tests of soundness to which the Inspector must have regard.
- 2.34 UCA feels that the AAP fails, in respect of the matters dealt with in this FWS, as it is not justified or effective, and that it is not consistent with national policy. The relevant details were given in paragraphs 2.04 to 2.31 above and need not be repeated here.

TESTS OF SOUNDNESS THAT THE AAP FAILS

- 2.35 The specific tests of soundness which the AAP fails are:-
- a. It is not justified as :-
 - i. it is not founded on a robust and credible evidence base
 - ii. it is not the most appropriate strategy when considered against the reasonable alternatives
 - b. It is not effective as it is not flexible
 - c. It is not consistent with national policy

3.00 HOW AAP CAN BE MADE SOUND

3.01 As mentioned in paragraph 2.02 above, this part of the document deals with how the AAP can be made sound, and the precise change/wording that is being sought.

3.02 The AAP can be made sound by making the following changes :-

- a. Including UCA's Epsom campus within the AAP boundary
- b. Include Policy/text wording on UCA. Policy E6 would seem to be appropriate :-
 - i. The new Policy wording could be
"Leisure, cultural and community facilities provision
Policy E6
The overall level of leisure provision within the Town Centre will be maintained and in specific locations enhanced. Leisure and cultural facilities, and other family friendly uses that contribute to the evening economy will be supported.
Suitable locations for such uses include South Street and Derby / Oaks Square.
The provision of new higher/further education facilities, and the expansion/upgrading of those existing, will be encouraged, particularly where they address a deficiency in current provision, and where they meet the identified needs of communities both within the Borough and beyond."
 - ii. Insert a new 4.38, along the following lines:
"The University for the Creative Arts is a major stakeholder in the borough, and will need to increase the provision on its campus during the Plan period. In keeping with recent building projects at the campus, it will be important to ensure that the needs of the adjoining residents are taken into account."
- c. Replace text at 4.10 – 4.12 with something along the following lines:
 - 4.10. "For planning purposes, it is important to define the extent of the area covered by this Area Action Plan and, separately, a Town Centre area. Defining such boundaries will direct town centre and other appropriate uses to suitable parts of the town.
 - 4.11 The AAP boundary identifies the town centre and other locations where there are uses that are essential to ensure the vitality and viability of the town centre; and the town centre boundary identifies the extent of the Town Centre's commercial activities.
 - 4.12 The AAP boundary contains a varied mix of uses, which support day, evening and night time activities. It is important that this mix is maintained and that new proposals positively contribute to the town's vitality and viability.
- d. Insert a new 4.19, as supporting text to Policy E2, along the following lines:
"The area within the AAP boundary is a suitable location for student housing, particularly within the town centre boundary - including the opportunity sites identified in Chapter 5 - and UCA's campus.
- e. Amend Map 9 (Building Height) so that UCA's campus is shown as being suitable for development of up to 12 metres in height.

3.02 The University respectively requests the Inspector to recommend the changes suggested above to the LPA, following the Examination in Public.