

NORTH SOMERSET COUNCIL

Examination of Development Management Policies

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INSPECTOR'S MAIN ISSUES AND QUESTIONS TO THE COUNCIL

Following my initial examination of the Sites and Policies Plan Part 1: Development Management Policies (publication version February 2015) (DMP) and the supporting material I consider that the main issues regarding the soundness of the DMP are as follows:

Issue 1: Are the policies consistent with, and do they positively promote, the visions, objectives and spatial policies contained in the Core Strategy?

Issue 2: Are the individual policies clear, justified and consistent with national policy and will they be effective?

In this note I shall pose questions of the Council that potentially go to matters of soundness or which concern representations made. In framing them I have had regard not only to the definition of soundness at paragraph 182 of the National Planning Policy Framework (NPPF) but also the principles for Local Plans set out in paragraph 157. The NPPF also establishes that only policies that provide a clear indication of how a decision maker should react to a development proposal should be included in the plan. The DMP should therefore set out clear policies on what will or will not be permitted.

If the response to any question or comment can be given by directing me to section(s) of the supporting documents and evidence base, then it can be dealt with in that way. However, this is the Council's main opportunity to respond to these points as I shall not be inviting separate hearing statements. Brevity is nevertheless also to be encouraged. The reply to my questions should be sent to the Programme Officer by **Friday 16 October 2015**.

Legal compliance

The Council's statement on the duty to co-operate and joint working (SD09) states that "on the whole" the policies in the DMP do not involve any cross-boundary issues. Policy DM11 is mentioned but could the Council be specific as to which, if any, policies would have a significant impact on any other local planning authority area.

The timetable and milestones for the DMD in the Local Development Scheme (SD19) should be updated prior to the hearings.

Issue 1:

Are the policies consistent with, and do they positively promote, the visions, objectives and spatial policies contained in the Core Strategy?

Questions:

Will the DMP affect the re-examination of the remitted Core Strategy policies and is it appropriate to bring it forward at this stage? How would the DMP complement the strategic context set out in the Core Strategy?

Issue 2:

Are the individual policies clear, justified and consistent with national policy and will they be effective?

General questions:

Reference is made to the Strategic Housing Market Assessment. Could the Council explain the current position in relation to this document and any successor? How do its findings affect the DMP, bearing in mind the expectation in paragraph 50 of the NPPF that local planning authorities should identify the size, type, tenure and range of housing that is required in particular locations, reflecting local demand?

Questions and comments on individual policies:

Policy SP1: Presumption in favour of sustainable development

This policy largely reiterates paragraph 14 of the NPPF. The Planning Practice Guidance (PPG) on *Local Plans* (ID 12-010-20140306) indicates that there is no need to do this. Hence the Council should consider removing it.

Policy DM2: Renewable and low carbon energy

The Written Ministerial Statement (WMS) entitled *Local Planning* on 18 June 2015 sets out new considerations to be applied to wind energy development. Future wind energy development must now be in areas identified as suitable for wind energy in a local plan as referred to in paragraph 97 of the NPPF and as noted in the Addendum to the Supplementary Planning Document (SPD) on *Wind turbines*. No such areas are identified in the DMP although the resource assessment commissioned by the Council in May 2014 did identify areas with the greatest potential to accommodate wind turbines of different sizes. How does the Council wish to proceed with this?

If it wishes to identify suitable areas in the DMP then this would need to be taken forward by further work in terms of sustainability appraisal and probably consultation. Alternatively, to avoid delay, it could consider changes to the policy to explain that its generic provisions do not relate to wind turbines which will be considered against the WMS. The Council could then deal with the matter separately through a site allocations plan or potentially a single issue plan on wind turbines.

Does the policy properly reflect the announcement in the Productivity Plan of July 2015 that the Government does not intend to proceed with the zero carbon Allowable Solutions carbon offsetting scheme or the proposed 2016 increase in on-site energy efficiency standards?

Should the policy refer to cumulative landscape and visual impacts as mentioned in paragraph 97 of the NPPF?

Policy DM4: Listed Buildings

Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 sets out the general duty as respects listed buildings. This refers to the duty to have special regard to the desirability of preserving the building or its setting. The policy simply states that development should "enhance". Is the wording of the policy justified having regard to these statutory provisions?

Policy DM5: Historic Parks and Gardens

For effectiveness should proposed change PC11 require historic landscape assessments for significant development either within a historic park or garden or affecting its setting?

Policy DM6: Archaeology

Where there is good reason the policy seeks an archaeological assessment and field evaluation. To coincide more closely with Paragraph 040 of the Planning Practice Guidance (PPG) on *Conserving and enhancing the historic environment* (ID18a) should it refer to situations where an initial assessment indicates that the development site includes or has the potential to include heritage assets with archaeological interest? Should it also make clear that an initial field evaluation as opposed to a desk-based assessment is only required where necessary?

Policy DM7: Non-designated heritage assets

What is the purpose of the policy and how would it work in practice? Does the Council have a local list of non-designated heritage assets? If not, should the Council consider producing one having regard to paragraphs 006, 039, 040 and 041 of the PPG (ID18a)? Should the policy more closely reflect paragraph 135 of the NPPF?

Policy DM8: Nature Conservation

In the final section on ecological mitigation measures is it appropriate to include a requirement for an effective lighting design within an ecological survey assessment? If necessary should the need for lighting to avoid adverse impacts on light averse wildlife be expressed separately?

Policy DM9: Trees

Should the expectation for replacement planting be included in the policy itself rather than in the Justification? Whilst taking account of proposed change PC16 what is the justification for the detailed provisions within Table 1? Why are these necessary for effectiveness rather than a more generic reference to suitable replacement planting as part of an overall landscaping scheme?

Policy DM10: Landscape

If the term "designated landscape character" is intended to refer to the qualities of the various parts of North Somerset identified in the Landscape Character Assessment should the policy not say so? Should the policy explicitly refer to areas outside the AONB? Is "not adversely effect" the appropriate test as, for example, the Justification refers to resisting development that would "significantly detract" and Policy DM11 refers to an "unacceptable adverse impact"? Should the DMP identify areas of tranquillity in line with paragraph 123 of the NPPF?

Policy DM11: Mendip Hills AONB

How will the "additional overriding requirement" in the second paragraph operate in relation to development that may be deemed appropriate? Will it be

effective? Should the overall intention to protect the landscape and scenic beauty of the AONB be stated? To be effective should the third paragraph refer to minimising the harm of development?

Policy DM12: Development within the Green Belt

Extensions or replacement of existing buildings

Annex 2 of the NPPF defines "original building" as one that existed on 1 July 1948 or as originally built. What is the justification for defining this as 26 July 1985 in North Somerset for all buildings including replacements? In assessing whether development is disproportionate or materially larger case law has held that this is primarily an objective test by reference to size. Therefore should reference to the impact of the openness of the Green Belt be included as part of this assessment? What is the justification for the figure of no more than a 50% increase in floor area? Are proposals for domestic outbuildings and garages to be regarded as inappropriate development?

Redevelopment and infilling

What is the rationale for infilling to not exceed the height of existing buildings?

Material change of use

The NPPF makes no reference to material changes of use and case law has held that paragraph 90 is a closed list. In the light of this what is the justification for accepting material changes of use and is it intended that this would not be regarded as inappropriate development?

Policy DM14: Mineral working exploration, extraction and processing

What is the justification for the criteria relating to consideration of the need for the development including the provision of satisfactory evidence that it is needed and justified and how is this consistent with the NPPF?

Policy DM16: Allocation of land at The Spinney

Why do proposals need to demonstrate that there is a genuine need to work the Spinney at a particular time? What is the supporting document on minerals that forms part of the evidence base in the final sentence under Justification on p45?

Policy DM19: Green Infrastructure

What is the justification for requiring all development proposals to contribute to the quality of the environment through the creation of green infrastructure?

Policy DM20: Major transport schemes

The Justification on p56 states that many of the safeguarded schemes are identified in the Core Strategy or have been carried forward. Which of the schemes listed fall into these categories and what is the justification for any that are not included?

Policy DM27: Bus accessibility criteria

Where is the evidence base to justify this policy? What would be the implications of applying it in urban, suburban and rural areas? What is the clear policy test for the acceptability of route diversions? Is the figure for a walking distance of 400m justified and should it be expressed as a maximum?

Policy DM28: Parking standards

The requirement is that development proposals must meet the Council's standards which are set out in a SPD. This has not been the subject of

examination and is not part of the development plan. The Council should therefore consider an alternative way of expressing its overall approach.

In addition, the WMS of March 2015 introduced additional text to read alongside paragraph 39 of the NPPF. In the light of this what is the clear and compelling justification that it is necessary to manage the local road network?

Policy DM30: Off-airport car parking

What is the justification to limiting airport-related parking outside the Green Belt to that associated with overnight accommodation with no more spaces than 3 times the number of bedrooms?

Policy DM31: Air safety

What are the implications of designating a safeguarded corridor linked to flight activity to and from the Helicopter Museum? Is it appropriate for parameters to be devolved to an SPD?

Policy DM33: Inclusive access into non-residential buildings and spaces

Is the requirement that this "must" be provided too prescriptive? Are the aims of the policy adequately covered by Building Regulations?

Policy DM34: Housing type and mix

Does the policy adequately explain what is meant by "mixed and balanced community" having regard to paragraphs 50 and 159 of the NPPF? Should the second paragraph under Justification on p83 be included within the policy itself? Should achieving a suitable type and mix of housing make reference to viability? What evidence is there of demand for self-build schemes as referred to in the PPG on *Housing and economic needs assessments* (ID 2a-021-20150326)? How is demand to be assessed in line with proposed change PC42? What is the justification for applying parts of the policy to sites of over 100 dwellings?

Policy DM35: Nailsea housing type and mix

What is the "strong evidence base" justifying a specific policy for Nailsea rather than relying on the approach set out in Policy DM34? Should achieving a suitable type and mix of housing make reference to viability?

Policy DM36: Residential densities

Is the final bullet point regarding parking standards necessary? If so, in line with Policy DM28 the Council should consider an alternative way of expressing its overall approach which should also be reflected in Policies DM37, DM38, DM39 and DM43.

Policy DM39: Sub-division of properties

What is the evidence that justifies the designation of the 3 Areas of Restricted Subdivision in Weston-super-Mare and their individual boundaries?

Policy DM40: Retirement accommodation

Having regard to paragraphs 50 and 159 of the NPPF and the PPG on *Housing and economic needs assessments* (ID 2a-021-20150326) what is the justification for requiring all residential schemes of over 100 dwellings to assess the need for retirement and supported independent living? Should there be a reference to viability? What is the justification for applying parts of the policy to sites of over 100 dwellings?

Policy DM41: Nursing and care homes

Has this policy been positively prepared? Is preventing all extensions justified?

Policy DM42: Accessible and adaptable housing

Proposed changes PC49-51 seek to address the WMS of March 2015 but the optional new national standards in relation to access and space standards should only be required if they address a clearly evidence need and where their impact on viability has been considered. What is the evidence in relation to need and viability for the access and space standards? Has the Council had regard to the PPG on *Housing – Optional Technical Standards* and paragraphs 007, 008, 009, 018 and 020 in particular?

Policy DM43: Residential annexes

What is the justification for the 50% size limit outside settlement boundaries? Is this floor area? How are annexes within converted buildings to be treated?

Policy DM44: Replacement dwellings

What is the justification for the 50% size limit? Is this floor area?

Policy DM45: Conversion of rural buildings to residential use

Having regard to the NPPF and the changes to permitted rights in Class Q of the 2015 Order what is the justification for the criteria regarding traditional construction, reasonable attempts to secure an appropriate economic use and sustainable location? What is the justification for 70% of the original exterior walls to be standing?

Policy DM46: Rural workers dwellings

What is the justification for the requirement to provide an independent appraisal and the floor space limit of 150 sq m?

Policy DM48: Broadband

Paragraphs 42 and 43 of the NPPF refer to high speed broadband. Given that superfast broadband will be provided by others how will the policy support its expansion given the evidence to date of provision across North Somerset? What is the justification for the preparation of a connectivity statement for all residential and employment development?

Policy DM50: Bristol Airport

Is it more accurate to say that the Policy aim relates to further development at the Airport rather than further expansion?

Policy DM51: Agriculture and land-based rural business development

According to the PPG on *Use of planning conditions* (ID 21a-014-20140306) conditions requiring the demolition after a stated period of a building that is clearly intended to be permanent is unlikely to pass the test of reasonableness. In the light of this is the final paragraph justified?

Policy DM53: Employment development on greenfield sites in the countryside

Should a cross-reference be included to Policy DM55 which is concerned with business expansion that could involve new buildings? Should the penultimate paragraph be adjusted to reflect Policy DM67 which allows for small scale retail development of up to 200 sq m?

Policy DM54: Employment development on previously developed land in the countryside

Should the final paragraph be adjusted to reflect Policy DM67 which allows for small scale retail development of up to 200 sq m?

Policy DM55: Extensions, ancillary buildings or intensification of use for existing businesses located in the countryside

Is the final sentence of the penultimate paragraph regarding further expansion or intensification consistent with the expectation for policies in the NPPF and as set out above? Should the final paragraph be adjusted to reflect Policy DM67 which allows for small scale retail development of up to 200 sq m?

Policy DM56: Conversion and reuse of rural buildings for employment development

What is the meaning and purpose of the third bullet point? What is the justification for the criterion regarding a sustainable location? Should the final bullet point be adjusted to reflect Policy DM67 which allows for small scale retail development of up to 200 sq m? What is the justification for 70% of the original exterior walls to be standing?

Policy DM57: Conversion, reuse and new build for visitor accommodation in the countryside

What is the justification for criterion iii. regarding traditional construction? Why should applicants need to demonstrate a business case and/or show evidence of demand under criterion iv. given that paragraph 28 of the NPPF supports sustainable tourism? What is the evidence to support a minimum 10 year period of use and is the reference to Policy DM43 correct? What is the justification for 70% of the original exterior walls to be standing?

DM58: Camping and caravan sites

Why should applicants need to demonstrate a business case and/or show evidence of demand under the second bullet point?

Policy DM59: Garden centres

Paragraph 23 of the NPPF provides that policies should be set for the consideration of proposals for main town centres uses which cannot be accommodated in or adjacent to town centres. Does the Council consider that garden centres fall into this category? What is the evidence in terms of the vitality of town centres that justifies the restrictions on non-garden related goods to 15% of net sales floorspace and that they must be products made or grown within a 30 mile radius?

Policy DM60: Town centres

How have the boundaries of the town and other retail centres referred to in Policies DM61 and DM62 been arrived at?

Policy DM61: District centres and Policy DM62: Local centres

The limits of 500 sq m and 300 sq m for district and local centres respectively are set out in the supporting text of the Core Strategy and define retail development that is of a scale appropriate to the size and role of the centre. In the light of the NPPF and PPG are these limitations justified in principle and what is the rationale for the floor area specified? How do these relate to the size of the existing centres? Are the provisions of Policies DM61 and DM62 consistent with the original purposes of the Core Strategy in that they refer to the impact on the centre in which the development would be located?

Policy DM64: Primary shopping frontages

What is the distinction between primary shopping areas (Policy DM63) and primary shopping frontages? Have the designated frontages been adjusted compared to the existing development plan? If so, in what ways and what were

the criteria for any changes? Is the provision that there would not be fragmentation by means of a significant break in the active frontage sufficiently clear so as to be effective? How will the criteria that there should not be a harmful loss of retail floorspace be assessed and will this be effective?

Policy DM65: Development at the retail parks

What is the justification for requiring an impact assessment for all proposals? Are the retail parks regarded as town centres for policy purposes?

Policy DM66: The sequential approach for retail development

Should the policy apply to main town centre uses as defined in the Glossary of the NPPF as opposed to just retail development? Has there been a thorough assessment of the suitability, viability and availability of locations for main town centre uses in line with the PPG on *Ensuring the vitality of town centres* (ID 2b-009-20140306)? What scope is there to accommodate additional retail or town centre development within the town centres?

The NPPF provides that a sequential test should be applied to planning applications that are not in an existing centre and not in accordance with an up-to-date Local Plan. The impact assessment is a separate exercise as explained in the PPG (ID 2b-013-20140306). Has the requirement for an impact test been applied in accordance with paragraph 014 of the PPG? In setting a local threshold have the Council considered the matters listed in paragraph 016 of the PPG and is this justified?

Policy DM67: Retail proposals outside or not adjacent to town, district or local centres

Should the policy apply to main town centre uses as defined in the Glossary of the NPPF as opposed to just retail development? Does the allowance for retail development of up to 200 sq m apply everywhere or does this equate to small scale rural development as referred to in paragraph 25 of the NPPF? Is an impact assessment required for all proposals?

Policy DM69: Location of sporting, cultural and community facilities

Is it justifiable to expect all proposals to show that the sharing of existing facilities is impractical? To be consistent with retail policies should reference be made to a significant adverse impact in the last line?

Schedule of changes

A schedule of proposed changes to the publication version has been produced (Document SD14 of the submission documents). Some of these respond to representations made during the pre-submission consultation exercise. This table should be kept up-to-date throughout the examination process, including any alterations that arise from my questions, and posted on the Examination website. The latest version should be available just prior to the hearings.

Finally

I have attempted to be comprehensive at this stage in order to assist the progress of the examination. If anything is not clear or further explanation is required of what I am asking then please contact me via the Programme Officer.

David Smith

INSPECTOR

24 August 2015