

## **ED33: North Somerset Councils Response to the Inspectors questions regarding responses to the Main Modification consultation.**

### **General Updates:**

#### **Core Strategy remitted policies**

Consultation on the remaining remitted policies was held between 6 November 2015 and 18 December 2015. All responses received to the Core Strategy consultation were sent to the Inspector. Having considered the representations, he identified a number of issues in his letter of [24 February 2016](#) and the Council responded on [14 March 2016](#). The next stage is for the Inspector to indicate a proposed timetable for the hearings. It is anticipated that the hearings will take place in June with an Inspector's Report in July and re-adoption of the remaining remitted policies in September 2016.

#### **Wider Bristol Housing Market Area (SHMA) Volume 2:**

The SHMA Volume 2 was taken to the West of England Planning, Housing and Communities Board on 15 January 2016. See Agenda and Papers for 15 January 2016 on the following link: <http://www.westofenglandlep.co.uk/meetings/planning-housing-and-communities-board>

While the report has been published the findings have not yet been adopted into local planning policy in the WoE Local Authority areas. It is likely that further work will need to be carried out by Opinion Research Services to take into account changes proposed through the Housing & Planning Bill – for example, impact of Starter Homes.

Importantly, relating to affordable housing, the figures the consultants have produced for North Somerset are not far removed from the existing evidence base we are working off (the tenure to be delivered at least) therefore for the moment, we will continue to negotiate and deliver affordable housing based on this 82% social rented & 18% intermediate/ shared ownership split. It is very likely that a review of North Somerset's Affordable Housing Supplementary Planning Document, which supports the Core Strategy CS16 policy, will be undertaken later this year - particularly in light of the raft of national policy changes facing the housing sector. When this occurs, the revised SHMA figures can be worked in accordingly.

### **Policy Specific Questions:**

**1. Policy DM18** – *The representation from the Bristol Port Company questions the inclusion of part of the Royal Portbury Dock in the MSA. On the face of it, because*

*of the existing use of the land, such a designation would appear unlikely to have any effect on the aim of avoiding sterilisation but does the Council wish to comment?*

The council has considered whether the Royal Portbury Dock should be included in the proposed Surface Coal Mineral Safeguarding Areas. It is considered that it is appropriate that it should be. The dock area is one of three areas which the Coal Authority have requested should be used as the Mineral Safeguarding Areas for surface coal resources in the Plan. (The council questioned the Coal Authority on this and the Coal Authority confirmed that the three areas, including Royal Portbury Dock, should indeed be the areas proposed for designation, reflecting current "Surface Coal Resource data", based on "coal bearing strata at surface".)The council is not proposing to exclude any of the other areas requested by the Coal Authority, and to exclude one site in response to a request from a landowner could potentially place the council in a difficult position.

The relevant policy DM18 gives significant scope for developers or landowners like the Bristol Port Company to demonstrate why there might be reasons that the policy criteria would be met and that surface coal present on the site should not be removed prior to or during development.

The council also notes that the Town and Country Planning (General Permitted Development) (England) Order 2015 lists the following as permitted development in its Schedule 2:

*"Development on operational land by statutory undertakers or their lessees in respect of dock, pier, harbour, water transport, or canal or inland navigation undertakings, required-*

*(a) for the purposes of shipping, or*

*(b) in connection with the embarking, disembarking, loading, discharging or transport of passengers, livestock or goods at a dock, pier or harbour, or with the movement of traffic by canal or inland navigation or by any railway forming part of the undertaking."*

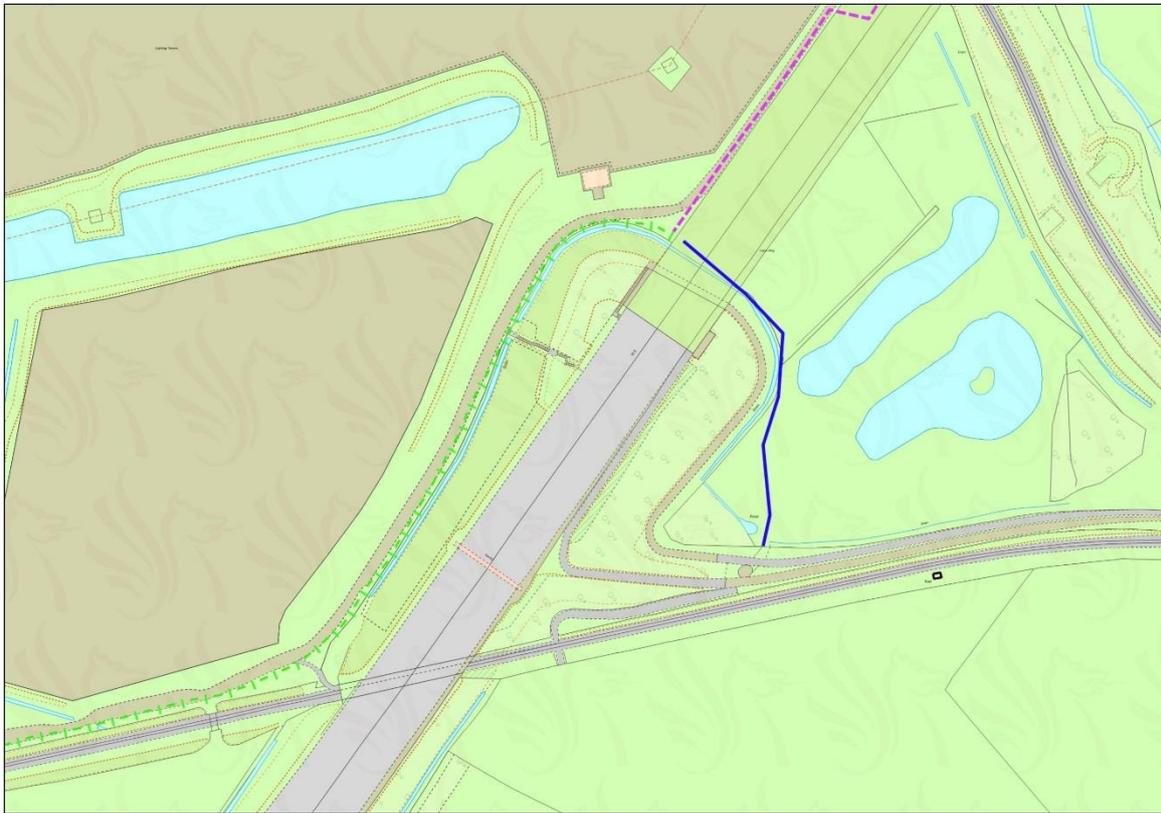
The council does not consider that the inclusion of the Royal Portbury Dock within a Surface Coal Mineral Safeguarding Area would interfere with the permitted development rights associated with this because Policy DM18 would only apply to planning applications for development, and where permitted development rights apply there would be no need to make such applications.

## **2. Policy DM25 – Can the Council comment on the Bristol Port Company's representation regarding 3 cycle ways?**

### Response to paragraph 3.1 and 3.2 of the Ports Representation:

The proposed route around the M5 bridge embankment was discussed with the Port some 10 or more years ago. The bridleway north of the M5 which appears to go nowhere was agreed with the Port for the sole reason that should the railway go ahead an alternative route might be needed for cyclists, walkers and equestrians. There is no intention of extending the bridleway further north / east. From the existing bridleway's furthest most point any new route would follow the line shown on the plan below under the M5 and south to re-join the existing cycleway / Highways

land. This borders Highways England and Port land, but the Port land is very marshy and a nature reserve, so it is hard to imagine this has any development or access potential which the Port could lose. The line on the Proposals Map was drawn slightly incorrectly – the map below shows the correct route – but this would have no bearing on the impact of this proposal.



We now understand that both the railway and the path can be accommodated under the M5, but that the space is constrained and may still be unsuitable for equestrian use. Until the railway and path have been constructed we would like to retain the alternative DM25 route as a safeguard for all users.

If the re-introduction of the railway severed the existing route under the M5 without recourse to this alternative it would have major implications for pedestrians, cyclists and equestrians who would need to take an alternative longer, hillier and busier route via Marsh Lane (narrow, no pavements) and Easton in Gordano. It is the primary route connecting Portishead – Portbury Dock - Pill – Bristol.

Regarding the two short access routes from the existing bridleway to the railway bed beneath Royal Portbury Dock Rd, these are permissive routes already agreed with the Port about 10 years ago. Again it is hard to see what the Port could lose in terms of development land or access, and actually take cyclists away from the car compound perimeter fence. These routes make it much easier and safer to cross Royal Portbury Dock Rd – the alternative would probably need to a Toucan or other formalised crossing point - which the Port may have greater objection to.

Response to paragraph 3.5 of the Ports Representation:

The Port seem to underplay / ignore the fact that established bridleways (legal rights of way which the Port are obliged to keep open to all legitimate users, including cyclists) were moved for the Port's benefit. Landowners have legal obligations to keep open bridleways or agreed replacement bridleways.

Response to paragraph 3.6 of the Ports Representation:

Most of the existing cycle route, promoted by Sustrans, is a public bridleway and does not follow the course of the railway (some sections are parallel to it) except where it goes under Royal Portbury Dock Rd and Marsh Lane. The only sections currently in use which are not public bridleway are the links to Royal Portbury Dock Rd (as detailed under DM25) and a short link to the west of March lane to the bridleway.

**3. Policy DM27 – *The representation from South West Strategic Developments refers to Highways Design Guidance. Can the Council advise on the status of that document and whether the prescribed walking distance should be adjusted in the light of it?***

North Somerset Council Highways Development Design Guide (HDDG), December 2015, has been approved by the Councils Executive Member for Strategic Planning, Highways, Economic Development and Housing for use as technical guidance but it has not been formally adopted as SPD.

The representation from South West Strategic Developments refers to Appendix D of the HDDG consultation draft of February 2015. The final version of this document, dated December 2015, states in Appendix E, page 104:

*“The locations of bus stops/shelters should be indicated and agreed early on in the design process to ensure that any potential buyer is aware of where they are located. The site layout should ensure that all dwellings are located within a reasonable walking distance to a bus stop. A reasonable walking distance means a maximum of 400metres although in urban areas the target desirable walking distance should be 200-300metres. It is acknowledged that developments occurring in more rural locations may not be able to show that they meet the 400metre maximum. Where distances of 400metres are not achieved there would need to be clear and compelling reasons for a greater distance, for example where this would challenge the commercial viability of an existing bus service or cause significant adverse impacts for users of an existing route. Distances should be reduced where steep gradients are involved”.*

The wording the Highway Development Design Guide, December 2015, is consistent with the wording in Policy DM27. However, Appendix E goes on to state on page 106:

*“Generally walking distances to bus stops in urban areas should be a maximum of 400m. In other locations or where this is not possible, the walking distance should not be more than 600m which is widely accepted as the maximum distance most people would be prepared to walk to a bus stop”.*

In light of this and to ensure consistency we suggest adding the following text (in red) to the Justification of DM27 to read:

In terms of locating development within a “reasonable distance” from a bus stop this means a maximum of 400metres in urban and suburban areas. It is acknowledged that developments occurring in more rural locations may not be able to show that they meet the 400 metre maximum. **In such locations the walking distance should not be more than 600m.** Where distances of 400m – 600m are not achieved there would need to be clear and compelling reasons for a greater distance, for example where this would challenge the commercial viability of the bus service by creating the need for additional vehicles or where this would cause significant adverse impacts for users of an existing route. Proposals will need to ensure they are located as sustainably as possible and that appropriate, safe travel routes and/or public transport are provided to local services and major settlements, via the local infrastructure network.

**4. Policy DM48** – *The representation from the FSB refers to further research in relation to superfast broadband. Does the Council wish to respond to that information and to the specific suggestions made regarding broadband speeds and the thresholds to which development should apply?*

The policy is written for new development and not existing business and premises as raised in the representation and therefore, although the comments are helpful, they don't relate to the purpose of the policy and what is trying to be achieved.

The justification clearly indicates while prime consideration is for fibre and associated infrastructure to enable improved broadband access, there is recognition that other means such as wireless and satellite also need to be considered to take account of the differences in internet connectivity and speeds currently possible and so may have their own infrastructure requirements.

The policy wording while identifying 24Mbps, does then reference to compatible local broadband fibre networks where relevant. So if it is not possible to achieve 24Mbps this will be covered by what is available locally, but we have to encourage the greatest possible provision, or it will build up limitations for the future and so not be future proofed.

The other relevance of the infrastructure is that many businesses including rural will have their own dedicated lease line/direct line from the exchange. The infrastructure indicated in the policy will allow for this, potentially reducing the need for future road works and cost to a business if they upgrade.

As experienced on all sizes of development, landowners and developers do not provide adequate infrastructure for example ducting, to enable the occupiers to acquire appropriate services to suit their needs. This policy is to encourage developers to consider this at the outset.

It might helpful if the Policy Aim was amended to make it clear that this is about providing the infrastructure not the actual internet/ broadband. We suggest the following new wording for the Policy Aim:

To ensure that new development provides infrastructure to enable broadband connectivity that will future proof the development and that the provision of telecoms and broadband is considered with all residential and employment applications.

**5. Policy DM59** – *Several respondents refer to the need to adjust the Justification to reflect the proposed wording of the policy. Can the Council suggest a revised form of words for these 2 paragraphs?*

The Council proposes the following revised wording:

There has been a considerable increase over recent years in the amount of retail floorspace provided by farm shops, garden centres and nurseries. In some cases, retailing has become far more important than horticulture with the large scale of such 'garden centre' operations undoubtedly attracting significant amounts of trade from the town and district centres. This conflicts with the retail strategy of the Core Strategy and therefore applications over 2,500m<sup>2</sup> will need to demonstrate that there are no significant retail impacts on any of the defined retail centres listed in Policy CS21 of the Core Strategy. Furthermore, ~~the development resulting from the growth of garden centres threatens to harm both the local amenity and countryside character as well as highway safety. Above all, the encouragement given to car use and the diversion of business from the town centres, conflicts with sustainable development principles~~ and therefore applications over 200m<sup>2</sup> should demonstrate that a sequential test has been undertaken in line with policy DM66 and DM67.

~~The council will therefore control further retail development in the countryside associated with farm shops, garden centres and nurseries unless of a modest scale and related primarily to the sale of garden related goods. Farm shops and plant nurseries do not normally require planning permission to sell produce grown on the premises. However, permission is normally required where goods brought in would exceed 10% of the total stock value. Development proposals should minimise any adverse effects on travel and the character of the countryside. the environment, living conditions, countryside, landscape, highways, traffic and car parking considerations and where relevant, the openness of the Green Belt.~~

**6. Policies DM66 & DM67** – *These policies indicate that no sequential test is required for retail development below 200 sq m and that outside the designated areas retail development below that figure is acceptable in principle. What is the basis for that amount of floorspace to equate to "small scale retail development"?*

The council does not feel it would be proportionate to require retail developments under 200sqm to undertake a sequential test, in line with para 010, reference ID: 2b-010-20140306 of the NPPG which states "The application of the test should be proportionate and appropriate for the given proposal."

However, the council considers retail developments of 200sqm or over (200sq m being the size of an average convenience store) should be located in a defined retail centre.

**7. Policy DM67** - *In considering the proposed Main Modifications and notwithstanding the questions already posed it seems to me that there is a possible ambiguity between Policy DM67 and those concerned with business development in the countryside which allow for retail uses in certain circumstances. To this end I wonder if some additional text to Policy DM67 is required along the following lines (my suggestion in red):*

Areas outside the town, district or local centres and defined retail parks will be considered to be 'out of town'. ~~Only~~ Small scale retail development of up to 200m<sup>2</sup> floorspace will be considered acceptable in such locations together with farm shops, small scale village stores or uses ancillary to the main use that comply with Policies DM53, DM54, DM55 or DM56 permitted. ~~Proposals above 200m<sup>2</sup> or outside the provisions of the other specified policies~~ would be required to demonstrate that no suitable sites were available in the defined local, district or town centres, ~~retail parks or other proposed retail development and that the proposal would not have a significant impact on these retail locations.~~

The council are happy to accept the Inspectors suggested rewording for Policy DM67: Retail proposals outside or not adjacent to town, district or local centres.

**8. Sustainability Appraisal** - *Has the Council undertaken a further Sustainability Appraisal? If not, why not? Or if it has then this should be published*

The council felt that the majority of the modifications are insufficient to change the content or overall aim of the policies. However, there are a few policies where more major changes have been proposed and for these we have produced a draft Regulation 9(1) Determination/Statement of Reasons which we will consult the three environmental consultation bodies for comment.