

ST HELENS BOROUGH LOCAL PLAN 2020-2035 EXAMINATION

INSPECTORS' INITIAL QUESTIONS AND COMMENTS ON GENERIC AND DEVELOPMENT MANAGEMENT POLICIES

Introduction

1. The purpose of this note is to comment, and ask some questions of the Council, on some of the generic and development management policies and some other matters not dealt with in our previous note dated December 2020 (INSP003). These views and questions arise from our initial reading of the St Helens Borough Local Plan (Plan or LP), the summary of representations on the Submission Draft of the LP in the Consultation Statement SD004, and some of the other key Submission Documents.
2. The answers will help us to draw up Matters, Issues and Questions (MIQs) for the examination hearings. We may have further questions during the preparation period which are not covered in this note, particularly relating to allocations and the evidence base. Our questions and comments are without prejudice to consideration of the soundness of the Plan's policies during the remainder of the Examination, including at the hearings. Some of the answers to the points that we raise may be contained within the evidence base. *If that is the case, please could our attention be drawn to where we can find the information?*
3. Not all matters raised go to soundness but may assist with the clarity of the LP. Where a point could potentially be addressed by a Main Modification (MM) or Additional Modification (AM) to the LP, we will make this clear by including **MM** or **AM** in the text.
4. All references to paragraphs and policies relate to the Submission Draft version of the LP of January 2019 (SD001).

Matter 4 – Housing and Employment Allocations and Safeguarded Land

5. Appendix 5 of the Plan includes Site Profiles for the allocations. Those sites which have planning permission do not include any 'Requirements' other than those addressed by the planning permission. However, if the planning permission expires then the allocation would be left without requirements.

Do the Council consider that the effectiveness of the Plan could be adversely affected as a result?

Matter 6 – Employment Land Supply, Employment Policies and Town Centres

6. Policy LPC04 (Retail and Town Centres) sets out the hierarchy of town centres, criteria for considering town centre uses and retail impact thresholds.
7. The Covid 19 pandemic has clearly had an impact on town centres and town centre uses, including comparison shopping. Whether this impact will be longer-term remains to be seen. In this context, the Framework (paragraph 85 a) requires that town centres are able to grow and diversify in a way that can respond to rapid changes.
Taking into account the pandemic has the Council considered whether Policy LPC04 and the extent of defined centres will be effective over the Plan period, particularly having regard to the possible need for town centres to be more adaptable and flexible in terms of uses?
8. The Retail and Leisure Study of 2017 (EMP004) identified a limited quantitative need for convenience floorspace but a more significant need for comparison goods floorspace (between 9200 and 21200 sq m). However, the Plan, other than the 'area of opportunity' within St Helens Town Centre, does not propose any allocations for retail development.
Whilst the pandemic is likely to have effects on the need for floorspace in the short term, is the Council satisfied that the Plan is positively prepared in meeting the retail needs of the Borough in the long-term?

Matter 8 – Minerals and Waste

9. Policy LPC14 (Minerals) refers to a supply of minerals contributing to 'regional and national needs' whereas the Framework at paragraph 204 refers to 'mineral resources of local and national importance'. We would recommend that the policy is amended to read 'local, regional and national needs' (**MM**).

Matter 9 – Generic Policies of the Plan (not covered by other Matters)

10. Policy LPA11 (Health and Wellbeing) refers to 'planning decisions and processes...'
What processes are envisaged by the policy and are these relevant to a

development plan policy?

11. Criterion 4 of Policy LPA11 seeks to guide the location of certain uses that may have negative health impacts having regard to their impact on other land uses.

What evidence is before the examination, particularly at a Borough level, to indicate that the uses referred to have negative health impacts?

How would criterion 4 be applied in practice as it is not specific in relation to where uses should be guided to and what the other land uses are, other than hot food takeaways which are covered by Policy LPD10?

12. Policy LPC06 (Biodiversity and Geological Conservation) deals with the hierarchy of designated sites. It seeks to translate statutory obligations and national policy as set out in Circular 06/2005 and the Framework into the LP. However, there are some inconsistencies. For example, from our reading of the policy, Section 1 should read '*development that would adversely affect the integrity of one or more internationally important site(s) will only be permitted where there are no alternative solutions ~~or~~ **and** there are imperative reasons of overriding public interest, and where suitable compensatory provision has been made*'.

13. *However, as indicated elsewhere, there is no need for LP policies to repeat national policy (or statutory obligations), so would it be more effective for Policy LPC06 to reference national policy and legislation in terms of the hierarchy of nature conservation sites and include only the implications of the hierarchy at the Borough level? (MM)*

14. Policy LPC07 (Greenways) refers primarily to existing Greenways shown on the Policies Map. However, there is also an intention to provide additional Greenways shown on Figure 7.2. The new route to the south of the Borough runs through Strategic Housing Site 4A (Bold Forest Garden Suburb). But the new routes are not shown on the Policies Map or referred to within the Site Profile for 4HA, albeit Policy LPA05.1 refers to 'greenways' in Section 2 f) and the site profile refers to 'green links'.

Would Policies LPC07 and LPA05.1 be more effective if the former gave greater emphasis to the new Greenways, they were shown on the Policies Map (possibly indicatively) and the Site Profile(s) made specific

reference to them? (MM)

15. The reasoned justification to Policy LPC09 (Landscape Protection and Enhancement) refers to valued landscapes (paragraph 7.15.1). However, the Framework at paragraph 170 distinguishes between valued landscapes and the countryside generally. Valued landscapes are to be protected and enhanced whereas the intrinsic character and beauty of the countryside is to be recognised.

16. The Landscape Character Assessment (NAT001) is some 15 years old and does not grapple with whether any of the landscape within St Helens could be considered to be 'valued'.

On this basis could the Council confirm that it is not the intention of the Plan to identify any valued landscapes?

If this is the case the reasoned justification to Policy LPC08 should clarify this point. (MM)

17. Policy LPC10 (Trees and Woodland) refers in Section 6 to the development not damaging or destroying trees subject to a tree preservation order. In the context of a LP the following would be a more appropriate wording – '*Development proposals **should** ~~must~~ be designed and laid out in a manner that would **retain** ~~not damage or destroy~~ any tree subject to...etc'. (MM)*

18. Section 6 of Policy LPC10 also includes the requirement to replace any tree lost at the minimum of a 2 for 1 ratio.

Whilst the achievement of net gains for biodiversity and enhancement of the natural environment is desirable, will a simple 2 for 1 replacement be necessarily the most appropriate way of achieving gains and is it justified by any evidence?

19. Policy LPC11 (Historic Environment) deals with heritage assets. It seeks to translate national policy as set out in the Framework into the LP. However, as indicated elsewhere, there is no need for LP policies to repeat national policy (or statutory duties), so it would be more effective for Policy LPC11 to reference national policy in terms of heritage assets and include only the implications of national policy at the Borough level (MM). Otherwise inconsistency creeps into the policy.

20. For example, in the case of Section 4 of the policy, this repeats paragraph 196 of the Framework. However, Section 5 of the policy does not replicate paragraph 197 of the Framework and gives development proposals a higher bar to pass in relation to the effect on the significance of non-designated heritage assets than designated heritage assets.
21. Policy LPC12 (Flood Risk and Water Management) is another policy that, to a large extent, repeats national policy and guidance. As indicated elsewhere, there is no need for LP policies to repeat national policy (or statutory duties), so it would be more effective for Policy LPC12 to reference national policy in terms of flood risk but then only include the implications of national policy at the Borough level (**MM**).
22. The reasoned justification to Policy LPC13 (Renewable and Low Carbon Energy Development) refers to national policy on wind energy development (Footnote 49 of the Framework). But then paragraph 7.27 contradicts national policy by suggesting that wind energy development may be acceptable in the Borough. We would recommend that all but the 1st and 2nd sentences of the paragraph are deleted (**MM**).
23. Whilst the Renewable Energy Capacity Study (NAT003) did not identify any areas of search in St Helens for wind energy, we could not see any reference to solar farms in the document.
*Has consideration been given to whether suitable areas for large scale solar farms should be identified in the Plan?*¹
24. Policy LPD01 (Ensuring Quality Development) has a range of provisions. In terms of criterion 1. a) and having regard to the reasoned justification, consideration should be given to the importance of local distinctiveness and the role of good design in improving the quality of run-down areas.
25. In terms of criterion 1. b), avoiding causing any 'harm to the amenities of the local area' may be a high bar to pass in some cases. The inclusion of 'significant' or 'unacceptable' would make the policy more effective.

¹ PPG Paragraph: 005 Reference ID: 5-005-20150618

26. With regard to criterion 1. c), the Framework refers to a 'high standard of amenity' rather than 'an appropriate standard of amenity'. Consideration should be given to modifying the policy so that it is consistent with the Framework. Moreover, 'adversely affected' is a high bar and 'significantly' or 'unacceptably' affected would result in a more effective policy.
27. In relation to public art (Criterion h), it is accepted that it can enhance the quality of public spaces². However, it is assumed that the effects of requiring contributions on viability have not been assessed. If this is the case the policy should be amended to refer to encouragement of public art within appropriate schemes e.g. those that include prominent public realm. The criterion would read: 'h) Encourage the inclusion of, or a contribution to, public art....'
28. Finally, it is assumed that for criterion i) Policy LPC01 provides the specific requirements and would be usefully cross referenced. Collectively these potential changes to Policy LPD01 would represent an **MM**.
29. Policy LPD02 (Design and Layout of New Housing) includes criteria relating to heritage assets and natural habitats (6. and 7.). However, the way that the criteria are written is not entirely consistent with the provisions of Policies LPC09, LPC10 and LPC11. In this respect we consider that the criteria should simply cross-reference with Policies LPC09, LPC10 and LPC11' or be deleted altogether as the Plan should be read as a whole (**MM**).
30. In order that Policy LPD04 (Householder Developments) is clear to the decision maker we recommend the following changes (**MM**):
- 2. 'There would be no **significant** adverse impact on the **living conditions** amenity of any occupiers of neighbouring properties caused by overlooking,~~loss of privacy~~ or reduction of daylight/**sunlight** to habitable rooms or garden areas;
 - 4.off road parking **or** lack of visibility ~~or impact on the safety and free flow of traffic~~;
31. In relation to deleting the reference to the 'free flow of traffic' this is because free flowing traffic is not always desirable, particularly on residential streets. The efficient operation of the highway network may

² See paragraph 99 of the National Design Guide

be a legitimate concern but this is unlikely to be affected by householder development.

32. Policy LPD10 (Food and Drink) includes exclusion zones around schools and 6th form colleges. Sections 4 and 5 of the Supplementary Planning Document (SPD): Hot Food Takeaways references some of the national research on obesity and food outlets near to schools. However, the SPD dates from 2011, the quoted research is earlier than that and the evidence is not specific to St Helens.

Is there any more up-to-date evidence available, particularly at a Borough level, to justify the exclusion zones around education establishments?

33. As noted in INSP003 the Council needs to consider the implications of the changes to the Use Classes Order (UCO). In respect of Policy LPD10 restaurants and cafes now fall within the broad Class E use class. Changes of use within a single use class does not involve development and does not require planning permission.

Taking into account the creation of Class E, what modifications, if any, does the Council wish to make to Policy LPD10?

34. In any event the references within the reasoned justification to Classes A3 and A5 of the UCO will need to be deleted (paragraph 8.30.2).

Matter 10 – Infrastructure and Delivery

35. The reasoned justification to Policy LPA08 (Infrastructure Delivery and Funding) summarises the main forms of infrastructure at paragraph 4.30.1. Appendix 2 then seeks to define infrastructure but refers to the categories as not being exhaustive. However, some of the categories within Appendix 2 do not, in our view, comprise infrastructure and would not be expected to be supported by developer contributions as required by Policy LPA08. We would recommend that Appendix 2 is either deleted or considerably refined (**MM**).

36. The justification to Policy LPA09 (Green Infrastructure) at paragraph 4.33.2 refers to countryside around the Borough's towns as forming part of the Green Infrastructure (GI) network. It also states that this accounts for 50% of the Borough's land area. However, including all countryside as GI, much of which is farmland, goes beyond the description of GI in Section 1 of the policy and the definitions of GI in the Glossary to the Plan at Appendix 1 and the Glossary to the

Framework.

37. The policy itself sets a high bar regarding loss of GI – '*development that will result in the loss... will be refused.*' If GI includes all countryside, the vast majority of which is Green Belt, the policy would be providing an additional layer of protection for such areas which would not be necessary or justified.

38. Finally, the exceptions where loss of GI might be acceptable lack clarity. For example, how would it be demonstrated that appropriate protection or retention of GI assets cannot be achieved? What mitigation, other than compensatory provision, would be required?

Consideration should be given to modifying Policy LPA09 and its reasoned justification in response to the above comments so that it is justified, effective and consistent with national policy (MM).

39. Policies LPC05 and LPD03 together deal with the protection and provision of open space, the open space typologies being referred to in paragraph 7.3.3. In view of the importance of open space to achieving the Council's spatial vision and strategic objectives, we need to have a clear understanding of the position in terms of open space at a Borough wide level and in specific localities e.g. are there deficiencies in open space and sports and recreation facilities in quantitative and/or qualitative terms and/or in certain typologies?. In this respect a background paper on Open Space, Sport and Recreation should be provided, summarising the findings of the documents OPE001 to OPE005 and any other relevant evidence.

40. Policy LPC05: Open Space - Our comments under Policy LPD03 below are relevant to this policy.

41. Policy LPD03 (Open Space and Residential Development) refers to a threshold of 40 dwellings in requiring provision of open space. The reasoned justification refers to the long-term use of such a threshold (paragraph 8.9.4) and the lack of evidence that the threshold should be changed. However, elsewhere the Plan suggests that there are deficiencies and shortfalls in open space and sports and recreation facilities e.g. paragraphs 7.3.11 and 7.3.12. In terms of the Open Space and Sport Assessments (OPE001-005) shortfalls in water space for swimming and pitches are identified. The background paper

referred to above will assist in clarifying what shortfalls exist and where.

42. Taking into account the above and in order to ensure accessible high-quality open spaces and opportunities for sport and physical activity for residents of new developments, consideration should be given to whether a lower threshold for the provision of open space or contributions to it would be appropriate. In setting such a threshold account should be taken of the extant Written Ministerial Statement of November 2014 in relation to tariff-style contributions and the threshold of 10 homes:

<https://www.gov.uk/government/speeches/small-scale-developers>

43. In relation to the above, it is noted that the St Helens Economic Viability Assessment (VIA001) considers the impact of the 40-dwelling threshold.

Has a lower threshold, of say 10 dwellings, been assessed in terms of its impact on viability? If so, what are the implications for viability?

44. Section 1 of Policy LPD03 and paragraph 7.3.11 imply that open space may only be required within new residential developments if there are existing deficiencies in the area, albeit that 1. b) of the policy qualifies this to an extent. However, even if there is sufficient open space in an area in quantitative terms, larger residential developments would be expected to provide certain typologies of open space such as play areas for children and young people and amenity greenspace to provide visual relief. Consideration should be given to modifying Policy LPD03 and paragraph 7.3.11 to ensure that this is clarified.

45. Paragraph 8.9.5 indicates that the requirements for open space in Policy LPD03 are in addition to any requirements for outdoor sports facilities. Reference is then made to Policies LPA08 and LPC05. We note that neither policy includes specific standards for outdoor sport provision but that Table 7.1 refers to the Council's Playing Pitch Strategy and Action Plan as a basis for assessing the need for outdoor sport provision. This reflects the advice of Sport England that a quantitative standard for outdoor sports is not appropriate.

46. However, notwithstanding the above, in our view Policy LPD03 would be more effective if it referred to all open space typologies, including outdoor sports facilities, and was specific about how provision for all

typologies was to be achieved e.g. for outdoor sport it would be through contributions to enhance existing facilities or through the provision of new facilities as informed by the Playing Pitch Strategy and Action Plan (as per paragraph 7.3.12). In addition, it would be logical to move some of the reasoned justification for Policy LPC05 (paragraphs 7.3.11 and 7.3.12 and Table 7.1) to the justification for Policy LPD03.

47. In terms of new provision for outdoor sport, including addressing shortfalls, it is noted that the requirements for strategic housing allocations within Policy LPA05.1 and Appendix 5 are not specific as to what provision should be made for outdoor sport and recreation. *Is it possible to translate the recommendations of the Playing Pitch Strategy and Action Plan to requirements for any of the strategic housing allocations?*
48. The Council's response to our comments and questions about Policy LPD03 (and Policy LPC05) will inform the MIQs.

Matter 11 – Monitoring and Implementation

49. Appendix 4 of the Plan contains the Monitoring Framework. One of the indicators against Policy LPA05 is the 5-year housing land supply. The trigger for action is having below a 5-supply and the potential for action is considering an early review of the Plan. However, there are other measures that the Council could take other than an early review of the Plan if supply falls below 5 years, including the type of actions that would be included in an action plan³. An early review of the Plan would be a potential action where there is a longer-term underperformance against the 5-year supply.
50. In terms of Policy LPA06 (Safeguarded Land), planning permission would be refused for housing or employment proposals on safeguarded land. It would seem to us that a trigger for action in terms of a need to review the policy would be a failure to deliver sufficient housing land rather than that planning permission had been granted for built development on safeguarded land.
51. There are a number of policies where the framework does not set targets and/or the trigger for action/potential action or contingency

³ PPG Paragraph: 051 Reference ID: 68-051-20190722

has not been determined. If an indicator is lacking in these respects then it would suggest that it is one that should not be included as it is not measurable.

52. Consideration should be given to modifying the Monitoring Framework in response to these comments (**MM**).

Other Minor Comments

53. We suggest some minor changes to assist with clarity. These do not go to soundness but to be helpful we have set these out in an **Appendix**. These would comprise **AMs**.

Response

54. We would like a response by the Council to the above comments and questions by **26 February 2021**. We are not inviting comments from other parties at this stage. We want to clarify the Council's position first. This will help us to refine MIQs for the remainder of the examination and the hearings. All parties with relevant representations will have the opportunity to respond in advance of the hearings should they wish.
55. As referred to earlier, if the Council consider that the point or question could be dealt with by a **MM** or **AM**, then please confirm. As the examination develops, Schedules of MMs and AMs should be produced. The former should be in place in draft form in advance of the hearings, preferably published at the same time as any statements when it will become an examination document and inform discussion at the hearings. It will be refined during and after the hearings.
56. With regard to the above, we acknowledge that the Council wish us to recommend any MMs that are necessary to resolve issues of legal compliance or 'unsoundness'. If you require clarification of any of the above points please contact us via the Programme Officer.

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INSPECTORS

January 2021

Attached – Appendix

Appendix – Minor Comments and Typos (AMs)

Paragraph 4.33.6 – the reference should be to the 2019 NPPF.

Policy LPD01 – *'All proposals for development will be expected, as appropriate having **regard** to their scale...etc'*

Parts of paragraph 8.3.9 relate to the quality of the built environment rather than resource management. The reasoned justification to Policy LPD01 should be reviewed so that commentary is contained under the appropriate subheading.

Paragraph 7.12.5 – 'Knowsley and **St Helens** ~~Sefton~~ Mosslands'

Paragraph 7.24.8 – comma to replace semi-colon in last line of paragraph.

Paragraph 7.24.14 – include commas in final sentence – 'If, following application of the Sequential Test, it is not considered reasonably possible, consistent with wider sustainability objectives, for the development to be located in zones with a lower probability of flooding, the Exception Test will be applied.'

Policy LPD05 – the policy title should reflect that it also relates to the reuse of buildings.

Section 3 – *'The proposal would not result in a need for any additional building(s) **that** would have a harmful effect on the openness or purposes of the Green Belt;'*

Section 6 – the safety of the vehicular access is not relevant to Green Belt policy and this issue is covered by Policy LPA07. We suggest that *'that is safe and'* is deleted.

The reasoned justification should be ordered to follow the order of the policy e.g. paragraphs 8.15.1 and 8.15.2 should follow those that relate to extensions, replacement buildings and additional buildings (paragraphs 8.15.3 – 8.15.6).

Policy LPD08 (Advertisements) includes a double negative in the first line and we would suggest the following amendment for clarity:

'Proposals for advertisement display will be granted consent provided they would ~~not~~ have an ~~un~~acceptable impact upon amenity or public safety.'

Appendix 5 – Site Profiles

A number of the site profiles refer to specific planning permissions. To prevent the profiles becoming out of date it would be preferable to refer

to 'the most recent planning permission(s) and/or reserved matter approval(s) affecting the site'.