

# **EiP Statement**

## **St Helens Delivery and Allocations Local Plan**

### **Taylor Wimpey UK Limited**

#### **Representor ID RO1154**

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**Our ref** 41874/04/CM/MKR

**Date** May 2021

**Subject** **Matter 9 – Generic Policies**

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#### **1.0 Introduction**

- 1.1 Lichfields is instructed by Taylor Wimpey UK Limited [TW] to make representations on its behalf to the St Helens Borough Local Plan 2020-2035 [SHLP].
- 1.2 This Statement has been prepared in response to the Matters, Issues and Questions raised by the Inspector for the Matter 9 Examination in Public [EiP] hearing session.
- 1.3 Separate representations have been submitted in respect of the following Matters:
- 1 Matter 1 – Legal Compliance, Procedural Requirements and the Duty to Cooperate
  - 2 Matter 2 – Housing and Employment Needs and Requirements
  - 3 Matter 3 – Spatial Strategy and Strategic Policies
  - 4 Matter 4 – Allocation, Safeguarded Land and Green Belt Boundaries – Bold, Eccleston, Sutton Manor, Thatto Heath and St Helens Core Area
  - 5 Matter 5 – Housing Land Supply
  - 6 Matter 7 – Specific Housing Needs and Standards
  - 7 Matter 10 – Infrastructure and Delivery
- 1.4 These Matter Papers representations should be read in conjunction with previous submissions on the SHLP [Representator ID RO1154] as well as those made on other Matters listed above.
- 1.5 TW is seeking to bring forward a high quality, well designed and sustainable strategic residential site at Gartons Lane, St Helens [Local Plan Site Reference: 5HA] and a site at Gorsey Lane, St Helens which forms part of the wider Bold Forest Garden Suburb [Local Plan Site Reference: 4HA]. Taylor Wimpey is supportive of the allocation of the sites in the SHLP and considers that the identification of both sites as residential allocations will assist in boosting the supply of housing in St Helens. It will also assist in delivering sustainable development by contributing towards meeting the needs of market and affordable housing, creating employment during the construction period and mitigating any impact on the environment.
- 1.6 This statement expands upon TW's previous representations made throughout the Local Plan preparation process in light of the Inspector's specific issues and questions. Where relevant, the comments made are assessed against the tests of soundness established by the National

Planning Policy Framework [NPPF] and the National Planning Policy Practice Guidance [Practice Guidance].

## 2.0 Planning Issues

### Issue 1: Minerals and Waste Policies

*Policy LPC14 contains a number of provisions relating to minerals. The Council has agreed to modify the policy to refer to 'local, regional and national needs' so that it is consistent with paragraph 204 of the Framework (SHBC002 – Matter 8).*

*Q1: Is Policy LPC14 positively prepared and consistent with the Framework?*

2.1 TW has no comment on this matter.

*Policy LPC15 makes reference to the Merseyside and Halton Waste Plan which allocates sites for, and guides decisions on, waste.*

*Q2: Is Policy LPC15 positively prepared and consistent with the Framework and the Merseyside and Halton Waste Plan?*

2.2 TW has no comment on this matter.

### Issue 2: Health and Wellbeing

*Policy LPA11 sets a number of criteria to guide development including those which seek to ensure access to green spaces, encourage physical activity and guide the location of food and drink uses. Policy LPD10 provides more detail in terms of the location of food and drink establishments, including, for hot food takeaways, proposing an exclusion zone around schools.*

*In response to preliminary questions the Council sought to provide more explanation as to the 'planning decisions and processes' referred to in Policy LPA11, the evidence about the health impacts of food and drink establishments and where such uses should be guided. Further responses were also provided on the evidence to support Policy LPD10 and the exclusion zones. The Council has also suggested MMs to take into account changes to the Use Classes Order and the creation of the new Class E (SHBC002).*

*Q3: Are Policies LPA11 and LPD10 positively prepared, justified and consistent with national policy?*

2.3 It is important that any policy requirements relating to amenity, design and layout of new development are in accordance with national guidance and building regulations and do not affect development viability. The Framework<sup>1</sup> confirms that plans should contain policies that are clearly written and unambiguous, so it is evident how a decision maker should react to development proposals.

2.4 TW considers the requirement of Part 6 of policy LPA11 to “encourage measures to achieve affordable warmth” to be onerous. The SHLP does not define what is meant by ‘affordable warmth’ so it is not clear what measures would need to be provided to address this matter. In addition, this policy requirement does not appear to have been considered in the SHLP

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<sup>1</sup> National Planning Policy Framework §16

Economic Viability Assessment [EVA], and as such no consideration of its impact on development viability can be determined.

- 2.5 On this basis TW considers that Part 6 of the policy is not justified and should be deleted.

*Q4: Taking into account the creation of Class E, are the modifications proposed by the Council to Policy LPD10 sound?*

- 2.6 TW has no comment on this matter.

### **Issue 3: Environment and Resources Policies**

*Policies LPC06, LPC07, LPC08, LPC09, LPC10, LPC11, LPC12 and LPC13 deal with a range of environmental policies. Section 4 of Policy LPC13 is dealt with under Matter 7. In response to preliminary questions, the Council proposes modifications to:*

- *Policy LPC06 (Biodiversity and Geological Conservation) and its explanation.*
- *Policy LPC07, the Site Profile for Site 4HA, Policy LPA05.1 and the Policies Map in relation to Greenways.*
- *The reasoned justification to Policy LPC09 (paragraph 7.15.1) to delete reference to 'valued landscapes' as none are identified within St Helens Borough.*
- *Section 6 of Policy LPC10 (Trees and Woodlands).*
- *Policy LPC11 (Historic Environment) so that it is consistent with, but does not repeat, national policy in Section 16 of the Framework.*
- *Policy LPC12 (Flood Risk and Water Management) so that it is consistent with, but does not repeat, national policy in Section 14 of the Framework.*
- *The reasoned justification to Policy LPC13 to delete reference to specific proposals for wind energy development (paragraph 7.27.5).*

*Q5: Having regard to the proposed modifications, are Policies LPC06, LPC07, LPC08, LPC09, LPC10, LPC11, LPC12 and LPC13 positively prepared, clear to the decision maker and consistent with national policy?*

#### **Policy LPC06**

- 2.7 TW has no comment on this matter.

#### **Policy LPC07**

- 2.8 In their Initial Questions and Comments on the Generic Policies<sup>2</sup> the Inspectors note that the proposed Greenway route to the south of the Borough runs through Strategic Housing Site 4A (Bold Forest Garden Suburb) but that the new route is not shown on the Policies Map or referred to within the Site Profile for 4HA.
- 2.9 The Council has suggested that this could be addressed through MMs to include the proposed greenways, which are indicatively shown in figure 7.2 of the SHLP, onto the policies map and within strategic housing site 4HA profile.

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<sup>2</sup> SHBC002 Response to INSP004 Inspectors' initial questions and comments on generic and development management policies

- 2.10 In addition, the Council has suggested adding a third criterion to Policy LPC07 to express the Council's support for the provision of new Greenways, as follows:

*“3) The Council will support the expansion of the Greenway network, including through the provision of new routes, such as those set out in Figure 7.2, subject to the availability of funding and other feasibility requirements being met”.*

- 2.11 Also proposed is a MM to policy LPA05.1 (Strategic Housing Sites) Section 2f as follows:

*“A Green Infrastructure Plan addressing biodiversity, geodiversity, greenways (**including any proposed new greenways as referred to in policy LPC07**), ecological network, landscape character, trees, woodlands and water storage in a holistic and integrated way”.*

- 2.12 TW supports the modifications proposed. As the precise route of the Greenway will be determined at the planning application stage, TW suggests that the route should be clearly identified as a “Potential New Greenway Route” on the Proposals Map.

### **Policy LPC08**

- 2.13 TW has no comment on this matter.

### **Policy LPC09**

- 2.14 The proposed amendments to the wording of paragraph 7.15.1 are supported.

### **Policy LPC10**

- 2.15 For the reasons set out in our response to Q6 we consider that Policy LPC10 is not positively prepared and consistent with national policy and some of the policy wording should be deleted.

### **Policy LPC12**

- 2.16 TW welcomes the Council's proposed modification to Policy LPC12 so that it is consistent with, but does not repeat, national policy in Section 14 of the Framework. However, it is not clear why “case law” has been referred to in the proposed policy wording and it is considered that this reference should be removed.

### **Policy LPC13**

- 2.17 TW has no comment on the proposed amendments to the reasoned justification to Policy LPC13 in relation to wind energy development. We have provided a separate response to Part 4 of Policy LPC13 in our Matter 7 paper.

*Q6: Whilst the achievement of net gains for biodiversity and enhancement of the natural environment is desirable, will a simple 2 for 1 replacement of any trees lost within Section 6 of Policy LPC10 be necessarily the most appropriate way of achieving gains and is it justified by any evidence (see Council's response to preliminary questions)?*

- 2.18 Whilst TW acknowledges the need for new development to make a contribution towards the provision and protection of trees and woodland, we object to requirement to replace trees on a 2 for 1 basis. We have undertaken a review of the evidence base and cannot find evidence to support this policy objective.

- 2.19 In addition, there are a number of ways to achieve gains in biodiversity, some of which can be more effective than tree planting. It may therefore be the case that alternative forms of mitigation are more suitable on some sites.
- 2.20 The requirement to replace trees on a 2 for 1 basis could hamper the ability for development to deliver alternative forms of biodiversity mitigation and result in a shortfall of available land as land will be lost to replacement tree planting. Should additional land be required to provide further mitigation in addition to this tree planting, this could ultimately result in the loss of land which could otherwise be used for the provision of dwellings on residential sites. This would be contrary to the Framework<sup>3</sup> which seeks the efficient use of land.
- 2.21 TW therefore considers that the following sentence should be deleted from Part 6 of Policy LPC10:  
*“Where any tree is justifiably lost its replacement will normally be required on at least a 2 for 1 ratio, with impacts on woodlands mitigated in line with Policy LPC06”.*

## Issue 4: Development Management Policies

*Policies LPD01, LPD02, LPD04, LPD05, LPD06, LPD07, LPD08 and LPD09 deal with a range of development management policies. In response to preliminary questions, the Council proposes modifications to:*

- *Section 1 of Policy LPD01 (Ensuring Quality Development).*
- *Criteria 6 and 7 of Policy LPD02 (Design and Layout of New Housing).*
- *Sections 2 and 4 of Policy LPD04 (Householder Developments).*

*Q7: Having regard to the proposed modifications, are Policies LPD01, LPD02, LPD04, LPD05, LPD06, LPD07, LPD08 and LPD09 positively prepared, clear to the decision maker and consistent with national policy?*

### Policy LPD01

- 2.22 In the Council’s Response to the Inspectors’ Initial Questions and Comments on the Generic Policies<sup>4</sup> the Council suggests the following MM to Part 1(c) of Policy LPD01:  
*“Ensure that the occupiers of new developments will enjoy **a high** ~~an appropriate~~ standard of amenity and will not be **unacceptably** ~~adversely~~ affected by neighbouring uses and vice versa”.*
- 2.23 Whilst TW agree that protecting amenity is important, it is still not clear how developers are expected to demonstrate this. TW considers that further detail needs to be provided to clarify this matter.
- 2.24 The Council’s Response suggests Modification to part 1(h) of the policy as follows:  
*“**Encourage the inclusion of** ~~Include or contribute~~ **contribution** to, the provision of public art **within** appropriate ~~schemes~~ **circumstances** (for example where the development would be of a substantial size and / or in a prominent gateway or town centre location)”.*

<sup>3</sup> National Planning Policy Framework §122

<sup>4</sup> SHBC002 Response to INSP004 Inspectors’ initial questions and comments on generic and development management policies

2.25 There is no clear policy justification or evidence to support the provision of public art in the SHLP. Whilst public art is identified as a potential element of public space in the National Design Guide, there is no requirement for the provision public art in national planning guidance. It is not therefore clear why inclusion of public art/contribution is being sought. In addition, it does not appear that contributions to public art have been assessed as part of the Local Plan Viability Report; therefore, the financial implications have not been tested and it is not clear how such provision may affect the delivery of sites. It is therefore considered that Part 1(h) of the policy should be deleted.

2.26 Part 1(i) of the policy requires all proposals for development to provide for the needs of special groups in the community such as the elderly and those with disabilities. The Council’s Response suggests modification to part 1h) of the policy as follows:

*“Provide for the needs of special groups in the community such as the elderly and those with disabilities **as identified in Policy LPC01**”.*

2.27 TW, as a responsible developer, fully support inclusive design but consider that Part 1(i) of the policy is not positively prepared or effective as it is still not clear what the requirements are to meet this objective. For example, the policy is not clear as to how the provision of needs of special groups in the community will be provided for, who it will be delivered by and the quantum required. As noted in our response to Policy LPC01 in our Matter 7 paper, no explicit target for special needs/elderly housing is provided, so it is not clear what needs to be delivered and it is also unclear how the contribution of specialist accommodation (such as retirement homes, sheltered homes or care homes) could reduce the need for adaptable housing.

2.28 In respect of Part 3(c) which relates to energy efficiency and renewable energy and cross refers to Policy LPC13, we have made comments relating to the soundness of Policy LPC13 in our Matter 7 paper and would suggest that reference to Policy LPC13 is removed from Part 3(c).

### **Policy LPD02**

2.29 The Council’s Response to the Inspectors’ Initial Questions and Comments on the Generic Policies suggests cross referencing with Parts 6 and 7 with Policies LPC09, LPC10 & LPC11.

2.30 For the reasons set out in our response to Q6 we consider that Part 6 of Policy LPC10 is not positively prepared and consistent with national policy and some of the policy wording should be deleted. We do not therefore agree with the cross-referencing of Policy LPD02 with Policy LPC10.

### **Policy LDP04**

2.31 The Council has suggested modifying Parts 2 and 4 of Policy LDP04 as follows in order to make the policy clearer:

*“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”.*

and

*“4. ....off road parking **or** lack of visibility ~~or impact on the safety and free flow of traffic~~”.*

2.32 TW supports the changes suggested.

**Policy LPD05**

2.33 TW has no comment on this policy.

**Policy LDP06**

2.34 TW has no comment on this policy.

**Policy LPD07**

2.35 For the reasons set out in our response to Q8 we consider that Policy LPD07 is not positively prepared and consistent with national policy and some of the policy wording should be deleted.

**Policy LDP08**

2.36 TW has no comment on this policy.

**Policy LDP09**

2.37 TW has no comment on this policy.

*Q 8: Are the requirements for developments to make provision for digital communication networks and make contributions to off-site broadband infrastructure within Policy LPD07 justified and consistent with national policy having regard to paragraph 112 of the Framework and the scope of the Building Regulations?*

2.38 TW considers that digital infrastructure is an important part of the integrated development within an area. However, whilst §112 of the Framework establishes that local authorities should seek to support the expansion of electronic communications network it does not seek to prevent development that does not have access to such networks.

2.39 Part R of the Building Regulations clearly sets the appropriate standards for high speed electronic networks. TW does not consider there to be justification for St Helens to seek additional local technical standards above this requirement.

2.40 TW considers that Policy LPD07 fails to meet the tests of soundness because there is no evidence as part of the Local Plan to justify this requirement and it is not consistent with national policy in the Framework or Building Regulations.

2.41 The policy states that contributions may also be sought from developers towards the cost of providing necessary off-site fast broadband infrastructure to serve the area. However, no provision for these additional costs appears to have been factored into the SHLP EVA. It is not therefore clear what impact this would have upon the delivery of sites and such a requirement could trigger the need for viability assessment at the planning application stage. In this regard, we also note the recent RICS guidance on assessing viability in planning<sup>5</sup> which states that further financial viability assessments [FVAs] should not be necessary where planning applications comply with the up-to-date policies set out in the plan.

2.42 In order to ensure that Policy LPD07 is sound it should omit reference to development making provision for digital communications as part of the policy requirement.

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<sup>5</sup> Assessing viability in planning under the National Planning Policy Framework 2019 for England (March 2021)