
Independent Examination of the Cotswold Local Plan

Actions Required following Hearing Sessions 14, 15 and 16 (Week Four)

Further to the discussions at the week four hearing sessions (21 and 22 November), the following actions are required. The Inspector considers these to be necessary at this stage of the examination to inform his consideration of whether the Plan is sound and/or how it could be made sound by main modifications.

Unless otherwise stated, each of the action points is for the Council to pursue. Where appropriate and possible, the Council should liaise with relevant participants in preparing its response.

Responses should be submitted to the Programme Officer by midday on Thursday 7 December 2017. The responses will then be published on the examination website and sent to participants of the relevant hearing sessions.

Matter 14: Built, Natural and Historic Environment and Local Greenspace

The Wider Natural and Historic Landscape

AP14.1 Modify the last sentence of policy EN4(2) to read "... including key views, the setting of settlements, settlement patterns ..."

Main Modifications schedule has been updated accordingly

AONB

AP14.2 Modify the reasoned justification to policy EN4 or EN5 to clarify that, whilst policy EN4 applies to the AONB, policy EN5 includes additional criteria that will also need to be taken into account.

Main Modifications schedule has been updated accordingly

AP14.3 Modify the reasoned justification to policy EN5 to clarify that part 1 applies to all developments in the AONB, including on allocated sites, whereas part 2 does not apply to allocated sites.

Main Modifications schedule has been updated accordingly

Special Landscape Areas

AP14.4 Modify policy EN6 to delete "that demonstrably meets the economic and social needs of communities". Modify parts (a) and (b) so that they do not repeat the requirements of policy EN4 but rather set out the additional requirements that apply to the SLAs based on their special character and key landscape qualities.

Main Modifications schedule has been updated accordingly

AP14.5 Modify paragraph 10.3.3.1 to delete reference to the SLAs being of comparable quality to the AONB, and so that it explains why those areas have been designated based on their different special characters and key landscape qualities.

Main Modifications schedule has been updated accordingly

AP14.6 Modify paragraph 10.3.3.1 to clarify that policy EN6 applies to all development in the SLAs, including on allocated sites.

Main Modifications schedule has been updated accordingly

AP14.7 Modify the Key Diagram to show the six SLAs.

This is in hand and will be completed by 9/12/17

Conservation Areas

AP14.8 Modify policy EN11(c) to delete "because of their openness".

Main Modifications schedule has been updated accordingly

Open Space

AP14.9 Modify policy INF2, the reasoned justification and Glossary to make it clear that "social and community infrastructure" and "local community facilities or services" include open space, and to ensure that the policy is consistent with NPPF paragraphs 73 and 74.

Main Modifications schedule has been updated accordingly

Matter 15: Other Issues

Transport

AP15.1 Further to its response to week two action point 8.4 [ED059], the Council will prepare a short note to further clarify whether the scale and location of development proposed in adopted or emerging local plans for surrounding districts would make a significant difference to the findings of the Council's assessments of the transport and other infrastructure required in the district over the plan period.

The Council has prepared a desktop study, which considered the impact of the neighbouring authorities' development proposals on the District Council's Local Plan (ED075a).

Wind Energy Development

AP15.2 Modify policy INF10 to include the policy requirements set out in paragraph 11.7.17.

Main Modifications schedule has been updated accordingly.

The Council considers that the following Explanatory Note on this will assist the Inspector

In dealing with this action the Council has reviewed the contents of paragraph 11.7.17 having regard to the Ministerial Statement relating to wind energy development published on 18th June 2015 by the Secretary of State for Communities and Local Government (Government ref. HCWS42).

There are two limbs to the Statement. Firstly, when determining planning applications for wind energy development involving one or more wind turbines, local planning authorities should only grant planning permission if:

- the development site is in an area identified as suitable for wind energy development in a Local or Neighbourhood Plan; and
- following consultation, it can be demonstrated that the planning impacts identified by affected local communities have been fully addressed and therefore the proposal has their backing.

The second limb comprises a transitional provision. If, as at 18th June 2015, the LPA was in possession of a valid but undetermined application for wind energy development and the Local Plan did not identify any suitable sites, the LPA was empowered to find the proposal acceptable "if, following consultation, they are satisfied it has addressed the planning impacts identified by affected local communities and therefore has their backing."

The Council now considers that the text added to paragraph 11.7.17 as a Focussed Change (FC092) misinterprets the Ministerial Statement because it addresses only the second limb which relates to planning applications that may have been current at June 2015.

It must be borne in mind that the NPPF requirement at paragraph 97 is for LPAs to "consider identifying suitable areas". [Underling added]. It does not require LPAs to identify suitable sites. The Council has considered whether to identify suitable sites having regard to the Gloucestershire Renewable Energy Study (CRO22 and CRO23) it has not identified any areas suitable for wind energy development in its Local Plan. The requirement under NPPF paragraph 97 has been discharged. Similarly Paragraph: 003 Reference ID: 5-003-20140306 of the NPPG: "When drawing up a Local Plan local planning authorities should first consider what the local potential is for renewable and low carbon energy generation." It also points out that "Whilst local authorities should design their policies to maximise renewable and low carbon energy development, there is no quota which the Local Plan has to deliver."

As to how sites are identified the NPPG "There are no hard and fast rules about how suitable areas for renewable energy should be identified, but in considering locations, local planning authorities will need to ensure they take into account the requirements of the technology and, critically, the potential impacts on the local environment, including from cumulative

impacts. The views of local communities likely to be affected should be listened to.”

“In the case of wind turbines, a planning application should not be approved unless the proposed development site is an area identified as suitable for wind energy development in a Local or Neighbourhood Plan.” Paragraph: 005 Reference ID: 5-005-20150618. This text is set to relate paragraph 98.

“When determining planning applications, local planning authorities should: not require applicants for energy development to demonstrate the overall need for renewable or low carbon energy and also recognise that even small-scale projects provide a valuable contribution to cutting greenhouse gas emissions approve the application³ if its impacts are (or can be made) acceptable. Once suitable areas for renewable and low carbon energy have been identified in plans, local planning authorities should also expect subsequent applications for commercial scale projects outside these areas to demonstrate that the proposed location meets the criteria used in identifying suitable areas.”

Taking the Ministerial Statement at face value therefore, the Council’s starting position in relation to wind energy development proposals should be negative.

The correct interpretation of government planning policy will be a matter of legal interpretation. Counsel advises that the Ministerial Statement is not well drafted. It appears to proceed upon the basis that there is an obligation on LPAs to identify suitable sites in their local plans. However, as stated above, identification of suitable sites is not a national policy requirement. The second requirement of the Statement appears to proceed on the basis that if all planning impacts identified by local residents have been “fully addressed” then the proposal will “therefore” have the “backing of the local community.” The LPA might consider that the impacts have been “fully addressed” but local residents might not agree, can it be deemed to have their backing? Furthermore, it is unclear what “fully addressed” means? Does it mean that there should be no impact or that impact is mitigated as fully as possible?

Counsel advises that whilst the Ministerial Statement and NPPG is not law it is a material planning consideration. One can expect that it would be applied by the inspectorate on appeal. However, there may conceivably be other material planning considerations that could outweigh it depending upon the circumstances.

Taking this into account the Council considers that a revision to the supporting text explaining its approach to wind energy development and indicating that the Council will, alongside the other requirements of policy INF10, have regard to the Ministerial Statement or any subsequent government policy amendment in the determination of planning applications is an appropriate policy position for Cotswold District.

Whilst the other requirements of paragraph 11.7.17 of the Submission Draft Local Plan (FC092) are, contrary to the inference of the text as written, not solely applicable to wind energy development the Council considers that they largely reiterate extant government policy and guidance and their duplication in the Local Plan is unnecessary. They should therefore be deleted. It is considered that an advisory note regarding hydropower energy schemes should nevertheless be retained.

Matter 6: Lechlade

AP6.1 Delete the first two sentences of paragraph 7.1.5.6 (because the two allocated sites are not in fact within Source Protection Zone 1)

Main Modifications schedule has been updated accordingly.

Session 16: Housing Supply and Development Strategy – Further Issues

Housing Supply for the Plan Period

AP16.1 Modify Table 1 in the schedule of proposed main modifications [ED053] so that the number of units expected to be delivered on sites with planning permission as at 1 April 2017 reflects appropriate lapse and non implementation rates. Delete the separate row in Table 1 in ED053 that refers to “Lapse rate 1st April 2017 ... -27”.

Main Modifications schedule has been updated accordingly.

AP16.2 Delete the row in Table 1 in ED053 that refers to “Additional deliverable planning permissions ... 1 April 2017 and 2 November 2017 ... 343”. Modify the total supply figure accordingly.

Main Modifications schedule has been updated accordingly.

AP16.3 Modify the reasoned justification associated with Table 1 as necessary to briefly explain how the assumed number of units for each category of supply has been calculated. Include reference to full details being available in the Council’s annual Housing Land Supply Report, and that an updated version of Table 1 will be included in each subsequent annual report.

Main Modifications schedule has been updated accordingly.

Five Year Housing Land Requirement and Supply

AP16.4 Modify paragraph 6.1.11 as set out in ED053 (and other parts of the reasoned justification as necessary) to explain that the calculation of need for the remaining years of the plan period will be based on a residual requirement approach that deducts net completions since 2011 from the requirement for the plan period of 8,400 dwellings. Furthermore, explain that the five year requirement will be calculated each year and set out in the annual Housing Land Supply Report which will be published each May, and that this will be based on an appropriate

proportion of the residual requirement for the remainder of the plan period with a 5% (or 20%) buffer added in accordance with the NPPF.

Main Modifications schedule has been updated accordingly.

AP16.5 Modify Table 3 in ED053 so that it is entitled “Five Year Housing Land Requirement and Supply” and to reduce the number of rows that it contains. These could include: the total residual requirement for 2017 to 2031 (ie 8,400 - 3,176 = 5,224); the residual requirement for 2017 to 2031 expressed as an annual average; the total residual requirement for 2017 to 2022 plus a 5% (or 20%) buffer; the residual requirement for 2017 to 2022 (including an appropriate buffer) expressed as an annual average; and rows for each category of supply (ie sites with planning permission on 1 April 2017; the Chesterton strategic site; other allocations; and windfalls); total supply 2017 to 2022; supply 2017 to 2022 expressed as an annual average; supply available at 1 April 2017 expressed as number of years against the residual requirement including the appropriate buffer.

Main Modifications schedule has been updated accordingly.

Policy DS5: Ensuring a Five Year Housing Supply during the Plan Period

[N.B. In the light of hearing session 16, the Council is not convinced that Policy DS5 is necessary to ensure the Plan’s soundness, especially given the healthy land supply position across the housing trajectory to 2031.]

AP16.6 Modify policy DS5 in ED053 and/or the reasoned justification to make it clear that the if part 1 of the policy is triggered it would be in effect until the Council has published the next annual Housing Land Supply Report. If that report demonstrates that there is still less than 5.5 years supply then the policy would continue for another year, and so on. Conversely, if a subsequent annual Housing Supply Report demonstrates that there is more than 5.5 years supply, the policy would no longer be in effect.

Main Modifications schedule has been updated accordingly.

AP16.7. Delete parts 3 and 4 of policy DS5 in ED053.

Main Modifications schedule has been updated accordingly.

AP16.8 Delete the last sentence of the reasoned justification to policy DS5 in ED053 (“For land to be considered as adjacent ... separated by a road do not qualify”).

Main Modifications schedule has been updated accordingly.

Policy DS4: Open Market Housing Outside Principal and Non Principal Settlements

AP16.9 Modify policy DS4 in ED053 to make it clear that residential development outside Principal and Non Principal Settlements will not be permitted unless it is in accordance with other policies in the Plan that expressly deal with residential development in such locations. Modify the reasoned justification to include a non-exhaustive list of relevant policies, and if necessary to refer to specific forms of residential development that may be acceptable in such locations that are not expressly covered by other such policies in the Plan (such as replacement dwellings).

Main Modifications schedule has been updated accordingly.