

# Kirklees Local Plan Examination

## Stage 1 – Initial Hearings

### MATTERS, ISSUES AND QUESTIONS (MIQs)

#### Council Response

#### Matter 1 – Legal and procedural matters

- 1.1 This statement sets out the council's responses in relation to the Inspector's matters and issues Matter 1 – Legal and Procedural matters. All the documents referred to in this statement are referenced within the main body of the statement.

#### **Issue - Has the Plan been prepared in accordance with statutory procedures and Regulations?**

#### **Questions**

- a) **Has the council submitted robust evidence to demonstrate that they have met the duty to co-operate? Are there any outstanding strategic matters?**
- 1.2 The council has submitted robust evidence to demonstrate that the duty to co-operate has been met. This evidence is set out in the council's Duty to Co-operate Statement (SD14).
- 1.3 The council set out key strategic and cross-boundary matters during the early engagement stage of the Local Plan preparation and also at each main stage of plan preparation. Tables summarising the issues at each stage are contained in the council's Duty to Co-operate Statement (SD14, Appendices A, B and C). Opportunities for prescribed bodies to contribute any further concerns were given throughout the plan making process. Section 5 of the council's Duty to Co-operate Statement (SD14, pages 14 -25) sets out each of the main strategic and/or cross-boundary themes which were identified through the process together with any specific outcomes from the process. The Leeds City Region Statement of Co-operation for Local Plans (CD17) sets out the protocols and duty to co-operate arrangements (including the preparation and use of shared evidence) which exist for the members of the Leeds City Region Local Enterprise Partnership and the West Yorkshire Combined Authority to engage on Local Plan preparation. The Local Plan's alignment with their priorities is set out in the council's Duty to Co-operate Statement (SD14, Appendix D).
- 1.4 The council does not consider there to be any outstanding strategic matters which would fall within the scope of the duty to co-operate which have not already been addressed. The council's evidence base regarding the duty to co-operate has been supplemented by further correspondence received after the Regulation 19 Publication Draft Local Plan consultation from Bradford City Council (BP28, Appendix D) about the established position regarding employment land supply and objectively assessed needs. This action followed the withdrawal of the holding direction placed on the Bradford Core Strategy by the Secretary of State to re-affirm Bradford Council's position that they cannot meet any of Kirklees' needs and are aiming to meet their own objectively assessed needs in full. The Bradford Core Strategy was subsequently adopted 18 July 2017.

1.5 Joint working with prescribed bodies will continue throughout the examination in public and beyond. The council will continue to monitor its duty to co-operate activities and report these in its Local Plan Annual Monitoring Report.

**b) Has the Plan's formulation been based on a sound process of sustainability appraisal?**

1.6 The plan has been formulated on the basis of a sound process of sustainability appraisal. The sustainability appraisal evidence can be found in the following documents:

- SD5 - Sustainability Appraisal Full Report (October 2016) and accompanying Policy and Proposals Matrices (Annexes 1 to 7).
- SD6 - Sustainability Appraisal Publication Erratum Notice (November 2016).
- SD7 - Sustainability Appraisal Report - Addendum Notice (April 2017).
- SD8 - Sustainability Appraisal Report Schedule of Responses (April 2017).
- SD9 - Sustainability Appraisal Report Non-Technical Summary (October 2016).

1.7 Sustainability appraisal has been carried out at each main stage of plan preparation in accordance with the guidance for strategic environmental assessment and sustainability appraisal as set out in National Planning Practice Guidance (NE2). Table 1.1 (SD5, p. 3; also presented as 'Table 1' in SD9, p.2) explicitly details how the requirements of the Strategic Environmental Assessment Regulations have been addressed in the Sustainability Appraisal report. The sustainability appraisal has assessed each of the policies and proposals in the Local Plan and all reasonable alternatives to these, as identified by the council. It is also the council's main evidence in determining whether the Local Plan contributes to the achievement of sustainable development.

1.8 The sustainability appraisal has been subject to consultation with statutory consultation bodies (Historic England, Natural England the Environment Agency). In addition, the council made the sustainability appraisal methodology, findings and outputs publically available for comment at each of the main stages of plan preparation. The council's response to these comments is set out in the Sustainability Appraisal - Schedule of Responses (SD8, Table 1).

1.9 Additional correspondence was received from Historic England (24 February 2017) to clarify their position with regard to the sustainability appraisal, this is set out in BP28 (Correspondence received from Statutory Consultees after the Regulation 19 Publication Draft Local Plan Consultation, April 2017, page 4 and 5). Chapter 2 of the Sustainability Appraisal Report - Addendum Notice (April 2017) directly responds to the issues raised in Historic England's letter (SD7, chapter 2, pages 2-8), and concludes that significant impacts on the historic environment will not occur.

1.10 The council consider that all reasonable alternatives have been subject to the sustainability appraisal process. Chapter 2 of the Sustainability Appraisal Report October 2016 (SD5) sets out how policy and site options were identified and appraised. The conclusion of the sustainability appraisal for the Local Plan is set out in the sustainability appraisal documents for each policy and proposal. The Sustainability Appraisal – Non-technical Summary (SD9, page 50) concludes as follows:

*“The reasonable alternative site and policy options, as well as the policies and site allocations now included in the Publication Draft version of the Kirklees Local Plan have been subject to a detailed appraisal against the SA objectives which were developed at the Scoping stage of the SA process. The Publication Draft Local Plan proposes a large amount of housing, employment and other development across Kirklees to meet future needs of the District; therefore the SA has identified the potential for negative effects on many of the environmental objectives including biodiversity, cultural heritage and the landscape. However, during the site allocation process the Council considered a large number of reasonable alternative site options and their technical assessment, alongside the Sustainability Appraisal findings, informed the final allocation and rejection of sites. Where the early SA work specifically recommended that particular sites not be allocated due to flood risk issues, those sites have not been taken forward as allocations in the Local Plan.*

*In addition, the Local Plan also includes a wide range of development management style policies, aiming to protect and enhance the economic, social and environmental conditions of the District. These policies provide appropriate mitigation, seeking to address the potential negative effects of the overall scale of development proposed.”*

**c) Are the likely effects of the Plan adequately and accurately assessed in the Habitat Regulations Assessment (March 2017) (SD10)? Are there any outstanding issues from Natural England?**

- 1.11 The council considers that the likely effects of the Local Plan are adequately and accurately assessed in the Habitat Regulations Assessment (SD10). Section 6 of the assessment (SD10, pages 50-52) set out the conclusions reached. In summary, the Habitats Regulations Assessment concludes that the Publication Draft Local Plan will not result in adverse effects on the integrity of Natura 2000 sites and with respect to in-combination effects, the Habitats Regulations Assessment concluded that:

*“On the basis of the HRA work that has been undertaken to date, in-combination effects related to air pollution, recreation, loss of habitat or disturbance are not expected.”*

- 1.12 Following receipt of the updated Habitats Regulations Assessment March 2017 (SD10 - Publication Draft Kirklees Local Plan: Habitats Regulation Assessment Report March 2017), Natural England issued a revised response dated 3 April 2017, a copy of which has been provided in ‘Correspondence received from Statutory Consultees after the Regulation 19 Publication Draft Local Plan Consultation (April 2017)’ (BP28). This letter states “Subject to the proposed clarification in the supporting text to policy PLP30 and within the relevant Allocations Boxes, we are satisfied that the plan is legally compliant with the Habitats Regulations”. The amendments agreed between Natural England and the council and referenced in their letter dated 3 April 2017 are included in the ‘List of Additional Modifications to the Publication Local Plan’ (SD4, SP-MM25 page 9).

**d) Has consultation on the Plan been undertaken in accordance with the Statement of Community Involvement (SD16) and statutory requirements?**

- 1.13 The council adopted its Statement of Community Involvement on 22<sup>nd</sup> September 2015 (SD16). This replaced the Statement of Community Involvement adopted in 2006.
- 1.14 The council’s Statement of Community Involvement sets out when (SD16, pages 3-4), with whom (SD16, pages 5-6) and how (SD16, p.7) it will consult with as part of the development of the Local Plan. It also sets out how the council will feedback on the Local Plan consultation (SD16, page 7, para 2.12, page 9 – para 2.16 bullet point 10 and page 9 - para 2.18). The council considers that the approaches set out are compliant with the Town and Country Planning Local Planning Regulations 2012 (NE5) and National Planning Policy Framework requirements (NE1).
- 1.15 The consultation and publicity processes undertaken for each stage of the plan-making for Kirklees are set out in the council’s Statement of Pre-submission Consultation (SD12) and the council’s Statement of Publication of Consultation and Summary of Main Issues (Regulation 22) (SD13).
- 1.16 Outlined in the Tables 1 and 2 below are references in SD12 and SD13 which evidence how the Local Plan consultation complies with the Statement of Community Involvement (SD16).

**Table 1 - SD12 – Kirklees Council Statement of Pre-submission Consultation November 2016**

<b>Stage of Pre-submission consultation</b>	<b>Doc ref to purpose of consultation and date</b>	<b>Doc refer on who was consulted</b>	<b>Doc ref to how we consulted</b>	<b>Doc ref to Feedback on consultation</b>
Early engagement (1)	Paras 3.1.1 – 3.1.4	Section 2, paras 2.1 – 2.6 Section 3.1, para 3.1.5	Paras 3.1.6	Paras 3.1.8 – 3.1.9 and Table 2  Local Plan Examination Library – Section 3 PC2 - Kirklees Council Early Engagement Questionnaire Analysis April 2014
Early engagement (2)	Paras 3.2.1 – 3.2.2	Para 3.2.3	Para 3.2.4	Para 3.2.5 – 3.2.11  Local Plan Examination Library – Section 3 PC3 – Kirklees Council Early Engagement Workshop Feedback Report July 2014

Stage of Pre-submission consultation	Doc ref to purpose of consultation and date	Doc refer on who was consulted	Doc ref to how we consulted	Doc ref to Feedback on consultation
Early engagement (3)	Paras 3.3.1 – 3.3.3	Para 3.3.4  Section 2, paras 2.1 – 2.6	Para 3.3.5  Local Plan Examination Library Section 3, PC4 – Shaping our Local Plan Booklet – “Kirklees the place to grow” November 2014	Paras 3.3.6 – 3.3.9
Kirklees Draft Local Plan	Paras 3.4.1	Paras 3.4.2  Section 2, paras 2.1 – 2.6	Paras 3.4.3  Local Plan Examination Library Section 3, PC5 Shaping our Local Plan Consultation Summary Booklet November 2015	Paras 3.4.4 – 3.6 and Appendix 2 Representations and council responses on the draft Local Plan.

**Table 2 - SD13 – Kirklees Council Statement of Publication Consultation and Summary of Main issues (Regulation 22) – April 2017**

Stage of Pre-submission consultation	Doc ref to purpose of consultation and date	Doc refer to who was consulted	Doc ref to how we consulted	Doc ref to Feedback on consultation
Kirklees Publication Draft Local Plan	Page 4, Paras 2.1 – 2.4	Page 4 – 5, Paras 2.5 – 2.9  Page 49 – 56 Appendix 1	Page 5, Paras 2.10  Page 57 Appendix 2  Page 58 – 61 Appendix 3  Page 62 Appendix 4	Page 6 – 48, Para 2.11, 3.1 – 3.32  Page 70 - 90 Appendix 6  Page 91 – 275 Appendix 7

- 1.17 Further to the summaries and responses outlined in the Kirklees Council Statement of Publication Consultation and Summary of Main issues (Regulation 22) – April 2017 (see above for references), the Inspector requested individual summaries and responses to each of the representations received. The following documents were produced to address this:

Local Plan Examination Library Section 9 Extra documents requested by the Inspector

- EX1 Council responses to comments received - Green belt strategy and policies 19.5 and Green belt changes
- EX3 Council responses to comment received - Duty to Co-operate
- EX4 Council responses to comment received - Strategy and policies document
- EX16 Council responses to comment received - Introduction and employment allocations
- EX17 Council responses to comment received - Housing introduction and Huddersfield Sub Area
- EX18 Council responses to comment received - Housing Dewsbury and Batley and Spennings
- EX19 Council responses to comment received - Housing Kirklees Rural 1
- EX20 Council responses to comment received - Housing Kirklees Rural 2
- EX21 Council responses to comment received - Gypsy and Travellers, Mixed use, retail and transport
- EX22 Council responses to comment received - Urban green space and infrastructure
- EX23 Council responses to comment received - Stortheres Hall and safeguarded land
- EX24 Council responses to comment received - Minerals and waste 1
- EX25 Council responses to comment received - Minerals and waste 2
- EX26 Council responses to comment received - Rejected site options report

All the above reports were made available on the on-line Local Plan Examination Library.

- 1.18 The council considers that the procedural requirements for publicity have been met in accordance with the Town and Country Planning (Local Planning) (England) Regulations 2012 (NE5). Part 1 General 2 sets out general and specific consultation bodies. These bodies where relevant to the Local Plan are referenced in the council's Statement of Community Involvement (SD16, page 6 para 2.9) and in the Kirklees Council Statement of pre-submission consultation (SD12, para 2.6) and the Kirklees Council Statement of Publication Consultation and Summary of Main issues (Regulation 22) (SD13, Appendix 1).

### **Regulation 18 - Early Engagement**

- 1.19 Following the withdrawal of the Kirklees Local Development Framework Core Strategy at a Kirklees Council meeting on 23<sup>rd</sup> October 2013, everyone on the council's Local Development Framework database was notified by letter/e-mail of the decision and invited to make comment on how and why the Core Strategy should be revised in order to inform the scope of a revised plan. Comments were invited until 20<sup>th</sup> December 2013.

- 1.20 Three early engagement exercises were undertaken to inform the plan prior to consultation on the Draft Local Plan in accordance with NPPF paragraph 155. Feedback reports on early engagement were published on the website (Kirklees Local Plan Early Engagement Questionnaire Analysis April 2014 (PC2) and Kirklees Local Plan Early Engagement Workshop Feedback Report July 2014 (PC3) and form part of the council's Statement of Pre-submission Consultation (SD12 Section 3.1 – 3.3, paragraph 1.16, Table 1 of this statement).

### **Regulation 18 – Draft Local Plan**

- 1.21 SD12 Section 3.4 sets out the consultation and publication processes undertaken on the Draft Local Plan which are considered to meet regulatory and Statement of Community Involvement requirements. This includes compliance with Regulation 35 – availability of documents (provision of documents at deposit locations, information on the council's website) outlined in the Town and Country Planning (Local Planning) (England) Regulations 2012. The council also contacted everyone on the Local Plan database and invited them to make comment on the Draft Local Plan in accordance with Regulation 18 a – b (Specific and General Consultees are outlined in SD12 2.6). The following publicity actions were taken: notification of the Draft Local Plan consultation by press adverts, press release; copies of summary leaflets available at deposit locations (all town halls and all Kirklees Library and Information centres, 26 locations in total); members packs to enable members to undertake community consultation; focus groups; two public drop in sessions in November 2015 ; article in the council publication 'Kirklees Together'; and information made available at area committees (SD12, paragraph 3.4.3)..

### **Regulation 19 – Publication**

- 1.22 Details of the council's publication consultation are outlined in its Statement of Publication Consultation and Summary of Main Issues (SD13) (1.16, Table 2 of this report for references). The council considers this to meet regulatory and Statement of Community Involvement requirements. A copy of the Statement of Representation Procedure is outlined at SD13, Appendix 4. This was made available on the council's website and at deposit locations together with copies of all submission documents (in accordance with Regulation 19a). Everyone on the council's database was notified of the details (SD13, Appendix 3) to comply with Regulation 19b.

### **Regulation 22 – Submission**

- 1.23 All submission documents outlined in Regulation 22 were provided to the Inspector, made available at deposit locations and placed on the council's website. A set of documents is available to view via the Programme officer. Submission documents were made available at two deposit locations (Huddersfield Service Centre and Dewsbury Service Centre) in accordance with the Statement of Community Involvement (SD16, page 7, para 2.13).
- 1.24 In accordance with Regulation 22 3b) everyone on the council's local plan database was informed of the submission of the plan, a list of the submission documents and the locations where submission documents were available to view (SD24 Notice of Submission). Deposit locations were Huddersfield Customer Service Centre and Dewsbury Customer Service Centre (SD24 Notice of Submission) (SD16, page 7, para 2.13 Statement of Community Involvement).

- e) **How will the proposed Area Action Plans (AAPs) for central Huddersfield and Dewsbury fit alongside the Local Plan and complement it? Are the role of the AAPs and the development plan for Kirklees clearly expressed in the Local Plan?**
- 1.25 The only additional documents currently listed for preparation in the council's current Local Development Scheme August 2016 (SD16) are the Local Plan and the Community Infrastructure Levy. It is however the council's intention to produce town centre based Area Action Plans for Huddersfield and Dewsbury as further development plan documents. Supplementary Planning Documents, particularly in relation to design, will also be considered. Such documents are not listed explicitly in the Local Development Scheme due to resource implications at present. Depending on progress of the Local Plan Examination, the council intends to update the Local Development Scheme later in 2017/early 2018.
- 1.26 The Area Action Plans would seek to establish a specific vision and specific sub-Local Plan objectives which would be consistent with those set out in the over-arching Local Plan. They would primarily build on the strategic policies set out in Chapter 9 of the Local Plan – Strategies and Policies document (SD1).
- 1.27 It would not be the intention to include strategic policies in the Area Action Plans as these are set out in the Local Plan itself. More specific and detailed development management policies would be included which would provide a spatial context for the different parts of central Huddersfield/Dewsbury and the land use issues which need to be addressed. It is likely that the Area Action Plans would be accompanied by Policies Maps setting out land allocations and areas for new opportunities/areas that are likely to be subject to significant change.
- 1.28 Given the geographic extent of the central Huddersfield and Dewsbury areas and the complexity of issues in the town centres it has not been possible to set out in sufficient detail the sub-policies and land use allocations which the area action plans will need in the Local Plan at this stage. These would include the need to bring forward land use initiatives to stimulate regeneration/inward investment and protect areas particularly sensitive to change (including the significant number of heritage assets) together with a specific evidence base to justify doing so. The final decision to prepare such documents is subject to ratification through a revised Local Development Scheme and Council approval to proceed on the preparation of area action plans. This does not seek to pre-empt the outcomes of a future engagement/consultation on the role of the area action plans. The council may seek to progress additional Area Action Plans at a later date, where justified in accordance with the National Planning Policy Framework (NE1) and National Planning Practice Guidance NE2).
- 1.29 Kirklees Publication Draft Local Plan – Strategy and Policies document (SD1, page 11, figure1) expresses the relationship between the Local Plan and other planning policy documents. The precise role of the Area Action Plans is not expressly set out in the Local Plan. However, the council considers to do so would pre-empt decisions about the potential role of the Area Action Plans and their scope which would normally be considered through the early engagement stage of their plan preparation. The Local Plan and the scope of future area actions plans should be flexible enough to deal with changing circumstances over the plan period. The role and scope of neighbourhood plans is also not set out expressly in the Local Plan.

1.30 Specific references to Area Actions Plans are set out in the Local Plan – Strategy and Policies document (SD1, paragraph 1.18, figure 1, page 11, Policy PLP7 - Efficient and Effective Use of Land and Buildings, and Chapter 20 – Monitoring and implementation – page 202).

**f) Is the Plan preparation in line with the Council’s latest Local Development Scheme?**

1.31 The Local Plan is identified in the current Local Development Scheme – August 2016 (SD15, Section 4). Work commenced on the Local Plan under the Local Development Scheme 2014 (BP3). It proposed the preparation of the Local Plan during early 2014 to late 2017. The revised Local Development Scheme was approved by the council on 23<sup>rd</sup> August 2016 (SD15). It proposes the preparation of the Local Plan during early 2014 to early 2018. Plan preparation has therefore been in accordance with the council’s latest Local Development Scheme.

1.32 The Local Development Scheme is reviewed and updated regularly to maintain a flexible and realistic timetable for document production, ensuring that production programmes are aligned with resources. Progress on delivery of plans is tracked through the Annual Monitoring Reports which are available to view on the council’s website.

**g) Does the Plan take sufficient account of long term requirements bearing in mind the guidance in the National Planning Policy Framework (NPPF) that it should preferably cover a 15 year time period?**

1.33 The Local Plan covers the period between 2013 and 2031 representing an 18 year plan period. Early engagement on the Local Plan, including the presentation of baseline information regarding the potential range of objectively assessed needs for jobs and homes was based on the 2013/14 monitoring period together with demographic projections and economic growth predictions available at that time.

1.34 The Local Plan was submitted for its Examination in Public in March 2017, at which point the Local Plan still had 14 years remaining. Paragraph 157 of the National Planning Policy Framework confirms that Local Plans should be “*drawn up over an appropriate time scale*” and only “*preferably*” for 15 years.

1.35 When submitted the plan takes full account of the delivery of homes and jobs up to 2014/15 (the latest available monitoring information for Kirklees at that time, given that monitoring for the completion of employment and housing development is carried out annually.) The council notes the Inspector has already requested the latest housing and employment land monitoring information available. Figures for 2015/16 have been supplied as part of the council’s response to the Inspector’s request (EX6 – Inspector’s note 2 to council) in the Housing Supply Topic Paper (EX30). As requested by the Inspector the council will also submit data for 2016/17 is made available by October 2017 in time for the stage 1 hearings (EX28 – Inspector’s Note 3, paragraph 6 to council).

1.36 The Local Plan also contains a clear monitoring and implementation framework which sets out the circumstances which might trigger a need for a policy review and how the requirements for housing and economic development are being met or not (SD1, paragraph 20.2 and SD1, appendix 2).

- 1.37 The submitted Local Plan evidence base is fully aligned to a Local Plan period of 2013-2031, including the evidence for jobs, homes, retail, town centres, gypsy and traveller accommodation needs, infrastructure impact modelling, air quality impacts, and waste. Any extension to this timeframe would potentially require much of the evidence base to be reviewed and it is considered that this would inevitably extend the examination process and significantly delay the adoption of the Plan.
- 1.38 The council also considers that although sufficient land allocations have been identified to meet objectively assessed needs, the Local Plan is likely to be reviewed and/or updated, where needed every five years, as suggested in the National Planning Practice Guidance (NE2) and more recently in the government's Housing White Paper (NE6). The Local Plan also includes an element of flexibility in terms of housing and employment land provision, and identifies Safeguarded Land for possible future development to ensure the permanence of the green belt boundary beyond the plan period.