

Kirklees Local Plan Examination

Stage 1 – Initial Hearings

MATTERS, ISSUES AND QUESTIONS (MIQs)

10 July 2017

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The Stage 1 Initial Hearing sessions are due to commence on Tuesday 10th October 2017, and will focus on legal/procedural and strategic matters in the Publication Draft Local Plan. The matters, issues and questions (MIQs) in this document will form the core of the discussion at the Stage 1 sessions.

The examination of the Local Plan will take place in a number of stages. If, following the Stage 1 sessions, I conclude that the Plan is legally compliant and capable of being found sound on these matters, the examination will move on to Stage 2. Details of stages can be found in the *Hearings Programme*.

The Stage 1 MIQs should also be read alongside the *Examination Guidance Note* which contains information on the hearings process and the format of hearing statements. When preparing hearing statements, representors may also wish to have regard to the Council's responses to the Inspector's Initial Note and Preliminary Notes, the Council's Housing Supply Topic Paper (July 2017) and other documents on the Council's examination website at <http://www.kirklees.gov.uk/localplan>.

Hearing statements for Stage 1 must be received by **Thursday 7th September 2017 (by 5pm)**.

Matter 1 – Legal and procedural matters

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 cooperate?¹ Are there any outstanding strategic matters?
- b) Has the Plan's formulation been based on a sound process of sustainability appraisal?²

¹ Section 20(5)(c) and Section 33A of the Planning and Compulsory Purchase Act 2004.

² As set out in the Council's Sustainability Appraisal Report (October 2016) (SD5), SA Erratum Notice (November 2016) (SD6), SA Addendum (April 2017) (SD7) and SA Non-Technical Summary (October 2016) (SD9).

- 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?
- d) Has consultation on the Plan been undertaken in accordance with the Statement of Community Involvement (SD16) and statutory requirements?
- 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?
- f) Is Plan preparation in line with the Council's latest Local Development Scheme?
- 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?

Matter 2 – Spatial development strategy

Issue – Does the overall growth and spatial strategy for the Plan present a positive framework which is consistent with national policy and will contribute to the achievement of sustainable development?

Policies PLP 2, 3

Questions

- a) Are the boundaries of the sub-areas, as established in the Place Shaping chapter, appropriately defined?
- b) Does the Plan's Vision and Place Shaping Chapter provide a clear framework for the future growth and development of different sub-areas of the borough?
- c) The Plan seeks to fully meet the objectively assessed employment and housing needs for the district, and proposes an urban focus with some releases of land from the Green Belt. What alternative strategies were appraised, and why were they discounted?
- d) Paragraph 2 of the spatial development strategy (page 36 in the Plan) seeks to focus 'most growth' in the main urban areas of Huddersfield and Dewsbury. Is this strategy and distribution clearly defined, justified and sustainable? To what extent will it be achieved?
- e) What is the Council's spatial development strategy for other parts of Kirklees? Is the strategy and distribution of growth clearly defined in the Plan and justified? How have place-making principles (an area's character, constraints and opportunities) been balanced against settlement sustainability?

- f) Is the proposed allocation of land at Storthes Hall justified and consistent with the Council's spatial development strategy?
- g) Does the spatial development strategy in the Plan provide a clear framework in respect of retail and office development?
- h) Should the Council's spatial development strategy, as set out on pages 36 and 37 of the Plan, be expressed as a policy?
- i) Does Policy PLP 3 provide a clear framework on locational requirements, in line with paragraph 154 in the NPPF? Does the policy give sufficient recognition to the protection of the Green Belt and the countryside? How will the development of brownfield sites be realised early in the Plan, as set out in criterion 2c?
- j) What effect will the Plan's growth and spatial development strategy have on air quality and carbon emissions?

Matter 3 – Overall housing need

Issue - Is the identified objectively assessed need of 31,140 dwellings soundly based and supported by robust and credible evidence?

- a) Does the identified Kirklees Housing Market Area provide a robust and appropriate basis for assessing housing needs?
- b) Do the demographic based projections in the Council's Strategic Market Housing Assessment (SHMA) (2016) (SD18) provide a suitable starting point for establishing objectively assessed housing need (OAHN)?
- c) Is the applied jobs growth uplift rate (based on projected growth of 23,000 jobs over the Plan period) soundly based and justified? In particular:
 - Are the economic assumptions underpinning this forecast, namely a 75% employment rate and 4.5% unemployment rate, achievable by 2031?
 - Why was the jobs growth SENS1 scenario used instead of the CORE scenario? How does this fit with the aim in the Plan and the Council's Economic Strategy (LE6) of achieving a 75% employment rate over the Plan period?

[There is some overlap between Matter 3 and Matter 6 on economic matters. This question is included in this section in order to allow discussion on the link between housing and jobs]

- d) Are the headship rates applied in the SHMA justified and based on robust evidence?
- e) Does the assessment of OAHN in the SHMA take sufficient account of i) market signals, and ii) backlog in delivery, in line with advice in the Planning Practice Guidance (PPG)?

- f) Should the assessment of OAHN take account of Unattributable Population Change?
- g) Is there a need for any adjustments to OAHN in light of Brexit?

Matter 4 – Housing land supply and delivery

Issue – Is the identified overall housing requirement in the Plan (31,140 dwellings) justified, deliverable and consistent with national policy?

Questions

- a) What are the Council's reasons for seeking to deliver full OAHN in Kirklees? Is the approach justified, and in line with paragraph 14 in the NPPF? Has the Council considered whether an uplift should be made in market housing to provide additional affordable housing?
- b) Should the overall housing requirement of 31,140 dwellings in the Plan be expressed as a minimum rather than an approximate figure? Should the requirement be included in a policy?
- c) Housing completions and commitments data in Table 5 of the Plan has been updated in the Housing Supply Topic Paper (July 2017) for 2015/16. What is the effect on the windfall allowance and demolition allowance in the Council's supply calculations? What are the implications for overall housing delivery and the Council's five year housing land supply? Will a five year supply be provided on adoption and maintained over the Plan period? Does the Plan allow sufficient flexibility to respond to changing circumstances?
- d) Can the Council confirm the contribution the different sources of housing supply are likely to make each year over the Plan period? (e.g. the figures which have informed the housing trajectory graph in the Plan)? Should this information be included in the Plan alongside the graph?
- e) Is the Council's approach to calculating five year land supply robust and in line with national policy and guidance? Should the Plan include reference to the Council's assumptions and parameters and the five year supply position?
- f) What are the main risks and potential barriers to the delivery of the housing requirement in Kirklees over the Plan period?
- g) Is the application of a 10% lapse rate to outstanding planning permissions justified and supported by the evidence? Should a lapse rate also be applied to allocations?
- h) Is the windfall rate of 450 dwellings per annum justified and supported by local evidence?
- To what degree is this figure based on large windfall sites (0.4 hectares or more), and what are the reasons for the inclusion of this element? Is the information on large potential housing sites in the SHLAA and other evidence sources sufficiently comprehensive? Does the Plan allocate all known large potential housing sites within existing built-up areas?

- Does the use of a large windfall rate create issues of double counting with outstanding permissions on large sites and allocations within urban areas in the period 2020-2031?
 - Is the application of the windfall rate from 2020/21 justified and reasonable?
 - To what degree have historical windfall rates been influenced by the availability of housing allocations and other site-specific opportunities in the area?
- i) How many empty homes have been brought back into use in the borough in recent years? Does the Council have a projected figure or target for future supply from this source?
- j) Are the estimated delivery and phasing rates from site allocations in Appendix 3 of the Plan robustly based and justified³? In particular:
- Are the standard lead-in times and build out rates (as set out in Tables 9 and 10 in the Council's Housing Technical Paper) justified by local evidence? *[in responding the Council is requested to pick up on points raised by representors to the Publication Draft Local Plan, including the research undertaken by Nathaniel Lichfield (submission on behalf of KeyLand Developments Ltd)]*
 - Have the standard lead-in times been applied to all sizes of schemes?
 - Is the standard net density of 35 dwellings per hectare (dph) justified by local evidence? Why has this approach been adopted?
- k) Does the Plan provide sufficient clarity regarding the total number of dwellings which are proposed for allocation? Should the figure be included in a policy?
- l) Has sufficient flexibility been provided in the housing trajectory? Should an additional buffer be applied to ensure that the overall housing requirement is met and exceeded?

Matter 5 – Other housing requirements

Issue – Have affordable housing needs, traveller accommodation needs and the housing needs of other groups been satisfactorily assessed and addressed in the Plan, in line with national policy?

Policies PLP 11, 12

Questions

Affordable housing

- a) Has the need for affordable housing been adequately assessed in the SHMA?
- b) What is the total net need for affordable housing over the Plan period? Should the Plan contain specific reference to this figure?
- c) What is the expected rate of affordable housing delivery over the Plan period? Will there be a shortfall against need? Should an affordable housing trajectory be included in the Plan?

³ Having regard to updated phasing estimates in the Council's Housing Supply Topic Paper (July 2017).

- d) Is the proposed rate of 20% affordable housing (on sites of more than 10 units) supported by the Council's viability evidence, in terms of both market housing schemes and developments with self-contained units designed for retirement living and people with specific accommodation needs?
- e) What affordable housing percentage rate has been achieved in recent years in schemes across the borough?
- f) Does the Plan provide a clear definition of affordable housing which accords with national policy and reflects the Government's proposals in relation to Starter Homes? Is the Council's proposed modification SPMM28 necessary to ensure the Plan is sound?
- g) Is the approach to rural exception housing in Policy PLP 11 clearly expressed in terms of the scale, type and location of affordable housing sought, and consistent with national policy?
- Is the application of the policy to 'small free-standing settlements' justified? Are the Council's proposed modifications SPMM15 and SPMM17 necessary to ensure that the policy is sound?
 - Would provision be limited in scale?
 - Is the policy sufficiently flexible regarding the type of affordable housing on rural exception schemes?
 - Does the policy take account of Government proposals in relation to Starter Homes?

Travellers

- h) Is the assessment methodology in the Council's Gypsy and Traveller and Travelling Showperson Accommodation Assessment (2015) (GTAA) (LE16) justified, effective, robustly based and in line with national policy? Specifically:
- Is there evidence of overcrowding on existing travellers sites, and how has this been taken into account? (for example, households with insufficient or cramped living accommodation, or 'doubling-up' on a pitch with more than the permitted number of caravans being present)
 - Is the assumption that 5.6% of current gypsy and traveller households living in bricks and mortar may plan to move to a traveller site in the next five years justified and based on robust evidence?
 - Are the assumptions relating to the number of gypsy and traveller households likely to emerge from bricks and mortar accommodation in the next five years justified and robustly based? What annual rate of household formation does this represent?
 - Is the use of household survey data to estimate the number of households arising from current traveller sites in the next five years and over the longer term (to 2033/34) justified and robust? Why was this approach used in preference to average household formation rates? Has account been taken of future household formation from families moving out of bricks and mortar accommodation (including those occupying the allocated pitches)?
 - Has account been taken of potential migration rates?
- i) Are there any implications from the Government's updated definition of gypsies and travellers, as set out in Planning Policy for Travellers Sites (2015)?
- j) What is the total identified need for gypsy and traveller and travelling showpeople sites over the Plan period between 2013 and 2031? Should the need figure be

included in the Plan? What is the breakdown of need within this period? What types of sites are required, e.g. public or private?

- k) Is the identified need for additional traveller sites deliverable over the Plan period?
- Will a five year supply of land for gypsies and travellers and travelling showpeople be provided on adoption of the Plan?
 - Is there evidence that some supply will come forward on windfall sites, taking into account the extent of the Green Belt and other constraints in the borough?
 - Does the Plan provide sufficient flexibility to deliver the identified need for pitches and plots?
- l) How were potential traveller allocation sites identified and assessed? Did the search focus on particular areas or apply across the borough? Were sites in the Green Belt considered for allocation and for safeguarding?
- m) Did cross-boundary/sub-regional work with other authorities help to inform the borough's identified need for transit pitches?

Housing mix

- n) Is the requirement in Policy PLP 11 to seek a broad mix of housing from all proposals justified and deliverable?
- o) What conclusions does the SHMA reach in terms of the mix of housing size, type and tenure needed in the borough? Should the evidence in the SHMA be used to determine mix in residential schemes, or is there a need to have regard to other sources of information?
- p) Is the second paragraph of Policy PLP 11 seeking to impose optional Building Regulations⁴ or additional technical requirements relating to accessibility? If so, what proportion of new dwellings should comply with the standards? Is the approach supported by viability work and local evidence on the need for accessible and adaptable dwellings and wheelchair user dwellings?
- q) Does the Plan make appropriate provision for the housing needs of older people and other groups in the community?

⁴ As set out in the Written Ministerial Statement dated 25th March 2015.

Matter 6 – Employment needs and delivery

Issue - Does the Plan set out a positively prepared strategy for the delivery of employment development and jobs, which is justified, effective and consistent with national policy?

Policy PLP 8

[see Matter 3 for questions relating to employment forecasts]

Questions

- a) Are the employment density assumptions used to translate the objectively assessed need for jobs (23,000) into land requirements justified and robustly based? Has the land requirement been disaggregated by employment use class as well as sector?
- b) What is the total amount of employment land predicted to come forward over the Plan period, arising from Table 3 in the Plan⁵? Should the total supply estimate be included in Table 3 of the Plan and/or a policy?
- c) Is the predicted supply of employment land over the Plan period (arising from Table 3 in the Plan⁶) justified, deliverable and supported by robust evidence? In particular:
 - i. What account is taken of employment land losses since 1st April 2013?
 - ii. What is the justification for the 10% flexibility allowance? How does it compare to past non-implementation rates?
 - iii. Does the potential intensification supply of 48 hectares from Priority Employment Areas (PEAs) include contingency for potential non-delivery, or intensification involving change of use to other employment generating uses such as retail or leisure (as permitted under Policy PLP 8)?
 - iv. What account is taken of future potential losses of employment land on non-PEA sites and PEA sites (in line with Policy PLP 8)?
 - v. What is the reason for the uplift in employment allocations from 91 to 167 hectares? (as established in the Council's Response to the Inspector's Initial Note, dated 16th June 2017). Is this rate deliverable?
 - vi. Why are an uplift rate and a flexibility allowance included?
 - vii. How many of the proposed employment allocations have been carried forward from the Council's Unitary Development Plan (2004) and/or already have planning permission for employment use?
 - viii. Do the mixed use allocation policies for sites MX1903, MX1906, MX1907 and MX3349 in Part 2 of the Plan provide sufficient clarity regarding the amount of employment use anticipated? Are further details required to ensure employment land delivery?
 - ix. How does the average annual employment land supply rate (supply rather than the requirement for 175 hectares) over the Plan period compare to past take-up rates?

⁵ Taking account of updated completions and commitments figures for 2015/16, as set out in the Council's Response to the Inspector's Preliminary Note 2.

⁶ As above.

[as part of this response the Council is requested to update Tables 3, 4 and 5 in the Employment Technical Paper to take account of completions and commitments data for 2015/16. The Council should also produce a short one page table setting out how employment development over the Plan period will be spatially distributed by sub-area, with a breakdown by type of source (e.g. columns relating to the amount of land likely to come forward from completions, outstanding permissions, allocations and losses from PEA sites). This would include some of the data from the various tables in EX12.]

- d) Does the location and type of employment land allocated in the Plan accord with the housing and spatial development strategy in the Plan and the Council's Economic Strategy (LE6)? Does it reflect the identified land requirements and needs of different businesses/sectors, as established in the Council's Employment Technical Paper (SD22)? Will it support Huddersfield's role as the main office location in the borough?
- e) What is the definition of 'prime employment sites', and to what degree do the proposed employment allocations fall under this category?
- f) How does the economic strategy and proposed employment allocations in the Plan fit with other neighbouring local authorities' approach to economic development? Are there significant unimplemented employment permissions or proposed employment allocations in proximity to Kirklees?
- g) Does the Plan provide sufficient clarity regarding which employment uses (in B Use Class) are permitted on the allocation sites? Are other employment generating uses such as retail and leisure uses permitted on the allocations?
- h) If allocation sites come forward for office use outside designated centres, does the Council intend to apply sequential and impact tests in these cases?
- i) Is the Council's PEA study⁷ based on a comprehensive and robust assessment of site suitability for employment across Kirklees, which takes into account the needs of different sectors and the intentions of landowners/businesses? How much land was identified in the process as being unsuitable for PEA designation? How many of these sites are proposed for allocation for other uses in the Local Plan?
- j) Is the phrase 'employment generating uses' clearly defined in Policy PLP 8? What effect will the loss of PEA sites in B use classes to other employment generating uses (such as retail and leisure), as permitted in section 1 of Policy PLP 8, have on the stock of employment land and the delivery of economic growth in Kirklees?
- k) Is the approach to protecting PEAs from loss to non-employment use, as set out in section 2 of Policy PLP 8, clearly defined, justified and consistent with national policy? What evidence will be required from applicants, in order to demonstrate that sites or premises are no longer capable of employment use?

⁷ As outlined in the Council's Methodology Paper: Priority Employment Areas (October 2016) (BP8).

- l) Does paragraph 7.18 in the Plan provide a clear and robust framework for dealing with proposals for change of use from employment on non-PEA sites? Would re-use be supported if a scheme does not incorporate plans for the re-location of existing businesses on the site? Will the approach enable sufficient employment land to be retained to meet local economic needs? Should the Council's approach be captured within a policy rather than supporting text?

Matter 7 - Retail needs and delivery

Issue - Does the Plan set out a positively prepared strategy for the delivery of retail development, which is justified, effective and consistent with national policy?

Policy PLP 13 (section A only), 17, 18

Questions

- a) Is the assessment of future retail floorspace needs in the Council's Retail Capacity Study Update (2016) (LE36) soundly based and justified? Should these figures be identified in the Plan?
- b) Is there capacity in defined centres, on edge of centre sites or within existing urban areas to accommodate this scale of retail growth over the Plan period? If not, how/where will retail growth be accommodated? Are there implications for Green Belt boundaries and locations?
- c) Do Policies PLP 17 and 18 provide sufficient clarity regarding the role of the forthcoming Area Action Plans and the delivery of retail growth in Huddersfield and Dewsbury town centres?
- d) What quantum of retail development is anticipated on the mixed use allocation sites within Huddersfield town centre? (sites MX1906 and MX2101)?
- e) Is the list of defined centres and their role and function, as set out in Policy PLP 13 (section A), appropriately framed and justified? Is the hierarchy consistent with the role of Huddersfield and Dewsbury as outlined in Policies PLP 17 and 18?
- f) What additional Local Centres are anticipated to be delivered over the Plan period?

Matter 8 – Approach to site allocations and Green Belt release

Issue – Is the Plan’s approach to identifying site allocations (housing, employment and mixed use), safeguarded land and Green Belt releases soundly based and in line with national policy?

Policy PLP 6

[Note – this will cover the general approach to site selection and the Green Belt. Issues relating to individual site allocations will be considered at Stage 4. All matters relating to minerals and waste allocations will be covered at Stage 2]

- a) Has the Council undertaken a robust and comprehensive assessment of development capacity within existing urban areas and other areas outside the current Green Belt?
- b) Do exceptional circumstances exist which justify the release of Green Belt land to accommodate some 11,500 new dwellings and additional land for employment uses?
- c) What approximate proportion of land in Kirklees which would remain in the Green Belt following the implementation of proposals in the Local Plan?
- d) Is the Council’s approach to assessing potential sites in the Green Belt for development soundly based and in line with national guidance?
 - i. Is the approach in the Green Belt Review, based on the assessment of Green Belt edge sites, robust and justified?
 - ii. As part of the overall site allocations methodology, is there clear evidence to show that site options not captured or fully appraised in the Green Belt Review have subsequently been fully assessed against relevant Green Belt purposes?
 - iii. Is the ‘gateway’ approach in the Green Belt Review justified? (whereby failure to meet Test 1 meant Test 2 on Green Belt purposes was not engaged, and failure to meet Test 2a meant no further assessment against other Green Belt purposes)
 - iv. Are the other assessment tests in the Green Belt Review justified and soundly based? To what degree are the identified topographical, physical and environmental constraints absolute, and were site-specific solutions or partial development options taken into account? Is test 2d consistent with Green Belt purposes as defined in the NPPF and as they relate to Kirklees?
 - v. To what extent has the process of assessing Green Belt sites taken account of the extent of remaining gaps between different settlements and the maintenance of separate settlement identity, and emerging proposals in neighbouring authorities that would reduce these gaps?
 - vi. Is it clear how site development options were identified?
 - vii. How have sustainable development requirements and the need to promote sustainable patterns of development been taken into account in decisions on site options, in accordance with paragraphs 84 and 85 in the NPPF? Are there specific examples of sites which scored well in the technical appraisal and Green Belt Review but were rejected for reasons linked to the sustainability of a settlement?
 - viii. Have all sites which scored well in the site assessment process for housing been allocated for this purpose?

- e) Is the Council's approach to other proposed changes to the Green Belt boundaries, including those arising from the digitising exercise, small site assessment, consequential changes and proposed additions, justified and robustly based? Have exceptional circumstances been broadly demonstrated?
- f) The Plan identifies a number of safeguarded sites on land not currently within the Green Belt. Is this approach justified and in line with national policy and guidance?
- g) What evidence is there to demonstrate that safeguarded sites which have been assessed as unsuitable or undeliverable for housing development over the Plan period will be capable of delivery for this use in the longer term?