

Kirklees Local Plan Examination

Stage 3 – Policy hearings

MATTERS, ISSUES AND QUESTIONS (MIQs)

Council Response

Matter 20 – Design and climate change policies

- 1.1 This statement sets out the council's responses in relation to the Inspector's matters and issues. All the documents referred to in this statement are referenced within the main body of the statement.
- 1.2 The modifications proposed in this document have been provided to assist with the discussions at the hearings for this matter and have not been subject to sustainability appraisal testing or public consultation. Should it be necessary to make any of the modifications these will be added to the full schedule of modifications to the Local Plan which will be made available for comment and subject to sustainability appraisal at a later stage of the Examination in Public, subject to the delegated powers agreed by the council's Cabinet.

Issue - Does the Plan set out positively prepared policies for securing high quality design and dealing with climate change, which are justified, effective and consistent with national policy?

[Policies PLP 24, 25, 26, 27, 28, 29]

a) Does the Plan make sufficient provision for inclusive design and accessible environments in accordance with paragraphs 57, 58, 61 and 69 in the NPPF?

- 1.3 There are several policies in the plan that seek to ensure that development proposals support inclusive design and accessible environments in accordance with NPPF. This is primarily in PLP24 (Design) but a range of other policies make provision for inclusive design and accessible environments as set out below.
- 1.4 In terms of supporting local facilities and transport networks PLP24 seeks to promote walkable neighbourhoods. PLP3 requires development to be located where it has access to a range of transport choices. PLP5 states that masterplans for sites should include appropriate employment provision and community facilities and should include a network of permeable and interconnected streets and squares. The town centre policies encourage different uses within the town centres, including a specific policy on residential uses within town centres (PLP15). The sustainable travel policy, PLP20, is supportive of development proposals that are served by public transport, walking and cycling and are located close to local facilities and can incorporate opportunities for day to day activities on site for larger sites. Policy PLP47 criterion E relates to increasing opportunities for walking and cycling and encouraging more sustainable travel choices. Policy PLP63 promotes well-designed open space close to where people live.
- 1.5 Several policies in the Local Plan support NPPF (paragraph 58) in creating safe and accessible environments where crime and disorder, and the fear of crime, do not undermine quality of life or community cohesion. Criterion E of PLP24 seeks to minimise the risk of crime through a range of design measures. PLP17 and PLP18, town centre policies for Huddersfield and Dewsbury respectively, promote the town centres as safe, welcoming and inclusive destinations. PLP16 considers the location of

food and drink uses and the evening economy and requires proposals to consider the potential for anti-social behaviour arising from the location and number of such uses in an area. Criterion H of PLP47 seeks to provide high quality inclusive environments, promote active design and create safe, accessible and green environments.

- 1.6 Paragraph 61 of NPPF states that “inclusive design goes beyond aesthetic considerations” and that planning policies should “address the connections between people and places and integration of new development into the natural, built and historic environment.” It is considered that this is addressed in several Local Plan policies. PLP24, in criterion A, requires the form, scale, layout and details of development to respect and enhance the character of the townscape, heritage assets and landscape. Criteria G, H and I of PLP24 support the provision of open space, green infrastructure networks and tree-planting to help integrate development into the natural and built environment. PLP5 contains several requirements for masterplans including, in criterion B, reflecting the urban to rural transition with appropriate boundary treatment, criterion G requires a network a permeable and interconnected streets, criterion L requires masterplans to incorporate a green infrastructure strategy and criterion O requires demonstration of a good understanding and respect for natural environment and its heritage assets. PLP32 and PLP35 set out considerations for how development should respect the character of landscape and the historic environment respectively. PLP47 and PLP63 promote green spaces and green infrastructure.
- 1.7 In terms of development that facilitates social interaction and creates healthy, inclusive communities as outlined in NPPF paragraph 69, several Local Plan policies seek to deliver this. PLP5 has several criteria that support paragraph 69, particularly criterion E requiring a mix of housing to encourage community cohesion, Criterion G promoting connectivity and permeable streets and Criterion J requires masterplans to achieve appropriate employment provision and community facilities within a site. The town centre policies encourage different uses within the town centres, there is a specific policy relating to residential use (PLP15). PLP16 relates to food and drink / the evening economy and seeks to ensure that an over-concentration of takeaways and licensed premises does not harm the vitality and viability of the centre, and considers the potential for anti-social behaviour arising from such uses. PLP17 and PLP18 (Huddersfield and Dewsbury town centre policies) aim to ensure town centres are safe, welcoming and inclusive destinations. PLP24 promotes walkable neighbourhoods in Criterion D, seeks to minimise risk of crime through design in criterion E, meet a range of needs arising from different users in criterion F and provide accessible, safe, overlooked and strategically located open space in criterion G. PLP11 requires sites to have a broad mix of housing with different types, sizes and tenure to reflect local housing need as well as encouraging appropriate design elements to ensure buildings can be adapted to meet the changing accessibility needs of people during their life.

b) Are the sustainability requirements under criteria d iii and iv in Policy PLP 24 justified and deliverable?

- 1.8 The council considers that the sustainability requirements under criteria d (iii) and d (iv) in Policy PLP 24 are justified and deliverable. The criteria are considered in turn below:

Criterion d iii)

- 1.9 The intention of the policy is to promote innovative and sustainable developments in Kirklees. The reuse and recycling of materials is a factor that can help reduce the environmental impact of sourcing and transporting building materials. This part of the policy supports the delivery of Local Plan objectives 7, 8 and 10. Local Plan Policy

PLP43 (Waste Management Hierarchy) encourages the minimisation of waste production and seeks to promote the use of waste as a resource.

- 1.10 The policy supports paragraph 58 of National Planning Policy Framework: “Planning policies and decisions should aim to ensure that developments respond to local character and history, and reflect the identity of local surroundings and materials, while not preventing or discouraging appropriate innovation”. National Planning Practice Guidance (PPG) (Paragraph: 028 Reference ID: 26-028-20140306) states that *“Innovative construction materials and techniques can help to achieve well designed homes and other buildings. This could include offsite construction and manufacturing which can help to deliver energy efficient and durable buildings more quickly. Although materials and building techniques may not be specified before planning permission is granted, the functions they will be expected to perform should be clear early on.”*, PPG also states (Paragraph: 004 Reference ID: 26-004-20140306) *“Local planning authorities should give great weight to outstanding or innovative designs which help to raise the standard of design more generally in the area. This could include the use of innovative construction materials and techniques.”*
- 1.11 The policy approach is supported by the Sustainability Appraisal (SD5, Page 61-62) and the inclusion of this criterion scores positively against objectives 4, 9, 17 and 18.
- 1.12 On some greenfield sites, it may not be possible to reclaim any existing materials but on brownfield sites, the use of recycled and reclaimed building materials can help provide locally distinctive developments that support and enhance local character. Subsequent supplementary planning documents could provide further guidance on how such an approach can be delivered.

Criterion d iv)

- 1.13 This is based on the advice that is set out in both national policy and guidance. NPPF paragraph 96 states that local planning authorities should expect new development to *“take account of landform, layout, building orientation, massing and landscaping to minimise energy consumption.”* Relating to providing for the use of renewable energy, NPPF paragraph 97 says that local planning authorities should *“design their policies to maximise renewable and low carbon energy development while ensuring that adverse impacts are addressed satisfactorily, including cumulative landscape and visual impacts.”*
- 1.14 PPG (Paragraph: 013 Reference ID: 26-013-20140306) provides guidance and states that *“the layout and design of buildings and planting can reduce energy and water use and mitigate against flooding, pollution and overheating”* and provides further guidance on passive solar design and vegetation and tree-planting to assist with cooling.
- 1.15 The policy approach is supported by the Sustainability Appraisal (SD5, Page 61-62) and the inclusion of this criterion scores positively against objectives 9, 15, 18 and 19.
- 1.16 For small development proposals on constrained sites, it is acknowledged that it may not be practicable to fully utilise passive solar design, vegetation and tree planting or to provide for the use of renewable energy. The council would therefore consider a modification to provide clarification that the sustainability principles in criterion D apply in a degree that is proportionate to the proposal.

Proposed modifications:

| Page | Para/table/box | Tracked change | Reason for change |
|------|----------------|--|-------------------|
| 114 | PLP24 – D | Insert text: <i>“high levels of sustainability, <u>to a degree proportionate to the proposal, through:...</u>”</i> | Clarification |

c) Should Policy PLP 26 refer to cumulative landscape and visual impacts as referenced in paragraph 97 of the NPPF?

1.17 The first part of Policy PLP 26 states that:

Renewable and low carbon energy proposals will be supported and planning permission granted where the following criteria are met:

- a. the proposal would not have an unacceptable impact on landscape character and visual appearance of the local area, including the urban environment;*

1.18 The reference to impact on landscape character is intrinsically linked to the landscape evidence base for the policy. Proposals for wind turbines must consider the Kirklees wind turbine landscape sensitivity maps which identify the suitability of different sizes of turbine across the district.

1.19 The landscape evidence for the policy includes the Landscape Capacity Study for Wind Energy Developments, Julie Martin Associates and LUC, (January 2010, Updated October 2014) (LE57) which includes consideration of the cumulative impact and on-going monitoring of cumulative impact. The supporting paragraphs for Policy PLP 26; 12.11 & 12.12 outline this in more detail. Further detail about the landscape evidence supporting PFP26 can be found in the Renewable and Low Carbon Energy Technical Paper (BP14). Criterion a of the policy requires consideration of cumulative impacts as an inherent consideration of landscape character impact assessment.

1.20 For clarification the policy could be modified to include reference to cumulative impacts under criterion a.

Proposed modification:

| Page | Relevant part of the Plan | Tracked change | Reason for change |
|------|---------------------------|--|-------------------|
| 121 | PLP 26 a. | Add text: <i><u>the proposal would not have either individually or cumulatively an unacceptable impact on landscape character and visual appearance of the local area, including the urban environment;</u></i> | Clarification |

d) Is the approach to wind turbine development in Kirklees clearly expressed in Policy PLP 26 and in line with the Written Ministerial Statement dated 18th June 2015 which sets out considerations to be applied to wind energy proposals?

1.21 The Written Ministerial Statement June 18th states:

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.*

In applying these new considerations, suitable areas for wind energy development will need to have been allocated clearly in a local or neighbourhood plan. Maps showing the wind resource as favourable to wind turbines, or similar, will not be sufficient. Whether a proposal has the backing of the affected local community is a planning judgement for the local planning authority.

1.22 The Renewable and Low Carbon Technical Paper (BP14) paragraph 5.3 outlines the council's approach to addressing not only the ministerial statement, but also the requirements of the NPPF and Climate Change Act, as a balance of issues and legislation at varying levels. In response to the Ministerial Statement the technical paper justifies policy PLP26 thus:

In relation to wind turbines, the council's evidence in support of the policy includes detailed landscape assessment commissioned collaboratively to consider cross border and cumulative impacts from experts in their field applying national best practice. These assessments consider different landscape character types and their relative sensitivity to different scales of wind turbine development. The Wind Turbine Landscape Sensitivity Maps in the Local Plan identify 5 scales of sensitivity (Low, Low-Moderate, Moderate, Moderate-High, High) against 5 sizes of turbine (<=24m, 25-59m, 60-89m, 90-129m, >=130m). These maps allocate varying levels of suitability across the district in relation to underlying landscape character and turbine height. The on-going cumulative and cross border monitoring of operational and consented turbines provides a further layer of analysis to underpin the policy in relation to wind turbines. This evidence base provides justification of the policy and the context to apply the criteria based policy in relation to wind turbine developments.

1.23 The Wind Turbine Landscape Sensitivity Maps are included on pages 253 - 257 of the Strategy and Policies Document (PLP1).

1.24 In considering the requirement of the NPPF and Climate Change Act to plan sustainably and reduce carbon emissions and reduce climate change it is considered that the policy approach as set out in PLP26 is justified and consistent with National Policy in using relevant local evidence.

e) Is the sequential approach to flood risk, as set out in Policy PLP 27, justified and in line with national guidance in the National Planning Policy Guidance (PPG)?

- 1.25 The sequential approach in Policy PLP27 aims to avoid inappropriate development in areas at risk of flooding by directing development away from areas of highest risk in accordance with NPPF (NE1, paragraph 100). This approach is justified and consistent with national planning policy and guidance. The Calder Catchment Strategic Flood Risk Assessment (SFRA) (LE43) which was undertaken with Wakefield Council and Calderdale Council in co-ordination with the Environment Agency informs the application of the sequential test.
- 1.26 Policy PLP 27 applies to all development proposals. At the adoption of the Local Plan, the sequential test part of the Policy PLP 27 will be passed for accepted Local Plan allocations as these sites have been subject to a flood risk sequential test during the preparation of the Local Plan (BP24, Flood Risk Technical Paper). Proposals in accordance with the allocated land use would therefore not be subject to a further sequential test during the plan period. This is in accordance with NPPG (ID: 7-033-20140306) which states that the sequential test does not need to be applied for individual developments on sites which have been allocated in development plans. NPPG also states that the sequential test should not be applied to minor developments or change of use (except change of use to a caravan, camping or chalet site, or to a mobile home or park home site). In relation to these issues the council would be willing to consider a modification to PLP27 to clarify that the sequential test part of PLP27 would be applied in accordance with the exemptions in national planning guidance.
- 1.27 In relation to the sequential test parameters, NPPF states that the area of search will be defined by local circumstances relating to the catchment area of the proposal. Policy PLP27 uses the Kirklees district boundary as a starting point for applying the Sequential Test on the basis that Kirklees can be considered a self-contained housing market area for planning purposes (Kirklees SHMA, SD18, paragraph 3.42). The policy does allow for a smaller search area to be used as long as evidence is provided which provides sufficient flexibility whilst also seeking to avoid inappropriate development in areas at risk of flooding in line with NPPF (paragraph 100). This is consistent with NPPG (7-034-20140306) which states that the developer should provide evidence to the local planning authority justifying the search area used when making the planning application.
- 1.28 The council have noted an error in PLP27 where the text in criteria c should actually be split into 2 sub-criteria under criterion b. The council consider that a modification to correct this formatting error would be appropriate. This modification does not add any additional requirement to Policy PLP27.

Proposed modification:

| Page | Relevant part of the Plan | Tracked change | Reason for change |
|------|---------------------------|---|-------------------|
| 124 | PLP 27 | Add text: Proposals for development <u>which require a Sequential Test in accordance with national planning guidance</u> will need to demonstrate that development has been directed to areas at the lowest probability of flooding, following a sequential risk based approach..... | Clarification |

| | | | |
|-----|-----------------|--|------------------|
| 125 | Paragraph 12.20 | <p>Add text:</p> <p><i>12.20 As a consequence of climate change, it is predicted that the risk of flooding will increase. As such, the council will apply a sequential approach to the location of development <u>in accordance with national planning guidance</u> to avoid, where possible, flood risk to people and property. <u>Local Plan allocations were subject to a flood risk sequential test during the plan preparation process so proposals in accordance with the allocated land use would not require a further sequential test during the plan period.</u> The Kirklees district should be the starting point for the sequential test search area although smaller areas of search may be justified in certain circumstances. It is the responsibility of the applicant to provide evidence where a smaller area of search is proposed.....</i></p> | Clarification |
| 124 | Policy PLP 27 | <p>Correction of a formatting error in PLP 27 where criteria c should instead have been shown as parts i and ii under criteria b. The correction is as follows:</p> <p><i>a. no new highly vulnerable or more vulnerable uses will be permitted;</i></p> <p><i>b. less vulnerable uses may only be permitted provided that the sequential test has been passed and;</i></p> <p><i>c. <u>i.</u> where extensions are linked operationally to an existing business or,</i></p> <p><i><u>ii.</u> where redevelopment of a site provides buildings with the same or a smaller footprint;</i></p> <p><i><u>c d.</u> all proposals will be expected to include flood mitigation measures such as compensatory storage which should be identified and considered through a site specific Flood Risk Assessment;</i></p> <p><i><u>d e.</u> development will not be permitted on any part of the site identified through a site specific Flood Risk Assessment as performing a functional floodplain role.</i></p> | Error correction |

f) Is the target of 30% reduction in surface water run-off, as set out in criterion c in Policy PLP 28, justified and deliverable?

- 1.29 The 30% reduction in run-off rates with Policy PLP 28 only applies to brownfield sites. For greenfield sites, the policy seeks to maintain greenfield run-off rates. This is based on guidance set out in the Sustainable Drainage Systems guidance¹ (paragraph S2) states that *“for greenfield developments, the peak runoff rate from development to any highway drain, sewer or surface water body for the 1 in 1 year rainfall event and the 1 in 100 year rainfall event should never exceed the peak greenfield run-off rate for the same event”*.
- 1.30 For brownfield sites, the Sustainable Drainage Systems guidance (paragraph S3) also states that *“for developments which were previously developed, the peak run-off rate from the development to any drain, sewer or surface water body for the 1 in 1 year rainfall event and the 1 in 100 year rainfall event must be as close as reasonably practicable to the greenfield run-off rate from the development for the same rainfall event, but should never exceed the rate of discharge from the development prior to redevelopment for that event”*. There is no prescriptive guidance on the appropriate run-off rates to be applied to brownfield sites. The West Yorkshire Land Drainage Officers Group devised the standard of 30% reduction in existing peak discharge from brownfield sites as a reasonably practicable approach. This approach was agreed between the drainage engineers in the group, Yorkshire Water and the Environment Agency. Such a standard is applied across West Yorkshire which provides a degree of certainty for developments about the approach taken across the area.
- 1.31 The Calder Valley Strategic Flood Risk Assessment (SFRA) (LE43, 2016) was undertaken on behalf of Kirklees, Calderdale and Wakefield Councils and included the input from the Environment Agency. The SFRA User Guide (LE43, 2016) states that development should aim for a reduction in surface water run-off rates of at least 30% for brownfield sites up to a 1 in 100 year storm event, considering climate change (paragraph 3.6.6.1). The experience in Kirklees over the past 10 years is that the 30% reduction is reasonable and achievable which has been demonstrated by the vast majority of new brownfield development drainage schemes which are designed and delivered with a minimum reduction in existing run-off. The principle of the 30% run-off on previously developed sites is applied by all risk management authorities in the region such as the Lead Local Flood Authorities, Environment Agency and Yorkshire Water. The policy justification text also sets out that lower discharge rates may be required due to local circumstances. As set out above, the council believe the 30% reduction in surface water run-off on brownfield sites to be justified and deliverable.

¹ Sustainable Drainage Systems (Non-statutory technical standards for sustainable drainage systems) (March 2015) (https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/415773/sustainable-drainage-technical-standards.pdf)