

Bassetlaw District Council Response to Inspectors Matters, Issues and Questions

Matter 12 – Greening Bassetlaw

4 November 2022

(Issue 12)

Please note: Where the Council is proposing changes to policies or reasoned justification in the submitted plan these are detailed in the responses as follows:

- Additional and new text proposed underlined
- ~~Deleted text~~ proposed strike through

(Policies ST50 – ST53)

Issue 12 – Does the Plan set out a positively prepared strategy and policies relating to the historic and natural environment which are justified, effective and consistent with national policy?

- 12.1 a) Is Policy ST50 justified and consistent with national policy? Are the requirements of the Policy clear, and would they be effective? Are they supported by appropriate evidence of need and viability?

BDC Response:

The Council considers that the requirements of Policy ST50 reflect guidance in paragraphs 152 – 158 of the NPPF. The Policy supports appropriate measures to ensure the future resilience of communities and infrastructure to climate change impacts. It is the Council's view that the policy (in combination with other relevant Local Plan policies) avoids increased vulnerability to the range of impacts arising from climate change and will help to reduce greenhouse gas emissions. The policy also helps to increase the use and supply of renewable and low carbon energy and heat. It is the Council's view that Policy ST50 is justified and consistent with national policy.

In response to representations made on the Bassetlaw Local Plan Publication Version [PUB-001], modifications have been proposed to Policy ST50 to ensure that the policy is still justified and compliant with national policy and the government's aim for greater energy efficiency.

The requirements of the policy are considered to be clear as Part 1 applies to all development proposals (including the change of use of existing buildings and spaces) and Part 2 applies to new development proposals. It is noted that the modifications proposed to Policy ST50 will provide greater clarity to decision-makers, and better linkages to the Bassetlaw Design Quality SPD and the Bassetlaw Design Code. The modifications proposed ensure that the policy also details design layouts, building orientation and ventilation, and refers to 'urban greening methods' which will ensure that the policy requirements are clear to developers. The policy is considered to be effective as it would apply to all types of development proposals thus helping to shape places in ways that contribute to reductions in greenhouse gas emissions, minimise vulnerability and improve resilience; encourage the reuse of existing resources, including the conversion of existing buildings; and support renewable and low carbon energy and associated infrastructure as clearly required by national policy.

The need for this policy is set out in a number of documents including the Climate Change Act (2008), BDC's Council's Plan (2019), the Whole Plan Viability Assessment [PUB-028], and the Severn Trent Water Resource Management Plan (2019).

In terms of evidence for viability, the Whole Plan Viability Assessment 2022 [PUB-028] indicates that securing local building or renewable energy requirements is financially

challenging for new development in the district. The assessment takes account of the interim change to Part L of the Building Regulations in its construction cost allowances. Part L introduces a series of measures to tackle climate change and carbon emission reduction. Appendix 2 of PUB-028 (the Gleeds cost report) states the following in respect of this issue:

“Part L 2021 proposes an interim reduction in carbon emissions for dwellings, paving the way for greater reductions and the Future Homes Standard. The initial changes to Part L target a 31% reduction in carbon emissions and how this is achieved will vary depending on the house type and the specific development. As the methods used in achieving the reduction will vary, so will the cost of meeting the new standards, the general consensus in the industry is that the costs will range from £3,000 to £5,000 per residential property, this will also differ depending on the type of Client. We are suggesting that a percentage uplift of 3% be applied to dwelling costs to capture the changes to Part L. As an example, for a typical house of say 100m² (100m² @ £1,194/m² = £119,400) the uplift would be £3,582. For a typical low rise apartment of say 60m² (60m² @ £1,752 = £105,120) the uplift would be £3,154. Utilising a percentage rather than an actual figure will naturally account for the differences in costs of say a volume housebuilder achieving the standards compared to a typical developer utilising a traditional main contracting procurement route.”

As such it is considered that policy ST50 is supported by appropriate evidence of viability.

b) Do the requirements of the Policy reflect guidance in paragraphs 153 and 154 of the National Planning Policy Framework, and are they in line with the Housing: Optional Technical Standards? What is the justification for setting the water efficiency requirement at 110ltrs per day? How is this supported by evidence?

BDC Response:

The Council considers that the requirements of Policy ST50 reflect guidance in paragraphs 153 and 154 of the NPPF in that the policy takes a proactive approach to mitigating and adapting to climate change. ST50 is linked to the requirements of Policy ST35 (Design Quality) and ST52 (Flood Risk and Drainage).

The Policy clearly sets out measures to address issues of climate change mitigation including incorporation of passive and energy efficient materials and technologies and incorporating BREEAM building standards; which is one of the government’s national technology standards. The policy also promotes retrofitting of existing buildings (NPPF, paragraph 152), requires major developments to contribute towards tree planting (NPPF, paragraph 174) and use of space for habitats and species to move through the landscape (as per NPPF, paragraph 175).

As recognised within paragraph 10.1.8 of the Local Plan [SUB-010], the minimum energy efficiency requirements of a building is covered by Part L and Part F of the Building Regulations. A number of other nationally recognised accreditation schemes such as BREEAM, Passivhaus and the new Home Quality Mark are useful in assessing sites, and can help to deliver higher standards. Housing developments that incorporate these standards will be supported as per the policy. Policy ST50 requires the use of BREEAM very good-excellent standard or any equivalent scheme for relevant non-residential development.

As per the information provided in the Council's response to the Initial Inspector's Questions [BDC-01] (paragraphs 11.1 – 11.5), it is considered that the water efficiency requirement of 110ltrs per day has been justified. Anglian Water has identified a risk to long term supply and demand in the strategic grid from 2020, promoting demand management and water efficiency through their Water Resources Management Plan 2019 [EX-023]. Severn Trent Water has identified that 'measures such as local flow support, river restoration measures to improve environmental resilience, catchment and partnership solutions or localised demand management will help us mitigate against the risk of deterioration' [EX-011]. As such both authorities advise that this is evidence that the optional higher water efficiency rate should be applied to new development.

c) What are the reasons for the Council's proposed modifications to the Policy? Are they necessary for soundness? If so, are they clearly articulated and supported by clear evidence?

BDC Response:

The justification for the proposed modifications to Policy ST50 were in response to representations received from the Home Builders Federation, IDP Planning (on behalf of Lidl (GB) Limited), Nottinghamshire County Council and Welbeck Estates following consultation of the Publication Version of the Local Plan 2021 [PUB-001]. Representations received considered that the policy was ambiguous, required more flexibility and some policy wording required clarification. As such, the modifications propose re-structuring the policy for clarification purposes and to strengthen consistency with national planning policy. As the criteria were present in the Publication Plan [PUB-001] the approach taken by Policy ST50 is considered to be evidenced by the local plan evidence base. Therefore it is considered these changes are justified in order to produce an effective Local Plan and the modifications are necessary to enhance soundness.

12.2 a) Is Policy ST51 justified and consistent with national policy? Are the requirements of the Policy clear, and would they be effective?

BDC Response:

The national Zero Carbon Strategy seeks to cut Greenhouse gas emissions by 78% by 2035 and to achieve net zero by 2050. As such it is considered that Policy ST51 is justified in that it positively enables Bassetlaw to make an appropriate contribution to national targets over the Plan period.

The NPPF (paragraph 155) asks Plans to provide a positive strategy for energy from renewable and low carbon energy and heat. The Renewable and Low Carbon Energy PPG (Paragraph 003) adds that consideration should be given to what local potential is for renewable and low carbon energy generation. This includes considering the range of technologies that could be accommodated; encouraging their development in the right places; and, that different technologies have different impacts, and impacts can vary in a local context.

It is considered that Part 3 of the policy (with modifications proposed) aligns with national policy; it positively supports a range of renewable and low carbon technologies including community energy schemes, subject to the provisions of Part 3 being satisfactorily resolved. Part 3 recognises that consideration should be given to site-specific and cumulative impacts as required by national policy.

Part 3 is considered to provide an effective, clear framework to guide the provision of renewable energy generation over the Plan period. Policy ST51 is considered to be sufficiently flexible to allow for issues to be overcome that are unknown at the time of plan preparation; at planning application stage Part 3 asks that assessments address a range of potential constraints, and consider the individual and cumulative impact alongside operational and approved developments.

Part 4 requires details of power generation to be submitted, not to inform the determination of the application but to inform annual monitoring. This will also enable the Council to effectively monitor development over the Plan period, and can positively inform the Council's response to a Plan review.

Many renewable energy schemes are temporary, such as in the case of solar farms. In those cases, Part 5 is considered effective in that it ensures that land is appropriately managed and used in the long term, and once the scheme has reached the end of its life, the land is returned to a viable use (where appropriate).

The Council's approach to Part 1 and Part 2, and wind energy is considered below.

Bassetlaw has three former power station sites in the district. The Former High Marnham Power station site is cleared, whilst the others at Cottam and West Burton are at different stages in the de-commissioning process. By virtue of their former use, all continue to have national grid infrastructure on site, and provide an opportunity for direct connectivity to the national electricity grid, via existing energy switching and/or transmission infrastructure for renewable/low carbon energy.

As such, it is considered that the Former High Marnham Power Station site could be a suitable location to support renewable and low carbon energy. The intention of Policy ST51 was to provide a positive framework within which the landowners' aspirations to support appropriate renewable energy proposals could be achieved. The landowners' representations [AD-REF022] to the January 2022 Publication Plan Addendum [PUB-015] clarified their proposed approach to the site delivery. As such, the site is not considered available for the intended use as identified by Policy ST51. Proposed modifications M1.104-M1.107 addresses this matter.

b) How was the "area of best fit" arrived at? Is it supported by robust evidence?

BDC Response:

The Local Plan Addendum January 2022 [PUB-015] proposed identifying an Area of Best Fit at the former High Marnham Power Station site. The intention, at that time, was for the Area of Best Fit to be promoted for renewable energy generation (excluding wind generation). Policy ST51 should have been explicit in that regard.

The intention of Policy ST51 was to direct renewable energy generation proposals to the Area of Best Fit in the first instance, but if this was not considered suitable or feasible then other sites would be considered subject to the provisions of Policy ST51 and other Local Plan policies.

The Renewable and Low Carbon Energy PPG (Paragraph 005) states '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.'

As such, Policy ST51 was tested by the Bassetlaw Sustainability Appraisal 2022 (PUB-024] which at paragraphs 6.293-6.297 consider the principle of an Area of Best Fit as appropriate. The wider Local Plan evidence base including for landscape, transport, heritage reinforced this approach. As such, it is considered that the approach was appropriately evidenced.

c) In the case of wind turbines does the Policy reflect guidance in Planning Practice Guidance and the Written Ministerial Statement of 18th June 2015?

BDC Response:

The Local Plan Addendum January 2022 [PUB-015] proposed identifying an Area of Best Fit at the former High Marnham Power Station site. The intention, at that time, was for the Area of Best Fit to be promoted for renewable energy generation but that would not include wind generation. The policy framework should have been explicit that wind energy was not considered appropriate in this context. Proposed modifications M1.104-M1.107 address the matter relating to the Area of Best Fit.

To clarify the Council's approach to wind energy it is considered that Part 3 of Policy ST51 be amended for consistency with national policy as below.

d) Are there any omissions from the Policy? Is it appropriately flexible?

BDC Response:

To clarify the Council's approach to wind energy it is considered that Part 3 of Policy ST51 (read alongside proposed modification M1.107) be amended as highlighted:

1. Development that generates, shares, transmits and/or stores zero carbon and/or low carbon renewable energy, including community energy schemes, but excluding wind energy development will be supported and expected to demonstrate ~~an operational and/or economic need for the development in that location, and~~ the satisfactory resolution of all relevant site specific and cumulative impacts that the scheme could have on the area, taking into account operational and approved developments, as well as any proposed intensification to operational or approved proposals. An assessment should address cumulative visual and landscape impacts, as well as heritage; air and water quality, hydrology and hydrogeology; best and most versatile agricultural land; ecology; traffic and transport; noise, light, glare, smell, dust, emissions or flicker; recreation and local amenity impacts.

The proposed modification is considered necessary for consistency with national policy, to enhance implementation effectiveness and to enhance soundness of the Plan.

Policy ST51 (with modifications) is considered to be flexible in that it supports development that generates, shares, transmits and or stores renewable/low carbon energy. This includes schemes of a range of sizes from commercial to community energy schemes. As such, it is considered capable of accommodating changing technology advances over the Plan period. The requirement for technical assessments at planning application stage is considered to provide sufficient flexibility for applicants

to address site specific and cumulative matters that may not have been apparent at plan-making stage.

e) What are the reasons for the Council's proposed modifications to the Policy? Are they necessary for soundness? If so, are they clearly articulated and supported by clear evidence?

BDC Response:

Following careful consideration of the landowners' representations [AD-REF022] in response to the January 2022 Publication Plan Addendum 2022 [PUB-015], in that the site is not available to support the proposed policy approach in Policy ST51, the Council considers that Policy ST51 (Parts 1 and 2) in relation to the High Marnham Power Station site Area of Best Fit are unlikely to be effective. As such, the Council proposed modifications M1.104-M1.107 for consistency with national policy and for clarity with regards the landowners' intentions. Therefore the proposed modifications are for soundness.

The proposed modifications to policy ST51 are considered to be robustly evidenced by the local plan evidence base (in that the provisions of Parts 3-5 are those broadly proposed in the Publication Local Plan August 2021 [PUB-001] (with subsequent modifications in response to representations). The policy approach at each Regulation 19 stage has also been tested through the Sustainability Appraisal 2022 [PUB-024].

The proposed modifications restructure the policy: Parts 1-2 would be deleted, the policy framework is focussed around Parts 3-5. Parts 3-5 are considered to be consistent with national policy (with the modification above) and are clearly articulated. As such the modifications are considered necessary for consistency with national policy, to enhance implementation effectiveness and to enhance soundness of the Plan.

It is considered that Policy ST51 with modifications would be effective in considering a full range of renewable energy generation proposals, excluding wind generation, in line with national policy, in the District over the Plan period.

12.3 a) Are Policies ST52 and ST53 justified and consistent with national policy? Are the requirements of the Policies clear, and would they be effective?

BDC Response:

The Council considers the approach taken by Policy ST52 and Policy ST53 are consistent with paragraph 8, objective (c) of the National Planning Policy Framework (NPPF). In addition, paragraph 20 (d) the NPPF requires Local Planning Authorities to adopt proactive policies to adapt to climate change, reduce the risk from flooding and take full account of water supply and demand considerations.

Policy ST52 aims to steer development away from areas with a high risk of flooding through a sequential approach, therefore helping to reduce the vulnerability of development and provide resilience to flooding in the future, consistent with paragraphs 159-165 of the NPPF.

Policy ST52 has also followed the approach set out in the Flood Risk and Coastal Change PPG, particularly the guidance within taking Flood Risk into account when preparing plans and producing strategic policies. This includes following the

requirement to produce a Level 1 Strategic Flood Risk Assessment 2021 [GB-001] and use it to inform the Sustainability Appraisal 2022 [PUB-024]. Additionally, the Council has also prepared Sequential Test report 2021 [GB-009] for site allocations to inform the plan-making process.

Part 3 broadly aligns with the provisions of Flood Risk and Coastal Change PPG Paragraph: 011 which asks that plans consider including in their policies mechanisms to discourage development that could prevent or hinder the delivery of planned flood risk management associated infrastructure.

Part 4 of Policy ST52 is also consistent with the principles of the NPPF paragraph 169 relating to the use of sustainable drainage systems.

Policy ST53 aims to protect and enhance the quantity and quality of surface and groundwater bodies through Part 1 and Part 2 of the policy. This is consistent with paragraph 174(e) of the NPPF. Part 3 seeks to ensure that the appropriate infrastructure is in place to meet the needs of development, in order to minimise water pollution and the quality and quantity of drinking water also in line with the NPPF.

The Council considers that Policies ST52 and ST53 provide a clear, effective framework to guide development away from high risk flood zones and the Sherwood Sandstone Principle Aquifer and its ground source protection zones.

Policy ST52 is considered to be sufficiently flexible to allow for issues to be overcome that are unknown at the time of plan preparation; the use of a Flood Risk Assessment (within Part 1) at planning application stage will ensure development is protected from flood risk and does not increase or exacerbate flood risk elsewhere.

Policy ST53 is also considered to be sufficiently flexible to allow for issues relating to water quality and management to be overcome that are unknown at the time of plan preparation; the drainage hierarchy is proposed for use at planning application stage to ensure that the right type of infrastructure is made available to address local circumstances (Part 3) whilst Part 2 makes provision for appropriate assessments to demonstrate how any identified risk will be managed.

b) Are the Policies supported by appropriate evidence? In the case of ST53 is the Bassetlaw Water Cycle Study 2010 sufficiently up to date? How was the River Ryton Flood Management Impact Zone defined?

BDC Response:

Paragraph 160 of the NPPF states that Local Plans should be accompanied by a Strategic Flood Risk Assessment (SFRA) to demonstrate how flood risk will be managed over the lifetime of the development, taking climate change into account. As such, Policy ST52 has been informed by the Bassetlaw Strategic Flood Risk Assessment (SFRA) Level 1, August 2021 [GB-001] and the SFRA Level 2, April 2022 [GB-010].

The SFRA Level 1 [GB-001] classifies all land within the District into one of four Flood Zones and make an allowance for climate change. Although there are areas of the District that are vulnerable to fluvial flooding, in general there is no significant pressure to develop land with a high probability of flooding – Flood Zone 3a and 3b - due to the availability of land less vulnerable to flood risk elsewhere. This has largely been reflected by the locations for growth within the Local Plan, which have been appraised in more detail through the SFRA Level 2 [GB-010]. There are a few exceptional cases,

where for clear sustainability, infrastructure and regeneration reasons, land is proposed for allocation in a flood zone such as through Policy ST5 and will be assessed separately through the emerging Worksop Central DPD.

Paragraph 161 of the NPPF states that Local Plans should apply a sequential, risk-based approach to the location of development in relation to the risk from flooding. On this basis, the Council prepared a Sequential Test Report (STR), May 2022 [GB-009]. The STR demonstrates that the majority of allocated land identified within the Plan falls outside areas affected by the highest risk from flooding. Where flood risk is identified, there are detailed mitigation measures that would enable development to take place in those locations in accordance with paragraph 8 of the NPPF. Both SFRA documents and Sequential Test Reports have been agreed as appropriate evidence with the Environment Agency through a Statement of Common Ground, April 2022 [SCG-013].

Policy ST53 has been informed by the Bassetlaw Water Cycle Study (WCS), November 2010 [GB-007]. The objectives of the WCS identify any constraints on planned housing growth that may be imposed by the water cycle, how these can be resolved and provide a strategic approach to the management and use of water which ensures that the sustainability of the water environment in the District is not compromised.

Further to the Council's response to the Inspectors Initial Questions [BDC-001] Q11, representations were received from Severn Trent Water [REF-201] and Anglian Water [REF-182] which stated that updating the Water Cycle Study, 2010 [GB-007] was not considered necessary for the emerging Bassetlaw Local Plan.

Further to the Council's response the Inspectors Initial Questions [BDC-001] Q12, the Environment Agency stated that the River Ryton Flood Management Impact Zone's geographical extent, aligned with the extent of Flood Zone 3a.

Given the approach taken to considering development proposals within Flood Zone 3 (in the Flood Risk and Coastal Change PPG) it is considered by the Environment Agency that the proposed Impact Zone was a suitable and pragmatic mechanism to support appropriate development and regeneration within Worksop Central in advance of the DPD's adoption, mitigate flood risk appropriately but also enable progress on the strategic flood management scheme to continue unhindered.

The Environment Agency have agreed the approach to flood management within the Local Plan and the emerging Worksop Central DPD, June 2021 (DPD-014) through a Statement of Common Ground, April 2022 [SCG-013].

c) Are there any omissions from the Policies? Are they appropriately flexible? What are the reasons for the Council's proposed modifications to Policy ST53? Are they necessary for soundness? If so, are they clearly articulated and supported by clear evidence?

BDC Response:

The Council does not consider there to be any further omissions to Policy ST52 or Policy ST53. The Council considers both Policy ST52 and Policy ST53 to be appropriately flexible as they respond, specifically, to paragraphs 161 and 174(a) of the NPPF in terms of flood risk and water quality, whilst providing criteria to effectively manage new developments within areas where there are impacts related to flooding and water quality. Policies ST52 and Policy ST53 have been produced in direct liaison

with the Environment Agency and the relevant water authorities during the preparation of the Local Plan and have been agreed through Statement of Common Ground [SCG-013] and in the case of the water companies, preparation of a SOCG is ongoing, and will be uploaded to the examination library in due course.

The proposed modification M1.111 is in response to a representation from the National Trust at publication stage of the Local Plan. The modification is not necessary for soundness, but to provide further clarity relating to the implementation of Part 2 of the Policy in relation to impacts to the Source Protection Zone and the protection of groundwater reserves during the construction stage of development.