

Bassetlaw District Council Response to Inspectors Matters, Issues and Questions

Matter 13 – Infrastructure and Delivery, and Monitoring

4 November 2022

(Issue 14)

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 ST56 – 58)

Issue 14 – Does the Plan set out a positively prepared strategy and policies for infrastructure, delivery and monitoring which is justified, effective and consistent with national policy?

- 14.1 a) Does Policy ST56 provide an effective framework to ensure the delivery of the necessary infrastructure? In particular, is the requirement to safeguard the land to deliver area-wide or site-specific infrastructure justified and consistent with national policy? Would the policy be effective particularly with regard to enabling the delivery of future transport schemes?

BDC Response:

The NPPF paragraph 161 b) states that policies should safeguard land from development that is required, or likely to be required, for current or future flood management.

In relation to ongoing discussions for a flood management scheme for the River Ryton catchment, the Environment Agency has identified an area of land, to the west of Worksop, which has the potential for flood storage purposes. The Environment Agency consider that a flood management scheme for the River Ryton will help reduce the risk from flooding within the catchment. This is acknowledged in a Statement of Common Ground with the Environment Agency [SCG-013].

It is considered that land identified to inform the future flood management scheme should be safeguarded by Policy ST56 as the delivery is expected to cover more than one plan period, and thereby is reliant on a longer term delivery mechanism with the Environment Agency.

As such, the safeguarding of land for such critical infrastructure is important so that any potential development in advance of the scheme being delivered does not jeopardise its comprehensive delivery and the delivery of the Local Plan. Therefore, the approach taken by policy ST56 is considered justified, consistent with national policy and effective.

Since the submission of the Local Plan [SUB-010], the Council now considers it necessary for consistency with national policy and to enable the effective delivery of the relevant sites to remove the transport infrastructure schemes from Policy ST56 (1 (a) and (b)) as per proposed modification below.

- b) Are the policy's requirements supported by up-to-date evidence?

BDC Response:

The requirements relating to the proposed safeguarding of land for a future flood management scheme to the west of Worksop have been agreed by the Environment Agency through a Statement of Common Ground [SCG-013].

c) Have the implications of the policy in relation to viability been appropriately tested?

BDC Response:

Land for flood management has not been subject to viability testing as its delivery is not linked to a particular site, is not expected to come forward in this Plan period (and will be re-considered at Local Plan review) and, at present, there is no quantum of development to measure the viability against.

d) Is the policy sufficiently flexible?

BDC Response:

Part 3 of Policy ST56 states that land safeguarded through the policy will be re-assessed at Local Plan review. This will involve determining whether there is a case for releasing some or all of the land for other forms of development, or whether it should be maintained as safeguarded land until the next review of the plan.

e) Are there any omissions from the proposed policy and supporting text?

BDC Response:

The Council considers it necessary to modify Policy ST56, and the supporting text, to remove reference to those schemes where there is no longer the need to safeguard land, in line with national policy.

Safeguarded Land

12.1.1 Safeguarded land is identified as land to be protected from unspecified development during the plan period. This Local Plan identifies ~~a number of areas of land that provide the opportunity for the provision of new highways infrastructure and~~ an area of land that provides the opportunity ~~for the provision of new highways infrastructure~~ to facilitate the Worksop Flood Management Scheme over the lifetime of the plan, and into the next Plan period, enabling Bassetlaw to more easily transition into a more sustainable District in the future in line with the Council's ongoing discussions with the Environment Agency and other stakeholders..

12.1.2 The land safeguarded within this plan includes that required to help support the delivery of ~~strategic growth and infrastructure, particularly at the strategic site allocations and the regeneration of the Districts town centres.~~ Worksop Central thereby contributing to the spatial strategy within Policy ST1. The long term nature of ~~these schemes~~ this scheme requires further relevant assessments to be prepared that demonstrate that their development will not lead to an adverse impact on nearby existing infrastructure, heritage assets, the environment and blue infrastructure.

12.1.3 Safeguarded land will be re-assessed at Local Plan review. This will involve determining, ~~for each scheme,~~ whether there is a case for releasing some or all of the land for other forms of development, or whether it should be maintained as safeguarded land until the next review of the plan. The Local Plan review is expected to take place within 5 years of the date of adoption, so by 2028.

POLICY ST56: Safeguarded Land

1. Land is safeguarded, as identified on the Polices Map, to support the delivery of the following infrastructure schemes:

- ~~a) land for an east-west distributor link road between Blyth Road and Carlton Road at site HS1: Peaks Hill Farm in accordance with Policy 16;~~
- ~~b) land for a link road at Harworth & Bircotes between Blyth Road and Scrooby Road through the former Harworth Colliery site;~~
- e) land between Shireoaks and Worksop to accommodate water storage as part of the wider Worksop Flood Management Scheme in accordance with Policy ST52.

~~Where relevant, design of site allocations should ensure that land for infrastructure is adequately protected and incorporated into each site's masterplan framework having regard to other policies in this Local Plan.~~

- 3. 2. Any proposal that may be considered to prejudice the construction or effective operation of the schemes listed in Part 4 safeguarded land, will not be supported.
- 4. 3. The status of safeguarded land will only be subject to change through a review of the Local Plan by 2028.

14.2 a) Are the requirements for the provision of digital infrastructure in Policy ST57 justified, would they be viable and does the policy provided an effective framework to deliver this infrastructure?

BDC Response:

The UK Digital Strategy, 2022 [EX-028] recognises digital infrastructure as a utility and emphasises the importance of creating the right conditions for investment in widespread and up-to-date digital infrastructure which is essential to deliver the Local Plan vision and objectives.

The NPPF (paragraphs 114 – 115) reinforces this, supporting the expansion of electronic communications networks, including next generation mobile technology (such as 5G) and full fibre broadband connections. As such, Policy ST57 sets out how high quality digital infrastructure, providing access to services from a range of providers, is expected to be delivered and upgraded in the Plan period; with priority to full fibre connections to existing and new developments. The policy also requires developments to make provisions for cabling and ducting space to better enable occupiers to make connectivity to the digital infrastructure in future. It is considered that the requirements of policy ST57 are justified and assist in the provision of digital infrastructure in line with national policy.

Part 1 of the policy requires all proposals to enable full fibre broadband. As digital infrastructure is seen by the Government as a utility, it is considered that the approach taken to digital infrastructure by the Whole Plan Viability Assessment 2022 [PUB-028] is robust; as with other utility provision, it is addressed as a general cost allowance (within paragraph 2.5 of Appendix 2 [of PUB-028]).

Policy ST57 is considered to provide an effective, clear framework to guide the provision of digital infrastructure over the Plan period. The policy 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 if it can be demonstrated that full fibre

is not practicable or viable, Part 2 of the policy states other alternative technologies can be used.

As such, the policy provides clear, justified parameters within which a planning application would be considered.

b) Is the suggested main modification necessary for soundness?

BDC Response:

The justification for modification M1.123 was in response to representations received from House Builders Federation following consultation of the Publication Version of the Local Plan for clarification purposes, and to strengthen consistency with national planning policy. Therefore it is considered these changes are justified in order to produce an effective local plan and the modifications are necessary to enhance soundness.

14.3 a) Are the requirements of Policy ST58 clear, justified and consistent with national policy? Would they be effective?

BDC Response:

The Local Plan seeks to make sufficient provision for physical, social and blue / green infrastructure associated with new development. Policy ST58 is considered to be clear in its approach to the provision and delivery of infrastructure, recognising that such provision must be timely, and where appropriate may need to be phased to support growth. This is consistent with the NPPF, including paragraph 20 which asks that policies make sufficient provision for infrastructure, and also contributes to the delivery of the Local Plan vision and objectives and the spatial strategy in Policy ST1.

To ensure that the site allocations are supported by necessary infrastructure Policy ST58 requires such applications to be accompanied by a masterplan proportionate to the scale and nature of the allocation. This accords with the NPPF paragraph 125 which identifies masterplans as being an appropriate tool to help ensure land is used efficiently whilst also creating 'beautiful and sustainable places'.

The Council considers masterplans and associated documents identified by Policy ST58 to provide an effective framework to ensure that growth is coordinated with appropriate supporting infrastructure identified as necessary within the Local Plan and the Infrastructure Delivery Plan [bg-041]. The approach taken to masterplanning is considered to be justified and flexible in that the approach taken is expected to be proportionate to the scale and nature of the allocation.

It is considered that Part 3 of the policy accords with the provisions of national policy, including paragraph 57 of the NPPF and the Planning Obligations PPG.

Part 4 of the policy sets out the range of mechanisms the Council and its partners can use to secure infrastructure associated with new development. Paragraphs 12.3.15-12.3.17 provide further explanation about the potential circumstances within which mechanisms (including planning conditions, developer contributions and the Community Infrastructure Levy) can be used. This is considered to be consistent with national policy and provides greater clarity to infrastructure partners, developers and local communities as to how infrastructure impacts associated with new development will be secured.

The Infrastructure Delivery Plan Baseline Assessment [TI-001], establishes the capacity of existing infrastructure, whilst the Infrastructure Delivery Plan (IDP) [BG-041] sets out the details of the infrastructure required to deliver the growth identified in the Local Plan. As such, Policy ST58 is considered to be justified as it supports the delivery of the identified need.

Further guidance on the implementation of Policy ST58 will be set out in the Affordable Housing and Developer Contributions SPD that has commenced and will be published following the adoption of the Local Plan (as identified by the Local Development Scheme [BG-024] and noted by the Local Plan paragraph 12.3.22).

Policy ST57 is also considered to be sufficiently flexible to address changing circumstances. The Policy addresses the issue of viability, consistent with the Planning Obligations PPG (Paragraph 010), highlighting the circumstances within which a viability assessment may be needed at planning application stage. The use of a review mechanism is considered further below.

b) Is there robust and convincing evidence to demonstrate that the Policy's provision not to charge CIL on developments of over 50 dwellings, justified by robust evidence? Would this secure the necessary infrastructure to support the development proposed in the Plan? Would this approach adequately address the cumulative impacts of development?

BDC Response:

The Community Infrastructure Levy PPG (Paragraph 10) states that charging authorities should specify in their charging schedule what types of developments are liable for the levy, and that an appropriate balance between additional investment to support development and the potential effect on the viability of development should be sought.

Paragraph 026 of the PPG adds that 'low or zero rates may be appropriate where plan policies require significant contributions towards housing or infrastructure through planning obligations and this is evidenced by an assessment of viability.'

The Infrastructure Delivery Plan (IDP) 2022 [BG-041] sets out the infrastructure requirements sought by infrastructure partners to mitigate the impacts of each site allocation. The Council considers that the larger site allocations are expected to deliver significant contributions towards housing, including affordable housing and specialist housing, and infrastructure through planning obligations.

To be consistent with the PPG, through the Whole Plan Viability Assessment (WPVA) 2022 [PUB-028] the Council sought an appropriate balance between infrastructure contributions and affordable housing delivery. The outcome is that affordable housing of 25%/20% greenfield/brownfield sites in tandem with a £4000 per dwelling contribution for infrastructure and biodiversity, and a CIL rate as proposed in the Draft Charging Schedule can be viably secured.

The WPVA [PUB-028] acknowledges that larger site allocations are likely to have significantly higher 'opening up' costs, specifically in relation to utilities provision, access and off site highways improvements, and larger site specific infrastructure contributions compared to the average allowances made in the typology tests. The IDP [BG-041] reflects the infrastructure costs as those agreed with infrastructure partners.

The Viability PPG, Paragraph 003 states that the WPVA [PUB-028] can include strategic site-specific assessments to determine the viability of key sites the Local Plan is expected to rely on for effective delivery. In the Bassetlaw context, these are considered to be the larger sites of 50 or more dwellings that contribute to the effective delivery of the spatial strategy. As such, the CIL threshold of 50 units recommended through the WPVA [PUB-028] is considered to be appropriate.

By incorporating the threshold, the WPVA [PUB-028] demonstrates positive cumulative viability margins at these sites incorporating a reasonable 'buffer'. As such, the proposed CIL threshold is deemed to be viable and will not undermine deliverability of the Local Plan.

National policy indicates that infrastructure can be secured via a range of mechanisms, as set out within Policy ST58 Part 4. The IDP 2022 [BG-041] Appendix 2 identifies the proposed mechanism by which different types of infrastructure will be sought for each site allocation. Paragraphs 4.2-4.7 provide more clarity about the requirements of infrastructure partners.

The WPVA [PUB-028] typology tests and site specific assessments indicate a positive viability margin beyond a reasonable developer profit return, having allowed for all stated cost and developer contribution factors so the allocations are deemed viable and deliverable during the plan period.

The site specific assessment of HS4 (former Manton Primary school [in PUB-028]) as a brownfield site indicated a marginal negative viability margin of -£64,213 but it is considered that in context with a £21Million development this is not considered to render the scheme unviable or undeliverable. The IDP 2022 [BG-041] paragraph 6.6 sets out the Council's approach to prioritisation of infrastructure [developer contribution] requirements should deliverability be identified as a concern at planning application stage. It is considered that this approach will enable all essential constraints to be appropriately mitigated whilst facilitating a viable scheme, thereby delivering sustainable development.

Planning Practice Guidance states that CIL and/or S106 contributions can be used to deliver strategic infrastructure. Good practice identifies that the cumulative impacts of development can be appropriately managed through mechanisms other than CIL. In those cases where CIL is not intended to be used, informed by good practice, the Council will work with its partners to ensure that S106 agreements are appropriately worded, and planning conditions used effectively, to enable the effective timing of funding to be released to contribute to the delivery of infrastructure required as a consequence of more than one development. The IDP [BG-041] (paragraph 4.15) confirms that other wider funding streams could also contribute towards strategic infrastructure identified as required to support the cumulative impact of growth.

As such, it is considered that Policy ST58 provides an appropriate framework within which to secure necessary infrastructure to support the development proposed in the Plan and that this would effectively address the cumulative impacts associated with Local Plan growth.

c) Is sufficient clarity provided with regard to the review mechanism?

BDC Response:

The Council will consider use of a review mechanism in a S106 agreement under the circumstances set out in part 8 (a – c) of Policy ST58. If an applicant considers that a

policy compliant scheme cannot be afforded and that all possible steps have been taken to minimise unmitigated impacts, Policy ST58 requires an open book viability assessment consistent with the Viability PPG. Only where an independent review (funded by the developer) supports the conclusions of the applicant's viability assessment will a non-policy compliant scheme be considered.

If it is clear from an open book viability assessment that at the point of application a policy compliant scheme is not possible, but the position could change due to reductions in costs, increases in values and reduced risk as a development is built out, Policy ST58 provides for use of a review mechanism in the S106 agreement. This will ensure that developer contributions are maximised over the development's construction lifetime as a result of any future improvement in scheme viability. Additional provision will be set as that for a policy compliant scheme.

Further guidance on the practical implementation of Policy ST58 (including the review mechanism) will be set out in the Affordable Housing and Developer Contributions SPD that has commenced and will be published following the adoption of the Local Plan (as identified by the Local Development Scheme [BG-024] and noted by the Local Plan paragraph 12.3.22).

The review mechanism is considered to be sufficiently clear further to the proposed modification in 14.2e below.

d) Is the policy sufficiently flexible?

BDC Response:

The requirements of Policy ST58 are considered to be flexible. Paragraph 13.3.20 of the Local Plan [SUB-010] sets out the case for the review mechanism for when an applicant considers that a policy compliant scheme cannot be afforded and that all possible steps have been taken to minimise the unmitigated impacts.

The Council acknowledges that the supporting text could be further strengthened to include a review by the developer of the contributions required, should they wish to do so. The proposed modification of the supporting text is set out as part of the response to 14.2e below.

e) Are there any omissions from the proposed policy and supporting text?

BDC Response:

The Council acknowledges that the supporting text should be more explicit in how the review mechanism could be undertaken and propose the following modification, with a new additional paragraph 12.3.22 (thus making the current paragraph 12.3.22, now 12.3.23).

12.3.22 To allow the review mechanism to be mutually operative, the Council support the review of the contributions required for a particular development, which can be undertaken (and funded) by a developer themselves.

The Council considers the proposed changes are not necessary for soundness but help to strengthen the implementation effectiveness of the policy.

f) Are the suggested main modifications to the supporting text necessary for soundness?

BDC Response:

The justification for suggested modifications M1.124, M1.125 and M1.126 is to clarify the role different mechanisms play in delivering infrastructure associated with new development, to strengthen consistency with the evidence base and national planning policy. Therefore it is considered these changes are justified in order to produce an effective Local Plan and the modifications are necessary to enhance soundness.

14.4 Is the plan sufficiently clear as to how its implementation will be monitored?

BDC Response:

In accordance with Regulation 10A of the Town and Country Planning (Local Planning) (England) Regulations 2012, the Council is committed, at paragraph 1.16.1 of the Local Plan, and within the Council's Local Development Scheme (LDS) [BG-024] to reviewing the policies in the Local Plan to assess whether they need updating at least once every five years, and will update the Plan as necessary.

The implementation and effectiveness of the Local Plan will be monitored on an ongoing basis to inform the Council's annual monitoring process.

As stated in the LDS [BG-024] (Paragraph 3.5) the Council will prepare an Annual Monitoring Report assessing performance against Local Plan policies based on the indicators set out in the Monitoring Framework, contained in Section 13.2 of the Plan [SUB-010].

It is considered that the Monitoring Framework provides a comprehensive set of indicators for each Policy in the Plan. The indicators are considered to be specific, measurable, achievable, relevant and time-bound and also enable monitoring of each policy against the objectives in the Plan. As such, the Council is of the view that the framework provides a clear, effective basis to monitor the implementation and effectiveness of the Local Plan.

Paragraph 12.3.9 of the Plan states that the Infrastructure Delivery Plan will be reviewed annually to measure progress. This will be reported through the Council's Infrastructure Funding Statement to confirm progress in relation to infrastructure delivery.