
From: David Lomas [REDACTED]
Sent: 27 March 2019 09:29
To: [REDACTED]
Cc: NewLocalPlan
Subject: Wycombe Local Plan - main modification consultation
Attachments: WDC_LP Rnd 2 consultation - v 1.0.pdf

Dear Sirs

Please find attached our response and additional comments in relation to the latest Local Plan consultation.

I would appreciate it if you could confirm receipt of the email and that the document has reached you.

If you wish to clarify any of the points made please do not hesitate to contact me.

Regards and best wishes

David Lomas MSc, BSc (Hons), AssocRTPI
Associate Planning Consultant
MSC Planning Ltd
[REDACTED]

This e-mail and attachments are intended solely for the addressee/s and for information only. It may contain confidential or privileged information. If you are not the intended addressee return it and remove it from your E-device.

The e-mail should not be relied or acted upon copied, reproduced, disseminated, modified or published without express written authorisation from me. It does not in/directly represent financially, other advice or a contractual commitment by me, clients or other third-parties (Subject to Contract). It makes no representation, disclaim all responsibility and accept no liability as to the completeness, accuracy and use of the e-mail prior to written confirmation in the form of a letter or fax.

The recipient is solely responsible for ensuring that this email, its attachments and hyperlinks are virus free.

MSC Planning Ltd

Click [here](#) to report this email as spam.

My Ref: DL LP
Your Ref: Local Plan Submission
Date: 27/03/2019

To Whom it May Concern
Planning Policy Section
Planning and Sustainability Dept
Wycombe District Council



Chartered Planning & Development Consultants

Dear Sirs

RE: Local Plan Consultation

I write in relation to the latest consultation following the LP Inspectors letter of 3 February 2019 regarding the proposed changes to the emerging Local Plan (Reg 19 submission v Oct 2018) and matters that were discussed at the LP Inquiry that took place in July and Sept 2018.

Please accept this letter as formal comments to that consultation.

Whilst we broadly support the changes, specifically in Strategic Policy terms, there are several issues that remain a concern in the application and wording of several Development Management Policies. I will for clarity highlight these in turn.

It is acknowledged that in the opening statements to the Local Plan Inquiry that the Inspector referred to the fact that she was determining the Local Plan on the 2012 NPPF. This is also in line with government guidance on the matter. Notwithstanding this, there is a legal argument as to whether this approach is correct as all the evidence pertaining to the Local Plan submission and its determination by the Inspector has a valid legal status as to the current NPPF versions to be classified as being 'sound'.

Whilst it is appreciated that there must be a cut-off point in the plan making process as to what version one is designing a plan to, the Inspector appears, following the closing of the Inquiry, to have referred to the latest NPPF version (at that point 2018) in many of the revisions to the submitted policies. She states "that these are broadly in compliant with the NPPF 2018 and in some circumstances has revised them accordingly. This seems logical but perhaps a little irrational in terms of her opening statements at Inquiry. The Council's Officers, Barrister and those attending the hearing it was made clear that no account would be taken of the new 2018 NPPF as all works and consultation were based on the 2012 version.

This alteration, therefore, creates an unnecessary level of confusion as to what NPPF version the plan is to be assessed against and as such whether the policies as submitted are in fact compliant with the soundness tests. Given that the latest NPPF is significant as many of the policies therein have changed since the NPPF v2012 surely then there is a legitimate concern as to the legality as to whether the LPA can in fact claim that the Local Plan is 'up-to-date'. Again, although I appreciate that the Inspector refers to the fact that the NPPF will remain a "material consideration", it does throw doubt as to whether the representations given at the Inquiry were in fact worthless. As such the note "as this plan has been adopted after the 2018 NPPF, its policies are not expressly subject to the advice on 'weight' in paragraph 213 of the 2018 NPPF" appears rather an oxymoron and should be deleted. The resulting confusion regarding which version of the NPPF the Plan is being assessed and what weight is attributed to current versions of the NPPF suggests that the New LP may be open to legal challenge under Judicial Review.

I would welcome the Inspectors common on this point as this will have major repercussions as to the Plan making process and to the policies in such a Plan. Perhaps this round of consultation is for that purpose?

I turn to a stylistic point prior to outlining our specific issues relating to the policies as submitted and amended by the Inspector. I broadly support the main chronology of the Local Plan but in stylistic terms, it would be broadly easier to reference the Development Management section with the key designations outlined first such as Green Belt and AONB sections, being major elements in planning considerations and then all the other policy elements such as design etc following consecutive sequence. This would, in my opinion, provide a much easier process than is currently the case. All other policy avenues would then span from these key designations.

Housing Numbers

In addition to the above, I note that the Council is now claiming it can demonstrate 8.4yrs Housing Supply. It seems that the figures produced in support of this seem to be using the revised 2016 numbers (thereby rounding down) rather than the now clarified in NPPF2 v 2019 use of the 2014 data (to round up) so that Wycombe needs approx. 700+ homes per annum rather than the 400+. This suggests that the Council will need to revise their housing targets once again to reflect these changes. I also make note that the Council appear to be relying on several cases pre2018 to demonstrate the methodology and approach taken. I would hope that the approach taken in those revisions would reflect current government guidelines on the matter.

I now turn to the specific policies as submitted and amended. If the policy hasn't been listed, we are in broad support with it, exceptions are outlined below. In addition, we have no issues over the main strategic policies outlined as being 'Core Principles'.

DM20 - MATTERS TO BE DETERMINED IN ACCORDANCE WITH THE NPPF

Largely supportive but rather than highlighting the 'current' version why not simply reference the NPPF within the Plan period. Therefore, it wouldn't matter which version it refers to, but the additional wording as proposed by the Inspector is most helpful. In any event, irrespective of this, whatever the current version would be a material consideration in any event.

DM22 – HOUSING MIX

We support the additional wording to be scalar and the new paragraphs before para 6.14 as this will then tie the development to the self-build policy. The self-build requirement needs to ensure the land is offered at a reasonable price for all parties concerned. The land to be sold should be valued at a rate per square metre equal to the developer's purchase price of the land plus 10%.

The overall purchase price of the major site should be divided by the overall site area in metres and then multiplied by the plot site area for sale plus 10%.

DM23 – OTHER RESIDENTIAL UNITS

I note that the Inspector has chosen not to change the wording in this policy. Although largely supportive of the policy, how does the Council seek to demonstrate and 'over-concentration'? Para. 6.23 appears to provide some clarification but doesn't define what that means. The Council, if it chose to do so apply Article 4 Directions over specific areas to control such developments rather than through the rather broadly worded policy.

DM24 – AFFORDABLE HOUSING CONTRIBUTION

Presumably, the increase in these figures is directly resulting from the evidence base relating to housing units and general Government Policy regarding increased tenure for affordable housing to meet housing targets in general?

DM25 – RURAL EXCEPTION FOR AFFORDABLE HOUSING

The policy relies heavily on the NPPF version of Rural Exceptional Schemes and yet identifies several areas where affordable housing is required. It states in the opening context at para 6.41 that these will be through Neighbourhood Plans, which in most cases, in our view, is the right and proper mechanism to achieve such results. However, it takes no account of 'other' windfall sites that may apply. If there is a shortfall in the LP allocation or where sites are being removed from the Green Belt as a result, this clearly demonstrates a need as per policy point A. From experience, the LPA will, however, refuse applications on this basis. How does an applicant, therefore, seek to discharge this element other than through a Neighbourhood Plan and/or rural Exception scheme? Could this be an extension of a viability assessment?

DM26 – TRAVELLER POLICY

I note that the policy restricts development in Marsh and yet there appears to be little to no justification in the policy. Presumably, this is because of the existing concentration and it is more desirable for the LPA to distribution sites throughout the district?

DM29 – COMMUNITY FACILITIES

Comments noted but the removal of viability element is key to the long-term sustainability of the sites used for community uses. In these circumstances, the removal of this element would potentially result in land or buildings not being made available or adapted for other uses if such sites or facility became unviable. As such a note should be added to acknowledge that viability may be a factor in the release of community facilities for other uses.

It should also be noted that it is illegal to advertise premises for sale or lease that have an EPC rating of F or G.

DM30 – CHILTERN AONB

This largely follows the existing policy framework and the revised changes are largely acceptable. The concern is taken over para 6.101 with the revised wording in the added and closing sentence. Does this mean that the Council will be providing examples of what they consider ‘enhancements’ and again is it to be applied at a scalar point?

DM35/36 – DESIGN AND QUALITY

We broadly support the changes to the wording of the current policies we object based on the additional wording at para 6.136.

Although I understand the points being made, to reduce the impact of large-scale car parks, the addition of buildings above these may not always be practicable and may not accord with the Councils Residential Design Guidance 2017 SPD. We suggest a more robust approach as to how this is justified in terms of single-storey structures? Is this to be supported by additional guidance or clarification on the point? The wording does not provide flexibility in terms of how viable this may be and what is the assessment of ‘justification’ and ‘appropriation’ in ‘limited circumstances’. This needs clarification and is not justified as Policy DM35 refers to all development.

DM37 – SMALL-SCALE NON-RESIDENTIAL DEVELOPMENT

I have concerns that the proposed change to this policy wording doesn’t resolve the problem raised at the hearing.

The objection was not against shop fronts having internal and visually permeable shutters. The issue of concern related to more remote locations of windows serving other uses which could have expensive goods and equipment on the show or in storage. Open internal shutters would invite criminal actions knowing there is a reward that is visible.

The current wording still requires that **all** buildings in local or town centres including remote accesses would require visually permeable shutters even if serving store or other rooms. Laminated glass only slows entry and would not prevent criminal actions.

The policy should be amended to read for example:

“Where appropriate, security shutters or other devices use to protect the windows of shops or other buildings within local or town centres would be acceptable other than where they front a public highway or shopping frontage. All shutters in such locations are required to be internal and visually permeable using open lattices or laminated glass. In all other cases, shutters can be considered acceptable if they do not have any adverse impact on the character of the location but in any event, should be internal.

DM38 – WATER SUPPLY

Does this policy apply to ALL developments for example householder, small-scale or large-scale developments? This needs clarification and rewording as appropriate. Presumably, from the preamble, this only relates to large-scale developments and/or those where the water supply may be limited for example in rural areas. However, such evidence

DM39 – FLOODING.

I note with some alarm that the LP Inspector has chosen not to alter this policy.

In our view, it is clear from the Governments strategy that a sequential approach is to be taken when assessing developments for flooding risk as its impact on Climate Change. It is a matter of identifying the site flood risk and then providing alternative strategies if in Flood Zone 2 and 3 and then mitigations. If a site is in Flood Zone 1 it is clear from government guidance that Flood Risk is therefore minimal even with a 40% climate change boost.

The currently worded policy is wholly contrary to all current versions of the NPPF. It states at para 102 in the 2012 version that “minor development and changes of use should not be subject to the sequential or exception tests”. The policy as currently written applies this to all developments particularly at point 6 where it goes further to require a SuDs report for ALL developments, which is not only inappropriate as this would mean even telephone masts would require a

SuDs report and is also unnecessary in most cases as so illustrated. This policy needs considerable reconsideration as it is contrary to all versions of the NPPF.

A more appropriate manner of assessing developments and wording for the condition would be that sites should be subject to those allocated in the LP be assessed on a scale point i.e. differentiating between larger, small-scale and householder developments as does the current version of the NPPF (Footnotes 50 and 51).

DM40 & 41 – SPACE STANDARDS AND BUILDING REGS

Largely in support of the revisions but does not take account of changing circumstances in government policy. This provides a measure of acceptable floorspace and thus amenity for residential dwellings. I presume that this policy only applies to new developments. However, given the increase in the number of bed-sit and HMO accommodation is there any intention to extend this to other types of dwelling uses?

In terms of the latter policy, this should not, in our view be a policy requirement as it is clear that Building Regulations will stand on their own merits and are outside the control of the planning system. Until the Government decides to integrate both elements it will remain separate. There is also a large question of whether this policy is applied by condition, would meet the enforceability tests and thus be compliant with national policy. Recommend removing this policy entirely from the Local Plan.

DM42 – MANAGING DEVELOPMENT IN GREEN BELT

Although we support the aims of Green Belts as stated in the NPPF they should not be used as ‘development no go areas’, as the policy seems to intimate. This is contrary to the NPPF and broader government strategy. I note that the Inspector has not changed the ‘as submitted’ wording nor questioned the volumetric found therein. It seems that the Council has taken a rather narrow view of the terms used to protect Green Belt from development. In our view, this is not accordant with the aims of the Green Belt.

The first point in this section states that ‘development is inappropriate’. Although it may be semantics this wording indicates that development per se is wrong in the Green Belt. This cannot be the case. Better wording should be as follows:

Development in the Green Belt must accord with national policy – in terms of inappropriate development. Exceptions in Wycombe District are as stated.

However, at point 4 of this section – does this mean that limited infilling outside those settlement boundaries as defined in the LP as inappropriate? Again, this cannot be the case. Also, although broadly acceptable, the reference to para 6.214 states ‘small gap’ how is this to be defined? A better wording would be to remove this and simply rely on the latter sentences in this paragraph as being reflective of the local surroundings etc.

DM43 – REPLACEMENT OR EXTENSIONS

We agree that volume rather than floor space is a welcome change as this in visual terms at least provides a better understanding of the impact to the Green Belt.

We remain and continue to oppose the policy, as currently worded particularly in terms of the volumetric that essentially, in our view not only complicates matters unnecessarily so but seeks to severely restrict development beyond the current LP policy. In addition, although to some extent welcomed the policy as currently written would also severely restrict the use of pitched roofed outbuildings, which would be more appropriate in certain locations.

The NPPF does not restrict developments to such an extent so long as they are sympathetic. The LPA has not provided any metric or evidence as to why these volumes are so restrictive to depart from the NPPF. Such restrictions would create an effective “development no go area”, which is contrary to the aims of the Green Belt and would in all likelihood make any developments financially unviable.

We, therefore, suggest that either the policy is deleted or that significant changes are made to reflect, either an evidence-based approach, or that it is written similarly to the existing policy, but taking into account volumes that should be a 30-50% increase above the original dwelling house in either case. Internal roof voids or basements should not be included in the calculations as these add no volume that would otherwise harm the openness of the Green Belt. In addition, small dormers equally would not harm the Green Belt either but should be assessed on an aggregate base.

We suggest the following wording for the condition:

Where developments are proposed in the Green Belt (as defined on the Policies Map), the land will be protected in accordance with a national policy from 'inappropriate development'. Developments will need to ensure that they do not conflict with the purposes of including land within the Green Belt and that their provision preserves the openness of it. 'Acceptable' development will be defined as the following:

- a. for the purposes of agriculture, forestry, appropriate facilities for outdoor sport and outdoor recreation or cemeteries
- b. if development is within the existing built-up settlement boundaries (as defined in the proposals map), residential infilling of gaps in developed frontages will be permitted if it is in keeping with the scale and spacing of nearby dwellings and the character of the surroundings
- c. for the re-use of buildings of permanent and substantial construction where there is no greater impact on the openness of the Green Belt and the form, bulk and design of any conversion is in keeping with the surroundings and does not involve major or complete reconstruction. Permission for the re-use of such buildings may, as is appropriate include conditions regulating further building extensions, and the use of land associated with the building
- d. replacement buildings of existing ones in the Green Belt must not be significantly larger in volume, normally by no more than 25-30% (or some other metric) of the original building (as measured externally)
- e. extensions and alterations to buildings in the Green Belt that are not out of proportion with the original building, normally no more than 25-30% volume increase of the original building
- f. the redevelopment of previously developed sites where the gross floor space of the new building(s) is not out of proportion to the original building(s), normally by no more than 25-30% increase of the original building (as measured externally).

DM44 – DEVELOPMENT BEYOND GREEN BELT

We are broadly supportive of this policy. However, the definition of the countryside is not clear. Furthermore, it appears that the LPA seeks to restrict development to those within settlement boundaries, as defined in CP3 and as would be logical, particularly in sustainable terms, but the policy should also refer to national policy in terms of developments outside those boundaries in terms of its relative isolation from them. This would then be more consistent with NPPF.

DM45 – REUSE OF BUILDINGS

Largely in support and broadly reflects the PD changes in Part 1, Class Q. It is, however, a question of facilitation of the existing building its ability to be adapted for another use without substantial reconstruction. Notwithstanding this, the policy seems to contradict the guidance i.e. point B which seems to say that the building, if used for agriculture or forestry cannot be used, which is not the aim of the policy or is it? This contradicts para 6.2225 and 6.226. The policy should also allow for the replacement materials with asbestos.

We hope that these comments are considered in their full light and if you require, we would be very happy to discuss them further.

If you have any issues, please do not hesitate to come back to me.

Yours Sincerely



D. Lomas MSc, BSc (Hons), AccoCRTPI

Associate Planning

