

REPRESENTOR ID WDLP19 0917

WYCOMBE DISTRICT LOCAL PLAN EXAMINATION

STATEMENT ON BEHALF OF MPAC (FORMERLY MOLINS PLC) IN CONNECTION WITH MATTER 2 - THE PLAN'S STRATEGY

1. This document is part of the response by Mpac (formerly Molins plc) to the Inspector's request for further written statements on questions identified by her in the Schedule of Matters, Issues & Questions. This statement relates to *Matter 2 – The Plan's Strategy*.
2. Different matters identified by the Inspector overlap with one another. In order to avoid as much duplication as possible, we have attempted to address each issue in only one of our statements and, where relevant, in other statements just to cross-refer to the document in which the issue is addressed.

THE PLAN'S SPATIAL STRATEGY (QUESTIONS 3 AND 5)

3. In respect of the strategic objective to "Deliver Housing" paragraph 3.16 of the Plan asserts that "the Plan seeks to optimise the amount of housing, both market and affordable, that is provided in the District within [the constraints of the AONB, the Green Belt and limited local infrastructure]". There is no criticism of that objective. Indeed, in the Molins appeal inquiry, the Inspector and Secretary of State agreed with it¹, and national policy requires it². The Plan will compromise the achievement of sustainable development and not be sound unless its spatial strategy enables it to meet that objective.
4. Unfortunately, though, the spatial strategy is, in at least one respect, actively designed to prevent it meeting that objective. That is a critical failure – made even more critical by the fact that the Plan acknowledges that it falls far short of meeting the housing development needs of the District.

¹ The Inspector indicated that "it is clearly desirable for the Council to meet as much of its FOAN as possible in its own boundaries" (IR paragraph 167). The Secretary of State agreed (DL paragraph 21). Appeal ref: APP/K0425/W/16/3149747

² Paragraphs 14 and 47 of the NPPF.

5. Attention is drawn specifically to policies CP2 (a) and (b), and DM30.
6. In recognising that Wycombe should “meet as much of the District’s need for housing ... land as is sustainable to do so”, policy CP2(a) repeats the objective. However, in paragraph (a)(i), it goes on to describe as its approach to identifying sites for allocation, an approach which is systematically inconsistent with that objective; and is contrary to national policy.
7. The approach is to refuse, in principle, to consider for allocation “sites that constitute ‘major development’ in the AONB”. In summary, the errors of that approach are:
 - it is illogical,
 - it is inconsistent with national policy;
 - it is inconsistent with the Local Plan’s own approach to major development in the AONB (policy DM30); and
 - it means that the objective of paragraph 3.16 is not achieved.
8. The adoption of this flawed approach has had real consequences to the preparation of the Plan. We know that it alone led to the Mpac/Molins site not being allocated (see the Representations (ref: 0917) made by Mpac). It may well apply also to other sites.

Illogical

9. The AONB Site Assessment Report recognises that there is scope for housing development within the AONB. Indeed, AONB sites are allocated in the Plan. Nonetheless, the spatial strategy prohibits the allocation of “sites that constitute ‘major development’”.
10. There is no such thing as a site that “constitutes development”; let alone a site that “constitutes major development”. The site does not define or dictate whether development on it would be “major”. A site is available for development. Before judging whether a development on it would be “major”, one needs to have a sufficiently clear understanding of the nature of the development. The whole policy approach is based on a fundamental error. It conflates a **site** with a **development**.

11. The answer to the question whether development proposed on a site is “major” depends, on Wycombe’s own approach as expressed elsewhere in the Plan, both on the construction that is proposed and its impact on the environment - see paragraph 6.103 of the Plan: “Major development ... is a matter of the impact, or extent of harm, on the Area of Outstanding Natural Beauty, as well as the scale of the development proposed ... The term ‘major development’ ... requires the Council to judge the significance of a proposal in its specific context”. So, a site can never “constitute ‘major development’”.
12. The history of the Mpac/Molins site is a good example of this error and its ramifications. The appeal was on a proposal for up to 131 units. The Inspector concluded³ that the proposal was for ‘major development’ - essentially because of the number of units, notwithstanding that the impact on the AONB would only be “of minor adverse significance overall” (IR 206). Against that background, it is clear that a development of the same site for a lesser number of units (such as is proposed in Mpac’s representation on this Plan) would not have been major development – and would have been acceptable in AONB terms⁴. Nonetheless, the flawed approach embodied in the strategy led Wycombe to reject out of hand its allocation for housing.
13. The approach has led Wycombe to reject on AONB grounds any consideration of a site (proposed by the landowner for allocation for 74 units) when the Inspector and Secretary of State agreed that AONB policy would not prevent its development for 131 units.
14. It is not possible, logically or soundly, to reject further consideration of a site for development on the basis that some ways of developing that site might be considered “major development”.
15. The point emerges very powerfully from Wycombe’s own AONB Site Assessment Report September 2017 (which addresses possible sites for allocation) and the notes to the table⁵ in which it set out its approach to deciding whether a site constitutes major development. The notes explain that the exercise is “not an assessment of whether development would

³ See paragraphs 211 and 212 of her IR.

⁴ The Inspector and Secretary of State both agreed that the 131 unit scheme would be acceptable in the AONB because of its minor impact and the benefits it offered.

⁵ This table is addressed in more detail in our submissions on *Matter 5*.

necessarily be acceptable in the AONB, it is simply an assessment of whether development would be classified as major”. However, WDC’s approach in the spatial strategy does indeed treat the conclusion that development might be major as though it were a conclusion that development would not be acceptable in the AONB.

16. In this respect, therefore, the overall spatial strategy is fundamentally flawed.
17. It has led to the rejection out of hand of sites that should not have been rejected. It prevents the achievement of the plan’s own objective to “meet as much of the District’s need for housing ... land as is sustainable to do so”.
18. Further, the whole approach involves a fatal combination of planning judgement (which is a matter of degree) with a binary test (which is not). We accept the broad approach to deciding whether development is “major” set out in paragraph 6.103 of the draft plan (and quoted in paragraph 11 above)⁶. The question involves a complex of judgements which are not straightforward.
19. In paragraph 116 of the NPPF, the judgements involved in assessing whether development is ‘major’ are part of a balancing process which is followed, if the proposed development is major, by an assessment of whether the surrounding circumstances warrant the development going ahead.
20. In contrast, once the spatial strategy has chosen to conclude that the development resulting from allocation of a site might be major, that is an end to the matter. So, the strategy prevents WDC from considering whether the public interest might be well served by allowing a “major” development that has minimal impact on the interests protected by AONB policy and may have other significant benefits (e.g. for flood protection, connectivity, ecology and meeting the district’s housing needs within the district).

Inconsistent with national policy

21. The spatial strategy’s approach is inconsistent with national policy in three, related respects. The first follows from the points just made. National policy

⁶ Indeed, we consider that, had the Inspector given it greater weight than she did (IR 211) she may well have concluded that the proposal for up to 131 units was not for ‘major development’.

relates to development in the AONB and not to sites. There is no support in national policy for refusing to assess sites for allocation in a Local Plan simply because a planning officer considers that one of the ways in which the site could be developed would be 'major'.

22. As explained below, it would be contrary to national policy to adopt the binary approach of refusing to consider any development that was major, regardless of the benefits that it might bring with it. Even if that were not the case, however, there would still be no justification for a strategy that rejects a site without first considering whether it could be developed in a way that would not be "major development". Paragraph 14 of the NPPF directs plan making authorities that they "should positively seek opportunities to meet the development needs of the area". To refuse further consideration of a site because a possible development of it could be "major" is directly inconsistent with paragraph 14's direction.
23. The second way in which the spatial strategy is inconsistent with national policy is that it prevents WDC from ensuring that the "Local Plan meets the full, objectively assessed needs for market and affordable housing in the housing market area, as far as is consistent with the policies set out in this Framework"⁷. The third is that it is inconsistent with the NPPF's policy on the AONB⁸. We take those two points together.
24. Paragraph 116 of the NPPF provides that a proposal for 'major development' should be granted in exceptional circumstances (with that consideration covering the matters identified in the bullet points of paragraph 116). So, if a proposed development is 'major', it should not be rejected out of hand but should be critically assessed.
25. There is no justification in the NPPF for rejecting sites from any further consideration even if they could not be developed for other than 'major development'. Indeed, one of the conclusions that emerges from paragraph 116 is that major development is capable of being sustainable development – and will be sustainable development if there are "exceptional circumstances".

⁷ NPPF paragraph 47.

⁸ NPPF paragraph 116.

26. Paragraph 14 of the NPPF requires local plans to meet the objectively assessed needs of their area unless “any adverse impacts of doing so would significantly and demonstrably outweigh the benefits”. The objectively assessed need for WDC is 13,200 new dwellings. On WDC’s own assessment, the plan makes provision only for 10,925 units. The only possible justification for not making a larger provision would be that none can be made without the adverse impacts significantly and demonstrably outweighing the benefits. However, the spatial strategy is designed to ensure that, on sites like the Molins/Mpac site, the balance between impacts and benefits is never addressed.

Inconsistent with local plan AONB policy

27. In a sense, this is the local aspect of a point just made on national policy. Policy DM30(2) provides that planning permission for major development in the AONB will be granted where exceptional circumstances are shown. That is the correct approach. It is right to apply that test to adventitious applications. There is no justification for failing to apply it to the assessment of sites for much needed allocation.

The objective of paragraph 3.16 is not achieved

28. This is a local aspect of another point just made on national policy. The objective of “optimising the amount of housing ... that is provided in the district” flows from the directions in paragraphs 14 and 47 of the NPPF. The spatial strategy is structured specifically to prevent any assessment of whether sites like the Molins/Mpac site should be released for housing development.

Conclusion – tests of soundness (see NPPF paragraph 182)

29. To be “positively prepared” a plan needs, inter alia, to be “based on a strategy which seeks to meet objectively assessed development ... requirements”. This Plan is not. Its strategy can only be justified if there is no capacity beyond 10,925 units, but, as explained above, the strategy itself prevents consideration as to whether sites like the Mpac/Molins site can be released for development.

30. To be “justified” the Plan should be “the most appropriate strategy, when considered against the reasonable alternatives, based on proportionate evidence”. This Plan is not. It actively closes its eyes to the evidence (including the IR and DL) that sites like the Mpac/Molins site could contribute to meeting the need without significant adverse impact.
31. To be “effective” the Plan should be deliverable over its period. This issue is addressed more fully in our submission on *Matter 3 – Housing Provision, Supply etc.* The systematic disregard of sites like the Mpac/Molins site, which, if allocated, would be immediately available for development unnecessarily inhibits the Plan’s effectiveness.
32. As explained above, the spatial strategy is not consistent with national policy.

SETTLEMENT STRATEGY (QUESTION 6)

33. The settlement strategy (CP3) seeks to direct development to different tiers of settlement. We are concerned, in particular, with tier 2 which includes two categories of site within Princes Risborough:
- previously developed land within the built-up area
 - the PR3 site.

Thus, it does not direct development to sites in Princes Risborough which are outside, but on the edge of the settlement boundary. Given the shortfall in housing provision, the directions of national policy discussed above, the serious doubts about the deliverability of the provision that is made (for which, see our submissions on *Matter 3 – Housing Provision, Supply etc.*) and the availability of development land on the edge of Princes Risborough (for which see our October 2017 representation), CP3 should countenance housing development on sites on the edge of, but well related to, Princes Risborough – and, indeed, other tier 1 and 2 settlements.

34. A similar result would most appropriately be achieved by the allocation of sites; but, to the extent that sites are not allocated, the settlement strategy is drawn too tightly.

FLEXIBILITY OF THE SPATIAL STRATEGY (QUESTION 8).

35. In terms of meeting housing needs, the spatial strategy is not flexible and is unable to respond to changing circumstances. This is particularly concerning as (for the reasons on which we elaborate in our submissions on *Matter 3 – Housing Provision, Supply etc.*), the provision made is not robust: there are allocations that may never come forward and allocations that are likely to be delayed.
36. There is a very real prospect that there will be an urgent need for the release of sites to provide a significant number of units during the plan period. The Plan has no strategy for dealing with this eventuality.
37. Given the nature of the district (over 75% is within the AONB and 50% is in the Green Belt), it is likely that these releases will have to be of sites which, although within the AONB and/or Green Belt can be developed without causing significant harm to the interests that those designations seek to protect.
38. As emerges from what we have said above (and what we say on *Matters 3 and 6*), our first point is that those sites which fall into that category and which are known of now should be allocated in the Plan. In any event, if the spatial strategy is to enable a coherent response to circumstances being other than planned for, it cannot afford to direct development away from such sites (as CP3 does).
39. Further, the Plan is the occasion on which to assess critically the boundaries of the Green Belt for the future (see paragraphs 83 to 85 of the NPPF). The exercise that those paragraphs direct has not been fully carried through by Wycombe. National policy indicates that they should exclude from the Green Belt “land which it is unnecessary to keep permanently open” - that is land that does not need to be kept open in order for Green Belt purposes to continue to be performed in the locality.

40. We believe that there are several sites which were shown by Wycombe's Green Belt Review to fall into the category of "land which it is unnecessary to keep permanently open"; but the Mpac/Molins site is an obvious example. Wycombe accepts that "the site is capable of removal from the Green Belt"⁹. If those sites are not to be allocated for housing development (as we say they should be¹⁰), they should nonetheless be removed from the Green Belt to be available to be considered for development should circumstances not follow the Plan's optimistic assumptions.

⁹ Part 2 Green Belt Assessment.

¹⁰ See our submissions on *Matters 3 and 6*.