

Comment

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| Consultee | Brian Withers (1332989) |
| Email Address | [REDACTED] |
| Address | |
| Event Name | Proposed Submission (Reg 19) West Berkshire Local Plan Review 2022-2039 |
| Comment by | Brian Withers (1332989) |
| Comment ID | PS1 |
| Response Date | 20/01/23 17:23 |
| Consultation Point | Policy DM 1 Residential Development in the Countryside (View) |
| Status | Processed |
| Submission Type | Web |
| Version | 0.3 |
| Bookmark | Withers, Brian |

1. Do you consider the Local Plan Review is legally compliant?

Please see the guidance note for an explanation of what 'legally compliant' means

No

Please give reasons for your answer

It fails to support the directives in the NPPF in particular Policy DM1

2. Do you consider the Local Plan Review is sound?

Please see the guidance notes for an explanation of what 'soundness' means.

The soundness of the LPR should be assessed against the following criteria from the National Planning Policy Framework (NPPF).

Please tick all that apply:

Positively Prepared: The plan provides a strategy which, as a minimum, seeks to meet the area's objectively assessed need and is informed by agreements with other authorities, so that unmet need from neighbouring areas is accommodated where practical to do so and is consistent with achieving sustainable development. . No

Justified: the plan is an appropriate strategy, taking into account the reasonable alternatives, and based on proportionate evidence. . No

Effective: the plan is deliverable over the plan period and based on effective joint working on cross-boundary strategic matters that have been dealt with rather than deferred, as evidenced by the statement of common ground. . No

Consistent with national policy: the plan should enable the delivery of sustainable development in accordance with the policies of the NPPF. . No

Please give reasons for your answer

It fails to support the spirit of the NPPF

3. Do you consider the Local Plan Review complies with the Duty to Co-operate?

Please see the guidance note for an explanation of what 'Duty to Cooperate' means.

Yes

4. Proposed Changes

Please set out what change(s) you consider necessary to make the Local Plan Review legally compliant or sound, having regard to the tests you have identified above (Please note that non-compliance with the duty to co-operate is incapable of modification at examination).

You will need to say why this change will make the Local Plan Review legally compliant or sound. It will be helpful if you are able to put forward your suggested revised wording of any policy or text. Please be as precise as possible.

Emerging draft 2020-2037

C1 Location of "New housing in the countryside within Housing Site Allocations DPD 2006-2026" Policy has been superseded by SP1 Spatial strategy.

Under the heading **DM1**, the following sub para appears.

Exceptionally new residential development outside of adopted settlement boundaries will be permitted. These exceptions are solely limited to development which is appropriately designed and located and which satisfies one or more of the following criteria..

Policy DM1 Residential Development in the countryside

Sub Para i

Limited residential infill in settlements in the countryside with no defined settlement boundary where:

- 1 *It is within a closely knit cluster of 10 or more existing dwellings adjacent to, or fronting an existing highway; and*
- 2 *The scale of development consists of infilling a small undeveloped plot commensurate with the scale and character of existing dwellings within an otherwise built up frontage; and.*
- 3 *It does not extend the existing frontage; and*
- 4 *The plot size and spacing between dwellings is similar to adjacent properties and respects the rural character and street scene of the locality.*

Planning permission will not be granted where a proposal harms or undermines the existing relationship of the settlement within the open countryside, where it does not contribute to the character and distinctiveness of the rural area, including the natural beauty of the AONB or where development would have an adverse cumulative impact on the environment or highway safety.

The problem with this section is that it creates an embargo on any small development unless it is within a "Settlement Boundary". It identifies any location outside the Settlement Boundary as a development in the countryside even though there could or should be an opportunity for windfall locations which are adjacent to the boundary. It is accepted that there should be control over isolated homes in the countryside. This policy DM1 however is in direct contravention with the advice provided in the NPPF which does not mention throughout the whole document "Settlement Boundaries" and which is not a commonly used term by other local authorities. NPPF discusses Isolated Homes in the Countryside and does not use the terminology "outside settlement boundaries".

Within the NPPF

Para 16 identifies that there is a legal requirement on councils to

be prepared with the objective of contributing to the achievement of sustainable development;

Para 22 uses the word alone "**settlement**"

*new **settlements** or significant extensions to existing villages*

Parab69(c) within the section Delivering a sufficient supply of homes.

*support the development of windfall sites through their policies and decisions – giving great weight to the benefits of using suitable sites within **existing settlements** for homes;*

Para 72(b) uses the word **settlement**

*be adjacent to existing **settlements**, proportionate in size to them not compromise the protection given to areas or assets of particular importance in this Framework, and comply with any local design policies and standards.*

This refers to entry-level exception sites, suitable for first time buyers (or those looking to rent their first home),

Para 85 says using the word **settlement**

*Planning policies and decisions should recognise that sites to meet local business and community needs in rural areas may have to be found adjacent to or beyond existing **settlements**, and in locations that are not well served by public transport.*

And

The use of previously developed land, and sites that are physically well-related to existing settlements, should be encouraged where suitable opportunities exist.

Para 120 says using the word **settlement**.

*give substantial weight to the value of using suitable brownfield land within **settlements** for homes and other identified needs, and support appropriate opportunities to remediate despoiled, degraded, derelict, contaminated or unstable land;*

It can be seen from the NPPF that all the uses of the word settlement refer to a group of properties but at no time does the word "boundary" occur. This indicates that the NPPF does not, even in the Green Belt or AONB, determine that development should be restricted other than it does indicate that isolated homes in the countryside should be avoided. This therefore indicates that a home or homes being built in isolation would not be acceptable. The reverse however suggests that infill developments would, perhaps under the heading of a "windfall" site be acceptable, great weight should be given to those within existing settlements but it does not specify within settlement boundaries. There are no NPPF written instructions regarding the number of existing properties, nor does it require that the properties should be in some sort of ribbon development.

To support this premise, Para 60 says

To support the government's objective of significantly boosting the supply of homes, it is important that a sufficient amount and variety of land can come forward where it is needed, that the needs of groups with specific housing requirements are addressed and that land with permission is developed without unnecessary delay.

Followed by in para 66,

Strategic policy-making authorities should have a clear understanding of the land available in their area through the preparation of a strategic housing land availability assessment. From this, planning policies should identify a sufficient supply and mix of sites, taking into account their availability, suitability and likely economic viability. Planning policies should identify a supply of:

(a) specific, deliverable sites for years 1 to 5 of the plan period ; and

(b) specific, developable sites or broad locations for growth, for years 6-10 and, where possible, for years 11-15 of the plan.

And in sub paragraphs within para 69

Small and medium sized sites can make an important contribution to meeting the housing requirement of an area, and are often built-out relatively quickly. To promote the development of a good mix of sites local planning authorities should:

(a) identify, through the development plan and brownfield registers, land to accommodate at least 10% of their housing requirement on sites no larger than one hectare; unless it can be shown, through the preparation of relevant plan policies, that there are strong reasons why this 10% target cannot be achieved;

(c) support the development of windfall sites through their policies and decisions – giving great weight to the benefits of using suitable sites within existing settlements for homes

Whilst the paragraph (c) mentions settlements, it does not describe sites within a settlement boundary so the meaning is quite clear that this indicates a group of properties even within or close to a town or small village that may not fit the West Berks criteria.

Under the heading Rural Housing Para 79;

To promote sustainable development in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities. Planning policies should identify opportunities for villages to grow and thrive, especially where this will support local services. Where there are groups of smaller settlements, development in one village may support services in a village nearby.

Paragraph 80 goes on to identify what the NPPF really means

*Planning policies and decisions should avoid the development of **isolated homes in the countryside** unless one or more of the following circumstances apply:*

For example in (e)

the design is of exceptional quality, in that it:

is truly outstanding, reflecting the highest standards in architecture, and would help to raise standards of design more generally in rural areas; and

would significantly enhance its immediate setting, and be sensitive to the defining characteristics of the local area.

Comment.;

It is easy to understand the concept of the West Berkshire policy which was first raised in the original plan in 2006. The question now is one of relevance going forward from 2023 to 2037. There is and will continue to be, pressure to develop residential properties and it is very obvious that these settlement boundaries are today obsolete because of those rules preventing any building. That includes those locations outside and perhaps adjacent to those settlement boundaries which might in the future come forward. The NPPF makes this premise very clear. The infilling having ten or more existing houses as described in the local plan rules, along with a requirement to be adjacent to a highway would continue to prevent any opportunity for small developments. It is thus failing to support our local building industry and their local workers. It is also contrary to the spirit of the NPPF The council has overcome the red line boundary on virtually every of the new locations that are provided for major development by simply drawing a new boundary line and extending the original. Whilst these are included within the policy document these are all developments undertaken by national builders with little return to the local economy during construction. When the Authority take their CiL and S106 and finally when it starts to take council tax there is a return but support for a local builder would provide the profitability which retains that local industry and maintains a team of tradesmen who live and spend locally.

It should be borne in mind that even though the wording reads “*Exceptionally new residential development outside of adopted settlement boundaries will be permitted.*”, the planners do tick boxes when deciding an application, with no recourse against the decision other than the applicant going on to appeal to the Inspector.

It is agreed and the NPPF is quite clear that planning policies should be “Plan Led” but there are also opportunities for successful small developments which are in tune with the needs of small communities. It is so often the case that local fibre broadband is out of reach of small groups of homes even when close to boundaries due to the perceived viability by the providers and a couple of extra homes might tip the scales.

This argument is sound and the paragraph should be rewritten to bear in mind the points raised above and be less onerous on small developers or builders who have the opportunity to develop and enhance smaller communities that already exist. The rules for isolated homes should still apply but within the description which has been tested in the high court and which is described in the NPPF.

Proposal for a more fair and suitable revision to that section in DM1....

Development proposals for new housing outside of Settlement Policy Boundaries will only be permitted where they are:

Small scale residential proposals (Four dwelling or fewer (net)) of a scale and type that meet a locally agreed need provided that:

- 1 ***It is well related to the existing settlement and would not result in an isolated form of development; and***
- 2 ***The development will respect the qualities of the local landscape and be sympathetic to its character and visual quality; and***
- 3 ***The development will respect and relate to the character, form and appearance of surrounding development, and respect the amenities of the residents of neighbouring properties;***

5. Independent Examination

If your representation is seeking a change, do you consider it necessary to participate at the examination hearing session(s)? Yes

If you wish to participate at the oral part of the examination, please outline why you consider this to be necessary.

Please note the Inspector will determine the most appropriate procedure to adopt to hear those who have indicated that they wish to participate at the oral part of the examination.

The Planning Policy department within WBC are fairly fixed in their outlook towards the documentation that they champion and are very reluctant to listen to alternative proposals.

6. Notification of Progress of the Local Plan Review

Do you wish to be notified of any of the following?

Please tick all that apply

The submission of the Local Plan Review for Independent Examination . Yes

The publication of the report of the Inspector appointed to carry out the examination . Yes

The adoption of the Local Plan Review

. Yes

Comment

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| Event Name | Proposed Submission (Reg 19) West Berkshire Local Plan Review 2022-2039 |
| Comment by | Brian Withers (1332989) |
| Comment ID | PS124 |
| Response Date | 21/02/23 17:27 |
| Consultation Point | Policy SP 12 Approach to Housing Delivery (View) |
| Status | Processed |
| Submission Type | Web |
| Version | 0.1 |
| Bookmark | Withers, Brian |

1. Do you consider the Local Plan Review is legally compliant?

Please see the guidance note for an explanation of what 'legally compliant' means

Yes

Please give reasons for your answer

It forms the basis for the requirement for such a document

2. Do you consider the Local Plan Review is sound?

Please see the guidance notes for an explanation of what 'soundness' means.

The soundness of the LPR should be assessed against the following criteria from the National Planning Policy Framework (NPPF).

Please tick all that apply:

Positively Prepared: The plan provides a strategy which, as a minimum, seeks to meet the area's objectively assessed need and is informed by agreements with other authorities, so that unmet need from neighbouring areas is accommodated where practical to do so and is consistent with achieving sustainable development. . No

Justified: the plan is an appropriate strategy, taking into account the reasonable alternatives, and based on proportionate evidence. . No

Effective: the plan is deliverable over the plan period and based on effective joint working on cross-boundary strategic matters that have been dealt with rather than deferred, as evidenced by the statement of common ground. . Yes

Consistent with national policy: the plan should enable the delivery of sustainable development in accordance with the policies of the NPPF. . No

Please give reasons for your answer

Some of the policies are very old and do not fit today's requirements as laid down in the NPPF

3. Do you consider the Local Plan Review complies with the Duty to Co-operate?

Please see the guidance note for an explanation of what 'Duty to Cooperate' means.

Yes

4. Proposed Changes

Please set out what change(s) you consider necessary to make the Local Plan Review legally compliant or sound, having regard to the tests you have identified above (Please note that non-compliance with the duty to co-operate is incapable of modification at examination).

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Policy SP12

New homes will be located in accordance with **Policy SP1: Spatial Strategy, Policy SP3: Settlement hierarchy and Policy DM1**: Development in the Countryside amongst the West Berkshire strategic Objectives should provide a range of sites to ensure that the District's housing needs and aspirations are met by providing a range of market, affordable and specialist housing types, tenures and sizes in appropriate and sustainable locations.

Policy SP12, identifies that several sources will ensure a continuous supply of land for housing across the plan period. That said, there is a note within SP12 that there may be a requirement that West Berks could have to support a shortfall of 230 homes in the period to 2036 that have been identified in the Reading Local Plan

Windfall sites are covered as sites not specifically identified in the Local Development plan but those that will come forward through the development management process in accordance with policies set out in the Local Plan and through the use of permitted development rights. There will also be identified within that section new sites allocated in the LPR and also new sites to be allocated in identified neighbourhood plans once these are established. The council have declared that they are looking for over 1,958 units on windfall sites.

The local Plan proposal says, [quote]: "*The NPPF states that local planning authorities should support the development of windfall sites through their policies and decisions – giving great weight to the benefits of using suitable sites within existing settlements for homes (Para.68). Policies within the LPR identify the most sustainable settlements and direct development to the built up areas within settlement boundaries. The Council also publishes and maintains a register of brownfield sites that are available and potentially suitable for residential development across the District.*"

This is a slight stretch given what the NPPF actually says in Para 68. The NPPF policy indicates that councils should produce a strategic housing land availability assessment. There is no mention, as identified in the local plan proposal, for land availability only within settlements. It clearly states the number of deliverable sites within the plan period on developable sites or broad locations for growth. The NPPF does however identify in Para 69(c) that councils should support the development of windfall sites and give great weight to the use of suitable sites within existing settlements. However the weighting does not determine that locations for new sites should be exclusively grouped within those settlements. It should also be noted that there is no mention of formal boundaries to settlements within the NPPF so this would suggest that there is intended to be some flexibility towards sites which are adjacent but not isolated from the settlements. In fact Para 72(b) is clear that sites could be allocated on land adjacent to settlements as long as they are proportionate in size to them. The footnote 35 goes on to clarify that this land should not be larger than one hectare in size or exceed 5% of the size of the existing settlement.

SP1 determines that the focus of development in each spatial area will be required to follow the District-wide settlement hierarchy which takes account of the function and sustainability of settlements and promotes sustainable communities. Development and redevelopment within the settlement boundaries of those settlements will be supported. Outside of settlement boundaries, land will be treated as open countryside.

This is not what the NPPF identifies as within that framework, there is no reference to settlement boundaries although it is clear however that isolated homes in the countryside should be avoided. A development which is small in nature but adjacent to a settlement or in West Berks terms a settlement boundary, should be supported.

Within SP1 the Local plan does say that "Developments on the edge of defined settlements are generally expected to secure a net density of 30 dwellings. However, lower density developments will be appropriate in certain areas of the District that are particularly sensitive to the impact of intensification and redevelopment. This may be because of the prevailing character of the area, the sensitive nature of the surrounding countryside or built form, and/or the relative remoteness from public transport." This appears to go against the policy of virtually no development outside a settlement boundary as identified in policy DM1. Further within SP1 the Local Plan identifies the opportunity for smaller non-strategic sites allocated in the LPR and in some neighbourhood plans, together with infill development, including that on windfall sites within settlement boundaries. Here once again the policy precludes any location outside a settlement boundary even those identified in the NPPF as being acceptable when adjacent to a settlement. Once again the word boundary is not included.

Policy SP3 deals with;

Urban Areas: Newbury, Thatcham, Eastern Urban Area (Tilehurst, Calcot, Purley on Thames)

Rural Service Centres: Burghfield Common, Hungerford, Lambourn, Mortimer, Pangbourne, Theale

Service Villages: Bradfield Southend, Chieveley, Cold Ash, Compton, Great Shefford, Hermitage, Kintbury, Woolhampton

Both Urban and Rural locations have limited development opportunities and must meet the requirement for infill or changes of use within the settlement boundary.

Development in smaller settlements with settlement boundaries, and which are not included in the settlement hierarchy, will be delivered in accordance with Policy SP1. Development outside of these settlements, in other rural hamlets and in isolated groups of development will be restricted to that which is appropriate in a rural area as set out in Policy DM1.

Policy DM1 within the Local Plan proposal, will refuse any application for small potential windfall developments that do not meet that policy. This policy virtually precludes any development outside what the council identifies as a settlement boundary

SP12 therefore is particularly restrictive and does not meet the requirements for development as provided for in the NPPF. This is mainly due to the heavy reliance and stated locations for developments within the Local Plan definition of "Settlement Boundaries". This restriction is reinforced with Policy DM1. This however does not comply with the directives of the NPPF and it therefore makes policy SP12 inconsistent with National Policy.

5. Independent Examination

If your representation is seeking a change, do you consider it necessary to participate at the examination hearing session(s)? No

6. Notification of Progress of the Local Plan Review

Do you wish to be notified of any of the following?

Please tick all that apply

The submission of the Local Plan Review for Independent Examination . Yes

The publication of the report of the Inspector appointed to carry out the examination . Yes

The adoption of the Local Plan Review . Yes