

Mansfield Local Plan Examination

Inspector - Mrs S Housden BA (Hons) BPI MRTPI

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Ms Katie Mills
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16 July 2019

Dear Ms Mills,

Mansfield Local Plan Examination

1. I am writing to indicate my findings following the Local Plan hearing sessions in May and to indicate the next steps to progress the Examination. I emphasise that the Examination is not yet complete pending any further work necessary to respond to the points in this letter and consultation on the proposed main modifications. Consequently, the comments in this letter are made without prejudice to my final conclusions on the legal compliance and soundness of the plan overall. The main modifications that are necessary to respond to the points in this letter will need to be added to those which are being progressed following discussion at the hearing sessions.
2. The detailed reasons for my findings on the following matters will be in my final report which will also cover other matters that have arisen during the Examination but which are not dealt with in this letter. I am not inviting comments from the Council or anyone else on the matters raised in this letter except where I have indicated the need for further work or a response from the Council.
3. At this stage I have no specific concerns in respect of the statutory requirements arising from the Duty to Cooperate. The reasoning for this conclusion will be set out in my final report on the soundness of the plan.

Habitats Regulations Screening Report

4. The National Planning Policy Framework (2012) at paragraph 118 is clear that potential Special Protection Areas (SPAs) should be given the same protection as European sites. From the evidence in the Screening Report, representations made and the approach taken in other plans and decisions which have been referred to me, my conclusion is that the assessment of

any likely significant effects on the possible potential Sherwood SPA (ppSPA) should be undertaken as if it were a designated site in order to comply with the Framework and the Habitats Directive.

5. The 'Sweetman'¹ ruling determined that at the screening stage mitigation measures should not be relied upon to screen out adverse effects on the integrity of European designated sites and mitigation should only be proposed as part of a full Appropriate Assessment (AA). In relation to the Birklands and Bilhaugh Special Area of Conservation (SAC), the HRA screening report (document S10) concluded that no mitigation was required to ensure no adverse effect on the integrity of the SAC. However, the report's conclusion of no likely significant effects on the ppSPA relies upon the incorporation of mitigation measures to screen out adverse effects on the integrity of the area, as summarised in Appendix B. This includes in relation to site allocations at H1a (Clipstone Road East), SUE2 (Land off Jubilee Way) and E2a (Ratcher Hill Quarry). However, site H1j (Cauldwell Road) which is also referred to is proposed to be deleted as a main modification.
6. Consequently, an AA is required to ensure that the Local Plan is legally compliant having regard to the Sweetman ruling. The Council should make the necessary arrangements for this work and I will review the outcome of the AA prior to consultation on the main modifications.

Housing Requirement

7. As you will be aware, immediately after the hearings I invited written representations on document Exam 6 - Affordable Housing Note, submitted by the Council. I have considered the updated evidence on affordable housing need set out in that document, the Council's note and the responses that I have received. For reasons which will be explained more fully in my final report, I consider that the submitted plan's requirement of 325 dwellings per annum is justified and no further changes are required for soundness.

Policy H5 – Custom and Self Build Homes

8. The Planning Practice Guidance indicates that the Council should provide a robust assessment of demand for custom and self build homes including an assessment and review of data held on the Council's Register which should be supported by additional data from secondary sources to understand and consider future need for this type of housing.
9. I am not satisfied that there is sufficient evidence to justify the requirement in Policy H5 that 5% of units on larger sites of 100 dwellings should be provided as custom/self build dwellings. Firstly, it is not clear whether provision on only larger sites would meet the preferences of the limited number of people currently on the register. Furthermore, it is not clear how the policy would operate effectively, for example the procedures that would apply where plots remain unsold. Whilst the Council has indicated

¹ People over Wind, Peter Sweetman v Coillte Teoranta Case C-323/17

that a Supplementary Planning Document would include more detail, for the policy to be effective and soundly based further consideration needs to be given to these matters at a plan level.

10. As matters stand, the requirement in paragraph 1 of Policy H5 is not soundly based. In order to address this, it would be necessary to secure further evidence of the demand for custom and self build dwellings in the District to support the specific requirements set out in paragraph 1 of Policy H5 and demonstrate what measures would be necessary to deal with future issues including unsold plots. This would, however be likely to delay the Examination process. Alternatively, a main modification is necessary to delete paragraph 1 of Policy H5 and the associated supporting text. The remaining text in paragraph 2 of the policy would offer support to custom/self build proposals but a main modification is required to delete 'in all cases' from the first sentence in order to avoid any potential conflict with other policies in the plan. Could the Council please confirm how it wishes to proceed on this matter.

Site E2a Ratcher Hill Quarry Employment Area

11. Document Exam 8 published after the hearing sessions confirms that the size of the proposed extension to the existing Ratcher Hill employment area in Site allocation E2a should be 8.33 hectares and not 5.37 hectares as set out in the submitted plan. Part of the site (4.33 hectares) falls within an existing sand quarry site and is subject to planning conditions and a section 106 agreement to secure its restoration to woodland, scrub and acid grassland.
12. Based on the submitted evidence and representations it is clear that the restoration of the area within the sand quarry would contribute towards heathland creation and habitat connectivity in this part of the District as well as compensating for the loss of habitats when the quarry was created. The proposed mitigation in criteria E2(2) to create heathland habitat elsewhere in the District would be isolated from the site and would not compensate for the lost habitat which is in proximity to other areas of biodiversity importance.
13. As submitted, the allocation of the entirety of Site E2a is not justified and a main modification is necessary to delete the 4.33 hectare area within the existing sand quarry site from the allocation with the remaining area allocated for employment. As the employment land supply exceeds the objectively assessed need, no further employment allocations are necessary to take account of the reduction in supply. Consequential main modifications will also be necessary to take account of the revised employment land supply figure including in Policy S2 and table 6.3 as well as changes to the Policies Map to delete part of the employment allocation.

Policy CC1 – Renewable and low carbon energy generation

14. The Written Ministerial Statement (WMS) of 18 June 2015 indicates that when determining planning applications for wind energy development involving one or more wind turbines, local planning authorities should only

grant planning permission if the proposed development site is in an area identified as suitable for wind energy development in a Local or Neighbourhood Plan and following consultation, it can be demonstrated that the planning impacts identified by affected local communities have been fully addressed and therefore the proposal has their backing.

15. The evidence which has informed the approach to small and larger scale wind turbines in Policy CC1 is based on the East Midlands report² and mapping done for Mansfield District. However, both these documents pre-date the Mansfield Landscape Character Assessment Addendum (2015) which shows updated landscape policy zones included within the plan. This later landscape character evidence does not appear to inform the scale of smaller³ or larger wind turbines that would be supported under Policy CC1 nor is it clear how it has contributed to the identification of areas suitable for commercial wind development as identified on the Policies Map.
16. Furthermore, the areas identified for commercial scale wind generation do not have clearly defined boundaries on the Policies Map and based on what I saw during my site visits, do not follow physical features on the ground. Overall, I consider that Policy CC1 is not justified in so far as it relates to proposals for wind turbines and its geographic interpretation on the Policies Map is not soundly based. Furthermore, the requirement for public consultation as set out in the WMS is not clear.
17. Addressing this soundness issue would require further work to draw together the evidence base including consultation, sustainability appraisal and Habitats Regulations Assessment. Alternatively, a main modification would be necessary to delete the policy and its supporting text from the plan together with a proposed modification to remove Inset Map 6 from the Policies Map. Additional supporting text would be necessary to explain that proposals for wind turbines will be considered against the PPG and WMS. It would be helpful to receive an indication of the Council's preferred option to deal with Policy CC1.
18. Assuming the Council would be content to adopt the plan on the basis of the modifications I have indicated are necessary, I would be grateful if you would indicate the timescale necessary to undertake the work in addressing the points in this letter and then preparing the detailed wording of the main modifications for my consideration. If this is not the case, I would be grateful if you would alert me as a matter of urgency in order that I can consider how best to progress the examination. In the meantime please let me know via the Programme Officer if there are any queries on the contents of this letter.

Yours sincerely

Sarah Housden INSPECTOR

² Low Carbon Energy Opportunities and Heat Mapping for Local Planning Areas Across the East Midlands Final Report March 2011 (Document C4a -f)

³ Defined as up to 65 metres to blade tip)