

Inspectors Question 3

The penultimate paragraph of policy S5 reads "...verified by an independent consultant verified by the Council..." Is that what is meant?

AVDC Response

This means that an independent consultant that has been verified by the council as 'independent' from the relevant applicant to remove any potential for a conflict of interest who will need to evaluate the open book calculations presented by the applicant. Suggest modification to say "verified by an independent consultant approved by the Council"

Inspectors Question 4

The penultimate paragraph of policy S5 requires verification of an appellant's submitted information in support of an application "at the expense of the applicant." This requirement is repeated in paragraphs 5.7 and 5.18 and in clause (b) of policy H1. Is this meant to imply a fee in addition to the fee which an applicant pays for the processing of a planning application and, if so, what is the legal authority empowering the Council to make such a charge over and above the fees which it is allowed to charge for the processing of planning applications?

AVDC Response

Legal advice is awaited in relation to this question and an answer will be provided once clarification is received.

Inspectors Question 5

Paragraph 4.6 refers to "other "deliverable" sites". What is meant by this phrase?

AVDC Response

The phrase "other 'deliverable' sites" refers to those sites that arise through large or small windfall sites which conform to the definition of deliverable in footnote 11 on page 12 of the NPPF. That definition refers to sites that "offer a suitable location for development" which would relate to the requirement in paragraph 14 of the NPPF that development proposals that accord with the development plan are approved without delay. An example of this would be the redevelopment of an employment site under policy E2. It also includes development arising through permitted development such as the conversion of offices to housing.

Inspectors Question 6

Policy D1 (a) (b) (g) and (h) and allocations D-AGT1-6 and D_HAL003 refer to the Aylesbury Garden Town Design Guidance SPD and to individual site-specific supplementary planning documents (SPDs). Paragraphs 5.8, 5.9, 5.10, 5.13 and policy H1 refer to an Affordable Housing Supplementary Planning Document. Paragraph 4.222 refers to an Aylesbury Parking Strategy setting out the Council's aims regarding parking in the town. Allocation D-AYL059 refers to a Design SPD. Paragraph 5.68 refers to a Design SPD. Paragraph 7.29 and policy T5 delegates vehicle parking standards to the Design SPD. The final sentence of policy BE1 refers to adopted SPD (unnamed). Paragraph 8.45 and policy BE2 refer to the production of a Design SPD. Paragraph 9.17 refers to the development of a biodiversity SPD. Paragraph 9.59 refers to the intended production of a trees SPD. Paragraph 11.15 refers to Sport and Leisure facilities SPG.

National Guidance Paragraph: 028 Reference ID: 12-028-20140306 advises that supplementary planning documents "should build upon and provide more detailed advice or guidance on the policies in the Local Plan". They should not themselves introduce new policy requirements which have not been the subject of examination.

Standard PINS advice is that a supplementary planning document (SPD) does not have statutory force and is not the subject of examination. It is defined at Regulation 2 of the Town and Country Planning (Local Planning) (England) Regulations 2012 as something that is not a local plan. Consequently policies should not simply devolve fundamental matters to SPD although they may legitimately add further detail to policies or to provide guidance as per the definition in the NPPF. Policies that require compliance with an SPD on matters such as car parking are unlikely to be consistent with national policy.

Whilst I'm relatively comfortable with the level of specificity in the Affordable Housing and Biodiversity policies in the plan, I have severe doubts about the soundness of delegating car parking standards to an SPD in view of the extent of land which may be required to satisfy car parking standards and hence the degree of consistency with policies S7 ("development in Aylesbury will be expected to make efficient and effective use of land"), BE2 ("complement the physical characteristics of the site and its surroundings") and BE4 ("Proposed densities of developments should reflect those of their surroundings...") and also its consequent effect on the viability of development.

I am also unconvinced of the soundness of the balance of specificity between policies BE2 and the SPD in the light of the requirement to follow the SPD guidance set out in policy BE2 compared with the relatively abstract requirements of the policy itself. I also note that there is a multiplicity of other policies with design implications which have no reference to the Design SPD. These include, besides policy BE2, policies BE4, T5, NE3, NE5, NE6, NE9, C1, C3, I1 and I4.

Would the Council please consider whether there are any provisions of the SPDs which ought to be included in the policies and then consider whether policies should be re-drafted so as to make it clear that policy does not require compliance with the SPD but that adherence to the guidance in the SPD is likely to be accepted by the Council as compliance with the policy.

AVDC Response

The Council already operates a broad range of supplementary guidance. The approach therefore reflects existing practice in the area. This is delivering high quality design which is celebrated in the Council's annual design awards. The approach of the Council is to build on this existing process by updating the current range of guidance and, as much as possible, bringing that guidance into one design SPD. To this end the Council has recently gained Government funding for the production of a district wide design guide and the establishment of a design review panel.

The existing development plan policies on design are also operating satisfactorily and have been used as the basis for the new policies on design in the VALP. Whether to add further detail to the policies on design was considered in the preparation of the VALP particularly in the light of section 7 of the NPPF on 'Requiring good design'. Paragraph 59 of that section instructs that "design policies should avoid unnecessary prescription or detail and should concentrate on guiding the overall scale, density, massing, height, landscape, layout, materials and access of new development in relation to neighbouring buildings and the local area more generally". The next paragraph in the section then instructs "Planning policies and decisions should not attempt to impose architectural styles or particular tastes and they should not stifle innovation, originality or initiative through unsubstantiated requirements to conform to certain development forms or styles. It is, however, proper to seek to promote or reinforce local distinctiveness".

In the light of this guidance it was considered that a more detailed design policy was not necessary and it is considered that the proposed policy meets the requirements of national planning policy when considered in relation to other policies in the plan that are relevant to design matters. Density is for example specifically addressed by policy BE4 and that policy is a good illustration of the difficulty faced in determining how detailed a design policy should be in relation to national planning policy. To "optimise the potential of the site to accommodate development" as required in paragraph 58 of the NPPF it would appropriate to demand high density housing development and potentially define a density below which development would be refused. Beyond the difficulty of deciding what that density should be, a prime factor should be the context of the site. A steeply sloping site for example would be unable to deliver high density development regardless of the density of development in the area and conversely development in the context of Garden City principles, as referred to in paragraph 52 of the NPPF, would generally be of lower density. Greater detail was therefore not felt to be appropriate.

In relation to car parking the Council currently operates Parking Guidelines as an adjunct to 'saved' policy GP24 in the Aylesbury Vale District Local Plan and was seeking to continue the current approach. This was informed by paragraph 39 of the NPPF which instructs that any standards should take account of the type, mix and use of development; the availability of and opportunities for public transport; and local car ownership levels. As these factors will vary significantly between proposed developments it was considered that it would not be appropriate for parking requirements to be an absolute requirement and instead would need to operate as a starting point for determining the appropriate provision in each location. As a result it was considered that it was not appropriate to include specific standards within the body of the new plan.

Nevertheless should it be determined that the inclusion of specific standards would address an issue of unsoundness the Council would be able to prepare specific car parking standards to be consulted on as a main modification. However this would introduce a difficulty in relation to a number of made neighbourhood plans that have specific car parking requirements within them.

In relation to the broad spread of SPDs that the Council intends to produce they have not yet been prepared as the policies to which they relate may be revised through the Examination process. Further, the production of an SPD requires public consultation and having proper regard to the responses. Such consultation will ensure that concerns regarding whether policy requirements are inappropriately being included within an SPD can be addressed at that stage. It is accepted though that further policy stipulations cannot be included in an SPD if they have not been included in the local plan, but the council is confident that it has included all necessary policy requirements in the local plan as submitted. Nevertheless the council intends to carry out an early review of the local plan, so should there be a recognition that further policy content needs to be included in the local plan this can be addressed in the early review. However, it is agreed that where text stipulates that development must accord with the provisions of an SPD it should be modified to clarify that adherence to the guidance in the SPD is likely to be accepted by the Council as compliance with the policy.

Inspector's Question 7

Policy D1 (h), applicable to sites comprising the Aylesbury Garden Town vision (and cross-copied to the relevant allocation policies) requires a minimum of 50% of land within the allocations to be provided as local and strategic green infrastructure. Where will I find the evidence which shows that development will be viable whilst complying with this requirement? How is this requirement made consistent with the requirement in policy S7 that "development in Aylesbury Vale will be expected to make efficient and effective use of land"?

AVDC Response

This 50% requirement is specifically addressed in the Council's viability evidence. Please see page 76 for WTV022 of the Vale of Aylesbury Local Plan (VALP) Viability Assessment Appendix IIb: Strategic Site Trial Results Overview & Assumptions which can be seen via this link

https://www.aylesburyvaledc.gov.uk/sites/default/files/page_downloads/Appendix%20IIb%20v1%20Final%20strategic%20sites%20with%20appraisal%20summaries%20%2B%20Cover%20S....pdf

This demonstrates that the implementation of the 50% Green Infrastructure target does not prevent the efficient and effective use of land. It should also be noted that the NPPF's Core planning principles state that planning should always seek to ensure a good standard of amenity and encourage the effective use of land. Therefore the plan is in accord with national planning policy which indicates that efficient use of land and high standards of amenity should both be pursued in new development.

Inspector's Question 8

Paragraph 4.31 notes that the south Aylesbury allocation includes land not formally promoted to the Council. Could the Council please point me to the evidence that shows that this part of the allocation is deliverable?

AVDC Response

The Council is currently actively negotiating with the owners of the land in question to ensure that it is available for development. An update in respect of the progress made will be provided in due course as negotiations proceed.

Inspector's Question 9

Several allocation policies require the submission of a transport assessment. Although some make it clear that this is only needed so as to establish the precise extent of remediation or accommodation measures are necessary, others do not and so appear to be implying that the impact of the proposed development is not known to be capable of being accepted in principle. In these cases (D-AYL073(d), D-AYL115(e), D-BUC051(d), D-BUC046(d), D-NLV005(d)) can the Council please point me to the evidence which shows that the impact of these sites on the transportation network can be made acceptable and so, that the allocation is sound?

AVDC Response

This question has been referred to the County Council as highway authority. Their response is as follows:

All sites have been assessed in terms of suitability in highway terms by the highway authority as part of the Housing and Economic Land Availability Assessment and can achieve safe and suitable access, and are considered sustainable locations in highway terms in line with the NPPF. The modelling of traffic impacts from the proposed allocations has also been undertaken to determine whether the traffic impacts of the sites can be accommodated in the highway network. The traffic impacts have however not been assessed on the basis of a detailed planning application and when an application is made the traffic environment will need to be assessed on the basis of the traffic situation at the time of the application. In accordance with national planning policy guidance to determine and mitigate the localised impacts of a specific development on the local highway network at the time of a planning application a Transport Assessment (TA) or a Transport Statement (TS) is required. This is considered a standard requirement for any development and would need to include a detailed assessment of localised impacts.

Inspector's Question 10

What is meant by the words in square brackets in subsection (e) of allocation AYL059?

AVDC Response

This is a typo and the words will need to be removed via a minor modification.

Inspector's Question 11

Paragraph 4.128 refers to "the village". Is this a correct term to describe Buckingham, the second most important settlement in the district?

AVDC Response

This is a typo and the text will need to be revised to refer to the town via a minor modification.

Inspector's Question 12

Is the rigour of policy E6 (A1, A2, A3 uses only in Primary frontages, so no bars or takeaways) consistent with the fourth of the Guiding Principles for Aylesbury (encouraging social interaction...a place in which to meet, relax and spend their leisure time) set out in paragraph 4.207?

AVDC Response

Class A4 – drinking establishments and Class A5 – hot food and takeaway are not included as acceptable uses in policy E6. However, this policy was drawn up in the context of a very limited proportion of the town centre frontages being designated as primary outside the two indoor shopping areas, there being existing refreshment facilities available already in those frontages, the proximity of secondary shopping frontages where such facilities can be allowed and the existing concentration of food and drink the objective of the town centre being a outlets in locations close to the primary shopping frontages. On that basis it was not considered that it was necessary to allow further non 'A' Class development to meet the objective of the town centre being a place in which to meet, relax and spend leisure time as the current mix of uses allows this to occur whilst maintaining the primary retail function of the primary shopping frontages. Perhaps the policy could be modified to indicate that the existing proportion of such uses will be allowed to continue as this is a specific reaction to the current position in Aylesbury Town centre rather than an attempt to exclude A4 and A5 uses.

Inspector's Question 13

The wording of the first sentence of policy NE1 appears garbled; "The Council" at the end of the second line seems superfluous. The final two lines of this policy have not been highlighted in colour.

AVDC Response

These are both typos. The words the Council from line two of the policy will be deleted and the colour will be extended to cover all the policy text by minor modifications

Inspector's Question 14

The definition of Affordable Housing in the submitted plan's glossary is consistent with that in the current NPPF. Paragraph 5.2 of the submitted plan canvasses the idea that policy and supporting evidence on affordable housing will probably need to be altered before the plan is adopted because of the introduction of the concept of starter homes in the Housing and Planning Act 2016 and the different approach suggested in the Housing White Paper of February 2017.

If the council really does want to amend its policy to be in line with the emerging definition of affordable housing, this may not be straightforward because the plan has clearly been prepared on the basis of the old definition. Costs resulting from the new definition would be different and so would require a new viability assessment with potential impact on the percentage required as affordable housing in policy.

The draft revised NPPF is a consultation document at this stage and so does not represent agreed government policy. At the moment its annex 2 contains a new definition of affordable housing but annex 1 contains the advice "The policies in the previous Framework will apply for the purpose of examining plans, where those plans are submitted on or before [] [this will be the date which is six months after the date of the final Framework's publication]. In these cases the examination will take no account of the new Framework."

In the light of these considerations, the council may want to consider a modification to paragraph 5.2 to note the emerging NPPF, the changing definition of affordable housing and its transitional arrangements and to highlight the issue for consideration in an early review of the plan, rather than to press for a modification to the policy in the now submitted plan.

AVDC Response

The content of the VALP was drawn up in the light of the Government's White Paper when it seemed likely that the new requirements in relation to affordable housing would become Government planning policy during the Examination and the plan would need to be modified to take account of the new requirements. However it is now clear from the draft NPPF that the VALP will be examined on the basis of the existing NPPF and the VALP will not need to be modified. The Council will therefore be proposing a minor modification to remove the reference to modifying the plan in paragraph 5.2.

Inspector's Question 15

I would appreciate the Council's observations on the points made by Mr Saunders in representations 148 and 149.

AVDC Response

Mr Saunders has stated in representation 149

VALP paragraph 1.1 states: "... this Local Plan, once adopted, will form the main part of it for the district, replacing the 2004 Local Plan saved policies." As written, the VALP will not replace the AVDLP saved policies but will sit alongside them. The attached pdf file states why this is the case.

The attached Pdf refers to the legislation (Planning and Compulsory Purchase Act 2004 – Schedule 8) under which the old plan's policies were 'saved' and that legislation states they should be expressly replaced by new policies. As there is no such list of replacements it is suggested that a list is produced as an appendix to the VALP.

To address this issue the Council will produce such a list as a minor modification to ensure clarity.

Mr Saunders has stated in representation 148

A definition of the term "Local Plan" is given in the Glossary. Unfortunately that definition is wrong, and indeed the term is not used in that way in this paragraph (paragraph 1.2). The simplest solution is to correct the Glossary. In the attached pdf file I give details of the error and suggest a possible correction.

The Council accepts that definition in the Glossary is not accurate. This will be addressed by a minor modification.