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## **Independent Examination of the Cotswold Local Plan**

### **Actions Required following Hearing Sessions 14, 15 and 16 (Week Four)**

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Further to the discussions at the week four hearing sessions (21 and 22 November), the following actions are required. The Inspector considers these to be necessary at this stage of the examination to inform his consideration of whether the Plan is sound and/or how it could be made sound by main modifications.

Unless otherwise stated, each of the action points is for the Council to pursue. Where appropriate and possible, the Council should liaise with relevant participants in preparing its response.

Responses should be submitted to the Programme Officer by midday on Thursday 7 December 2017. The responses will then be published on the examination website and sent to participants of the relevant hearing sessions.

#### **Matter 14: Built, Natural and Historic Environment and Local Greenspace**

##### ***The Wider Natural and Historic Landscape***

##### **AP14.1 Modify the last sentence of policy EN4(2) to read "... including key views, the setting of settlements, settlement patterns ..."**

Main Modifications schedule has been updated accordingly

##### ***AONB***

##### **AP14.2 Modify the reasoned justification to policy EN4 or EN5 to clarify that, whilst policy EN4 applies to the AONB, policy EN5 includes additional criteria that will also need to be taken into account.**

Main Modifications schedule has been updated accordingly

##### **AP14.3 Modify the reasoned justification to policy EN5 to clarify that part 1 applies to all developments in the AONB, including on allocated sites, whereas part 2 does not apply to allocated sites.**

Main Modifications schedule has been updated accordingly

##### ***Special Landscape Areas***

##### **AP14.4 Modify policy EN6 to delete "that demonstrably meets the economic and social needs of communities". Modify parts (a) and (b) so that they do not repeat the requirements of policy EN4 but rather set out the additional requirements that apply to the SLAs based on their special character and key landscape qualities.**

Main Modifications schedule has been updated accordingly

**AP14.5 Modify paragraph 10.3.3.1 to delete reference to the SLAs being of comparable quality to the AONB, and so that it explains why those areas have been designated based on their different special characters and key landscape qualities.**

Main Modifications schedule has been updated accordingly

**AP14.6 Modify paragraph 10.3.3.1 to clarify that policy EN6 applies to all development in the SLAs, including on allocated sites.**

Main Modifications schedule has been updated accordingly

**AP14.7 Modify the Key Diagram to show the six SLAs.**

This is in hand and will be completed by 9/12/17

### ***Conservation Areas***

**AP14.8 Modify policy EN11(c) to delete "because of their openness".**

Main Modifications schedule has been updated accordingly

### ***Open Space***

**AP14.9 Modify policy INF2, the reasoned justification and Glossary to make it clear that "social and community infrastructure" and "local community facilities or services" include open space, and to ensure that the policy is consistent with NPPF paragraphs 73 and 74.**

Main Modifications schedule has been updated accordingly

## **Matter 15: Other Issues**

### ***Transport***

**AP15.1 Further to its response to week two action point 8.4 [ED059], the Council will prepare a short note to further clarify whether the scale and location of development proposed in adopted or emerging local plans for surrounding districts would make a significant difference to the findings of the Council's assessments of the transport and other infrastructure required in the district over the plan period.**

The Council's transport infrastructure evidence comprises a highways capacity assessment prepared in co-operation with Gloucestershire County Council as highways authority (ED028; EB061, 062a, 062b). The primary focus of the study is on peak-hour traffic. This is because it is during these periods that the network is under greatest stress.

Peak-hour trips, including those originating from outside the district, will occur only where there is a reason for them. The reason invariably is related to provision of employment, although there may sometimes be

other draws such as schools that are close to the border between two areas. Therefore the correct way to view this issue is not to focus on growth in surrounding areas *per se*, but to have regard to the growth that the council is proposing in its Local Plan that may attract new trips onto the network. The reason for this can be illustrated by analogy.

If there were 10,000 houses built in, say, Swindon but only 50 additional jobs created in Cotswold District, the number of additional peak-hour trips from Swindon (or from anywhere else) would correlate with the job growth in Cotswold District and not with Swindon's housing growth. Regardless of how many houses were proposed across the border, it is unlikely there would be any other reason for those trips to be made in peak hours. Whilst intuitively it seems reasonable to think that if the population is growing in neighbouring areas this means additional trips into the district, it has to be correct that people will only travel into the District for a purpose. Clearly not all the new trips generated by the job growth would be externally generated and not all the new employees from outside the district would use road transport. Moreover, the closure of one employer could counterbalance the opening of a new one.

There may be externally-sourced additional trips on the network for purposes other than employment such as leisure, retail and recreation, and it is recognised that the Cotswolds is a tourist destination. However, given that the highway network is busy in peak hours this traffic is likely to be on the network outside of peak hours and therefore not have a comparable impact on highways infrastructure.

Having regard to "though" and background traffic, to determine to robustness of the Transport Assessment the traffic growth at the junctions assessed has been compared with forecasts from the National Trip End Model forecasts and The Trip End Model Presentation Program (TEMpro). TEMpro factors in the effect of through traffic and background growth. At a district level, TEMpro forecasts approximately 20% growth from this source over the assessment period whereas the Transport Assessment has considered, for example, growth of 50% at Moreton-in-Marsh. This demonstrates that the Transport Assessment is very robust and that the effects of background growth and through trips are adequately considered.

Having regard to the infrastructural impact of the growth proposals of surrounding districts, the appended desktop study (ED075a) has been prepared. All the development plans appraised contain significant proposals for development in the form of major site allocations or urban extensions. They all are supported by Infrastructure Delivery Plans (IDPs). The majority of the major allocations are embedded within policies that also set out infrastructure requirements in varying degrees of specificity. Some of the plans contain very detailed site development briefs including infrastructure requirements, others largely leave the detail to the Development Management process.

None of the plans appraised refer directly to cross-border infrastructure problems arising at the interface with Cotswold District. The only plans that refer directly to Cotswold District are Wiltshire Local Plan, which notes

joint working arrangement regarding the Cotswold Water Park and matters concerning Kemble Airfield, and South Worcestershire which shares a common policy with CDC regarding the routing of HGVs in the Vale of Evesham (CDC Policy INF6). During consultation on the emerging Cotswold District Local Plan none of the surrounding authorities raised concerns about infrastructure provision.

The principal rationale for introduction of a Duty to Co-operate is to ensure that strategic cross-border matters are identified and jointly addressed in development plans (NPPF 178 – 181). The Council has discharged its duty conscientiously and no issues relating to cross-boundary infrastructure have been raised by neighbouring LPAs.

Whilst the study indicates that CDC infrastructure planning is not significantly affected by the development plan proposals of neighbouring authorities and *vice versa*, it does flag areas where close monitoring is advisable. These relate to primarily to significant growth south of the District around Swindon, and to a lesser extent the pre-existing freight transport issue on the A44 to the north.

The Council's IDP has been prepared by consultants also commissioned to prepare IDPs for all the Gloucestershire Authorities, sharing a common methodology. A shared understanding and knowledge of neighbouring Gloucestershire LPA IDPs has helped to identify any cross border issues during its preparation and as a result of consultation on the emerging Local Plan including the Duty to Co-operate.

Representations have been made by Gloucestershire County Council as highways authority (and in relation to its other responsibilities) to many of the Local Plans of surrounding authorities, where it has deemed necessary. It is reasonable to expect that any concerns arising from the Cotswold Local Plan proposals would have resulted in representations from this source.

In pragmatic terms, and having regard to the Duty to Co-operate, it is reasonable and proportionate to assume that mitigation proposals of all the Local Plans in the area will be effective in terms of their impacts on existing infrastructure and in their delivery of adequate new provision where need is identified.

Infrastructure planning is an iterative and ongoing process – a fact recognised by many of the plans appraised and by Government. Planning Practice Guidance advises that *The Local Plan should make clear, for at least the first 5 years, what infrastructure is required, who is going to fund and provide it, and how it relates to the anticipated rate and phasing of development. This may help in reviewing the plan and in development management decisions. For the later stages of the plan period less detail may be provided as the position regarding the provision of infrastructure is likely to be less certain.* Paragraph: 018 Reference ID: 12-018-20140306

## ***Wind Energy Development***

### **AP15.2 Modify policy INF10 to include the policy requirements set out in paragraph 11.7.17.**

Main Modifications schedule has been updated accordingly.

The Council considers that the following Explanatory Note on this will assist the Inspector

In dealing with this action the Council has reviewed the contents of paragraph 11.7.17 having regard to the Ministerial Statement relating to wind energy development published on 18th June 2015 by the Secretary of State for Communities and Local Government (Government ref. HCWS42).

There are two limbs to the Statement. Firstly, when determining planning applications for wind energy development involving one or more wind turbines, local planning authorities should only grant planning permission if:

- the 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.

The second limb comprises a transitional provision. If, as at 18th June 2015, the LPA was in possession of a valid but undetermined application for wind energy development and the Local Plan did not identify any suitable sites, the LPA was empowered to find the proposal acceptable "if, following consultation, they are satisfied it has addressed the planning impacts identified by affected local communities and therefore has their backing."

The Council now considers that the text added to paragraph 11.7.17 as a Focused Change (FC092) misinterprets the Ministerial Statement because it addresses only the second limb which relates to planning applications that may have been current at June 2015.

It must be borne in mind that the NPPF requirement at paragraph 97 is for LPAs to "consider identifying suitable areas". [Underling added]. It does not require LPAs to identify suitable sites. The Council has considered whether to identify suitable sites having regard to the Gloucestershire Renewable Energy Study (CRO22 and CRO23) it has not identified any areas suitable for wind energy development in its Local Plan. The requirement under NPPF paragraph 97 has been discharged. Similarly Paragraph: 003 Reference ID: 5-003-20140306 of the NPPG: "When drawing up a Local Plan local planning authorities should first consider what the local potential is for renewable and low carbon energy generation." It also points out that "Whilst local authorities should design their policies to maximise renewable and low carbon energy development,

there is no quota which the Local Plan has to deliver.”

As to how sites are identified the NPPG “There are no hard and fast rules about how suitable areas for renewable energy should be identified, but in considering locations, local planning authorities will need to ensure they take into account the requirements of the technology and, critically, the potential impacts on the local environment, including from cumulative impacts. The views of local communities likely to be affected should be listened to.”

“In the case of wind turbines, a planning application should not be approved unless the proposed development site is an area identified as suitable for wind energy development in a Local or Neighbourhood Plan.” Paragraph: 005 Reference ID: 5-005-20150618. This text is set to relate paragraph 98.

“When determining planning applications, local planning authorities should: not require applicants for energy development to demonstrate the overall need for renewable or low carbon energy and also recognise that even small-scale projects provide a valuable contribution to cutting greenhouse gas emissions approve the application<sup>3</sup> if its impacts are (or can be made) acceptable. Once suitable areas for renewable and low carbon energy have been identified in plans, local planning authorities should also expect subsequent applications for commercial scale projects outside these areas to demonstrate that the proposed location meets the criteria used in identifying suitable areas.”

Taking the Ministerial Statement at face value therefore, the Council’s starting position in relation to wind energy development proposals should be negative.

The correct interpretation of government planning policy will be a matter of legal interpretation. Counsel advises that the Ministerial Statement is not well drafted. It appears to proceed upon the basis that there is an obligation on LPAs to identify suitable sites in their local plans. However, as stated above, identification of suitable sites is not a national policy requirement. The second requirement of the Statement appears to proceed on the basis that if all planning impacts identified by local residents have been “fully addressed” then the proposal will “therefore” have the “backing of the local community.” The LPA might consider that the impacts have been “fully addressed” but local residents might not agree, can it be deemed to have their backing? Furthermore, it is unclear what “fully addressed” means? Does it mean that there should be no impact or that impact is mitigated as fully as possible?

Counsel advises that whilst the Ministerial Statement and NPPG is not law it is a material planning consideration. One can expect that it would be applied by the inspectorate on appeal. However, there may conceivably be other material planning considerations that could outweigh it depending upon the circumstances.

Taking this into account the Council considers that a revision to the supporting text explaining its approach to wind energy development and indicating that the Council will, alongside the other requirements of policy INF10, have regard to the Ministerial Statement or any subsequent government policy amendment in the determination of planning applications is an appropriate policy position for Cotswold District.

Whilst the other requirements of paragraph 11.7.17 of the Submission Draft Local Plan (FC092) are, contrary to the inference of the text as written, not solely applicable to wind energy development the Council considers that they largely reiterate extant government policy and guidance and their duplication in the Local Plan is unnecessary. They should therefore be deleted. It is considered that an advisory note regarding hydropower energy schemes should nevertheless be retained.

## **Matter 6: Lechlade**

### **AP6.1 Delete the first two sentences of paragraph 7.1.5.6 (because the two allocated sites are not in fact within Source Protection Zone 1)**

Main Modifications schedule has been updated accordingly.

## **Session 16: Housing Supply and Development Strategy – Further Issues**

### ***Housing Supply for the Plan Period***

#### **AP16.1 Modify Table 1 in the schedule of proposed main modifications [ED053] so that the number of units expected to be delivered on sites with planning permission as at 1 April 2017 reflects appropriate lapse and non implementation rates. Delete the separate row in Table 1 in ED053 that refers to “Lapse rate 1<sup>st</sup> April 2017 ... -27”.**

Main Modifications schedule has been updated accordingly.

#### **AP16.2 Delete the row in Table 1 in ED053 that refers to “Additional deliverable planning permissions ... 1 April 2017 and 2 November 2017 ... 343”. Modify the total supply figure accordingly.**

Main Modifications schedule has been updated accordingly.

#### **AP16.3 Modify the reasoned justification associated with Table 1 as necessary to briefly explain how the assumed number of units for each category of supply has been calculated. Include reference to full details being available in the Council’s annual Housing Land Supply Report, and that an updated version of Table 1 will be included in each subsequent annual report.**

Main Modifications schedule has been updated accordingly.

### ***Five Year Housing Land Requirement and Supply***

#### **AP16.4 Modify paragraph 6.1.11 as set out in ED053 (and other parts of**

the reasoned justification as necessary) to explain that the calculation of need for the remaining years of the plan period will be based on a residual requirement approach that deducts net completions since 2011 from the requirement for the plan period of 8,400 dwellings. Furthermore, explain that the five year requirement will be calculated each year and set out in the annual Housing Land Supply Report which will be published each May, and that this will be based on an appropriate proportion of the residual requirement for the remainder of the plan period with a 5% (or 20%) buffer added in accordance with the NPPF.

Main Modifications schedule has been updated accordingly.

**AP16.5 Modify Table 3 in ED053 so that it is entitled “Five Year Housing Land Requirement and Supply” and to reduce the number of rows that it contains. These could include: the total residual requirement for 2017 to 2031 (ie 8,400 - 3,176 = 5,224); the residual requirement for 2017 to 2031 expressed as an annual average; the total residual requirement for 2017 to 2022 plus a 5% (or 20%) buffer; the residual requirement for 2017 to 2022 (including an appropriate buffer) expressed as an annual average; and rows for each category of supply (ie sites with planning permission on 1 April 2017; the Chesterton strategic site; other allocations; and windfalls); total supply 2017 to 2022; supply 2017 to 2022 expressed as an annual average; supply available at 1 April 2017 expressed as number of years against the residual requirement including the appropriate buffer.**

Main Modifications schedule has been updated accordingly.

***Policy DS5: Ensuring a Five Year Housing Supply during the Plan Period***

[N.B. In the light of hearing session 16, the Council is not convinced that Policy DS5 is necessary to ensure the Plan’s soundness, especially given the healthy land supply position across the housing trajectory to 2031.]

**AP16.6 Modify policy DS5 in ED053 and/or the reasoned justification to make it clear that the if part 1 of the policy is triggered it would be in effect until the Council has published the next annual Housing Land Supply Report. If that report demonstrates that there is still less than 5.5 years supply then the policy would continue for another year, and so on. Conversely, if a subsequent annual Housing Supply Report demonstrates that there is more than 5.5 years supply, the policy would no longer be in effect.**

Main Modifications schedule has been updated accordingly.

**AP16.7. Delete parts 3 and 4 of policy DS5 in ED053.**

Main Modifications schedule has been updated accordingly.

**AP16.8 Delete the last sentence of the reasoned justification to policy DS5 in ED053 (“For land to be considered as adjacent ... separated by a road do not qualify”).**

Main Modifications schedule has been updated accordingly.

***Policy DS4: Open Market Housing Outside Principal and Non Principal Settlements***

**AP16.9 Modify policy DS4 in ED053 to make it clear that residential development outside Principal and Non Principal Settlements will not be permitted unless it is in accordance with other policies in the Plan that expressly deal with residential development in such locations. Modify the reasoned justification to include a non-exhaustive list of relevant policies, and if necessary to refer to specific forms of residential development that may be acceptable in such locations that are not expressly covered by other such policies in the Plan (such as replacement dwellings).**

Main Modifications schedule has been updated accordingly.