

KNOWSLEY LOCAL PLAN: CORE STRATEGY

KNOWSLEY METROPOLITAN BOROUGH COUNCIL

HEARING STATEMENT 15C

MATTER 3 NEW MATTERS ARISING SINCE JULY 2014 HEARINGS

3.4. What are the implications (if any) of the Ministerial Statements and PPG revisions for the KLPCS, particularly in relation to:

- (a) development in the Green Belt**
- (b) sustainable drainage systems**
- (c) housing standards**
- (d) affordable housing site size thresholds**
- (e) housing for older people**
- (f) planning obligations?**

(a) Development in the Green Belt

- 3.4.1 The Government's Communities Secretary and Housing and Planning Minister issued the press release entitled "Councils must protect our precious Green Belt land" and related updates to its Planning Practice Guidance (PPG) in October 2014.
- 3.4.2 These documents broadly reaffirm the Government's previous policy approach which guided how Councils should consider Green Belt issues in preparing their Local Plans. The revised PPG¹, for example, refers back to the policy approach already set out in paragraph 14 of the National Planning Policy Framework ("the Framework"). This stated that Local Plans should meet objectively assessed development needs, with sufficient flexibility to adapt to rapid change, unless in summary any adverse impacts of doing so would significantly and demonstrably outweigh the benefits or specific policies in the Framework indicate development should be restricted.
- 3.4.3 Crucially the press release and revised PPG² also both refer to the policy previously set out in paragraph 83 the Framework, which is that "...*once established, green belt boundaries should only be altered in exceptional cases, through the preparation or review of the Local Plan*". It is therefore clear that the Government still considers it appropriate for a Council to review the Green Belt in its area when preparing its Local Plan, provided it considers that exceptional circumstances exist justifying this approach.
- 3.4.4 The question of whether exceptional circumstances exist in Knowsley justifying a review of the Green Belt has been assessed at length in earlier stages of the Examination of the Knowsley Local Plan Core Strategy

¹ Paragraph 044 ID: 3-044-2014100

² Ibid, last sentence

(KLPCS). The Council's previous evidence in relation to this issue was initially set out in a range of documents, for example the KLPCS Preferred Options Report (CS04), chapter 4 of which explained why a strategy incorporating future release of some locations from the Green Belt was selected, and the Council's Technical Reports on "Planning for Housing Growth", "Planning for Employment Growth" and "Green Belts" (TR01, TR02 and TR03). The evidence is summarised in the Council's statements to the November 2013 hearings on:

- Matter 2 "Spatial Development Strategy and Principles" (in paragraphs 2.1.5, 2.4.4 to 2.4.6 and 2.5.1 to 2.5.3);
- Matter 4 "Employment Provision" (in paragraph 4.7); and
- Matter 5 "Green Belt" (in paragraph 5.10).

3.4.5 Under the heading "do local planning authorities have to meet in full housing needs identified in needs assessments?" the revised PPG³ advises that, once the need for new housing has been established the local planning authority should prepare a "Strategic Housing Land Availability Assessment" (SHLAA) to "... *establish realistic assumptions about the availability, suitability and the likely economic viability of land to meet the identified need for housing over the plan period, and in so doing take account of any constraints such as Green Belt, which indicate that development should be restricted and which may restrain the ability of an authority to meet its need.*" The Council has complied with this requirement in full as the KLPCS and its supporting evidence (including the SHLAA) have taken "account of" constraints such as Green Belt, alongside other factors such as other environmental constraints, viability issues, and the need to re-balance the Borough's housing market, meet employment needs and address out-migration.

3.4.6 The Inspector's first Interim Findings in January 2014 (EX26) confirmed that there was justification for bringing forward release of Green Belt land to meet short term housing and specific employment needs. The Inspector's Second Interim Findings in August 2014 (EX34) confirmed that on the basis of available evidence the approach of identifying the Sustainable Urban Extensions and safeguarded land to meet future development needs in Knowsley is sound. As the ministerial statement and associated revisions to the PPG published in October 2014 reaffirmed the ability of Councils to review Green Belts in their Local Plans where circumstances justify this, the publication of these documents does not warrant any change in the approach of the KLPCS.

3.4.7 The ministerial statement and associated revisions to PPG should furthermore, not be read in isolation from other sections of the Framework and PPG. These include for example the requirements to ensure that there is a five year supply of sites which are deliverable for housing and a supply of specific, developable sites for housing in years 6-10 (see paragraph 47 of the Framework) and to identify sufficient sites for local and inward investment to

³ Paragraph 045 ID: 3-045-20141006

meet anticipated economic needs over the Plan period (see paragraph 21 of the Framework).

- 3.4.8 As has been confirmed during earlier parts of the Examination, Knowsley cannot fully meet its requirements for housing and employment development either in the short term (i.e. over the five years between 1 April 2013 up to 31 March 2018) or over the Plan period as a whole without the release of land from the Green Belt. This is particularly so given that earlier work undertaken under the “Duty to Cooperate” has established that neighbouring authorities are also incapable of appropriately helping to meet Knowsley’s evidenced development needs. Further details concerning this point are set out in the Council’s Duty to Cooperate Statement (SD14), which has been endorsed by neighbouring authorities. These include Liverpool City Council (which lies at the heart of the Liverpool City Region North housing market area and the functional economic area for the City Region) and other neighbouring districts.
- 3.4.9 For reasons set out above, the ministerial statement issued in October 2014 and the related changes to PPG do not warrant any change to the approach to Green Belt issues in the KLPCS as currently drafted.

(b) Sustainable drainage systems

- 3.4.10 The Government published revisions to its PPG relating to sustainable drainage systems in March and April 2015, and its “Non statutory technical standards for sustainable drainage systems” in March 2015. The revised guidance promotes the use of sustainable drainage systems, albeit with some flexibility over for example the circumstances in which sustainable drainage systems are appropriate and the technical standards to be achieved. For reasons set out below the Council does not consider that any further modifications are need to the relevant parts of the KLPCS, which include Policy CS24 and paragraph 9.26.
- 3.4.11 The revised PPG confirms⁴ that “*whether a sustainable drainage system should be considered will depend on the proposed development and its location, for example whether there are concerns about flooding*”. The requirement for sustainable drainage systems to be provided in clause 4 of Policy CS24 is only triggered where flood mitigation measures are needed. The Proposed Modifications version of KLPCS therefore, in common with the PPG guidance, aims to target the use of sustainable drainage systems to sites and development proposals where there is a flood risk issue.
- 3.4.12 The PPG also states⁵ that sustainable drainage systems may not be practicable for some forms of development (for example, mineral extraction). Whilst not directly reflecting this wording, Policy CS24 (clause 4) confirms that any sustainable drainage system which is provided must be derived from relevant evidence which can include any Flood Risk Assessment which has been prepared for an individual development proposal. This means that if a

⁴ Paragraph 079 ID: 7-079-20150415

⁵ Ibid, second and third sentences

developer demonstrates through their submitted Flood Risk Assessment that a sustainable drainage system is not appropriate for any reason, this will be taken into account by the Council.

- 3.4.13 It is also relevant to consider how frequently it is likely to be the case that no sustainable drainage system can be provided. The definition of a sustainable drainage system set out in the law⁶ and guidance related to this term published by the Construction Industry Research and Information Association (CIRIA)⁷ are very broad. Some types of measure covered by the term, such as provision of soak-aways, permeable surfaces or rain water harvesting structures, are minor and low cost in nature. This will enable a suitably flexible approach to be taken to the implementation of Policy CS24, in which individual development proposals where flood risk mitigation is needed can incorporate a sustainable drainage system which is appropriate to the scale, nature, location and levels of viability of the development.
- 3.4.14 Clause 5 of Policy CS24 requires the drainage of new development to be designed to reduce surface water run-off rates to those associated with a green-field site. This approach is reflected for greenfield sites in the Government's "Non- statutory technical standards for sustainable drainage systems" (March 2015) which confirms (under the heading "peak flow control") that for greenfield developments the peak run off rate from the development during rainfall events specified in the guidance should never exceed the peak greenfield runoff rate for the same event.
- 3.4.15 For developments on brownfield sites the technical guidance states that peak run off rates from specified flood events must be as close as "reasonably practicable" to the greenfield run off rate. For such sites, the Council could not in its view appropriately use planning conditions or agreements which are not "reasonably practicable" in any event. Policy CS24 also makes it clear that for all sites the chosen method of implementation shall take account of ground conditions.
- 3.4.16 For the above reasons, the Council considers the revised PPG and technical guidance do not warrant further modifications being made to the KLPCS. Paragraph 9.26 of the Proposed Modifications version of the KLPCS confirms that the Council's approach will complement Building Regulations and other national legislation. The Council proposes to refer prospective developers to the national PPG and non-statutory technical guidance in its proposed Supplementary Planning Document (also referred to in paragraph 9.26 of the KLPCS).

⁶ Schedule 3 of the Flood and Water Management Act 2010 defines a "drainage system" simply as a "...structure designed to receive rainwater..." except a public sewer or natural water course. It also defines "sustainable drainage" as a "...means of managing rainwater....with the aim of (a) reducing damage from flooding, (b)improving water quality, (c)protecting and improving the environment, (d)protecting health and safety, and (e) ensuring the stability and durability of drainage systems"

⁷ The CIRIA website at <http://www.susdrain.org/delivering-suds/using-suds/suds-components/suds-components.html> defines a sustainable drainage system as being "an approach to managing rainfall in development that replicates natural drainage, managing it close to where it falls" and identifies a wide range of components that can be used as part of such a system.

(c) Housing standards

- 3.4.17 On 27 March 2015 the Government published the results of the Housing Standards Review, on-going since 2012, and its response, aimed at streamlining the system for developers⁸. Revisions and additions to the Building Regulations included: Part M: Access; Part Q: Security; Part G: Sanitation, hot water and energy efficiency; and Part H: Drainage and waste disposal. Supplementary guidance was provided through revisions to the PPG⁹ and a Written Ministerial Statement¹⁰.
- 3.4.18 The revisions mean that Local Authorities are advised not to set out any additional local technical standards or requirements relating to the construction, internal layout or performance of new dwellings within their Local Plans. Policy CS17 and CS22 within the Proposed Modifications version of the KLPCS (CS09a) reflect this, being clear that the achievement of construction standards, over and above the baseline Building Regulations, are “encouraged” and hence are optional only. For energy efficiency specifically, the approach in the KLPCS Proposed Modifications version is compliant with the planned introduction of a national zero carbon homes policy in 2016, in not requiring any specific level of Code for Sustainable Homes to be achieved, but instead relying on the Building Regulations as prescribed by Government.
- 3.4.19 Government guidance states that Councils have the option to set additional technical requirements exceeding the national minimum standards in respect of access and water, and an optional nationally described space standard. These should only be set through new Local Plan policies if they address a clearly evidenced need, and where their impact on viability has been considered, in accordance with the Framework and PPG. KLPCS Policies CS17 and CS22 keep the option open for such policies to be set within a future Local Plan document. The Council would be able to consider all of the relevant restrictions and necessary evidence, including viability evidence, at this time.
- 3.4.20 All of the above means that the Proposed Modifications version of the KLPCS is compatible with the Government’s revised approach to the Building Regulations.

(d) Affordable housing site-size thresholds

- 3.4.21 The Government has changed its advice concerning the setting of thresholds for development proposals eligible for Section 106 affordable housing contributions. These changes have been made through a written ministerial

⁸ Full details are available at: <https://www.gov.uk/government/policies/providing-effective-building-regulations-so-that-new-and-altered-buildings-are-safe-accessible-and-efficient/supporting-pages/technical-housing-standards-review>

⁹ All paragraphs available at: <http://planningguidance.planningportal.gov.uk/blog/guidance/housing-optional-technical-standards/>

¹⁰ Building Regulations: Technical Standards Review, 27 March 2015, CLG

statement¹¹ and through amendments to the PPG¹². These changes mean that sites of 10 units or less, and which have a maximum combined gross floor space of 1,000 square metres, are not, under the new guidance, eligible for affordable housing contributions. This includes residential annexes and extensions. The changes do include exceptions within rural areas and designated National Parks or Areas of Outstanding Natural Beauty. These designations do not apply to any part of Knowsley.

3.4.22 Policy CS15 within the Proposed Modifications version of the KLPCS (CS09a) seeks Section 106 affordable housing contributions only on developments of 15 residential units or above, which means developments which are smaller than this size were excluded from the Council's proposed approach for identifying schemes eligible for such contributions. This means that Policy CS15 as currently drafted is unaffected by the Government's changes to the thresholds.

3.4.23 The revised PPG states that local planning authorities should not seek Section 106 affordable housing contributions from developments of "Starter Homes". Given that the concept of Starter Homes is new and that further evidence may be needed to define what is meant by this term in the local context, the KLPCS does not seek to define the characteristics of homes which would qualify as such within Knowsley. It is considered that documents including the proposed Developer Contributions Supplementary Planning Document (SPD) and the forthcoming Local Plan: Site Allocations and Development Policies document could define such homes, identify areas where they should be developed through site allocations and clarify how planning obligations would apply to such developments within the scope of the PPG.

3.4.24 The changes also introduce the use of a financial credit, which reduces the cost of affordable housing contributions, for developments which involve bringing a vacant building back into use. The credit is equivalent to the existing gross floorspace of any vacant buildings brought back into any lawful use or demolished for re-development, but will not apply to vacant buildings which have been abandoned. The Council proposes that this guidance is reflected in the proposed Developer Contributions SPD.

(e) Housing for older people

3.4.25 The content of the PPG regarding planning for older people's accommodation¹³ was changed to reflect a greater emphasis being placed on supporting older people to live independently within their own home, with adaptations and support services being supplied as required. KLPCS Policy CS16 already reflects these principles, specifically supporting non-accommodation based interventions and improvements to existing stock to meet the needs of those seeking specialist or supported housing.

¹¹ Written statement to Parliament: Small-scale developers, 28 November 2014, CLG

¹² Main change within Paragraph 012 ID: 23b-012-20150326

¹³ Main change within Paragraph 021 ID: 2a-021-20150326

3.4.26 An additional section has been added to the PPG which sets out requirements for planning for student accommodation¹⁴. The Council notes this, but given that there are no universities within Knowsley or in close proximity to its boundaries, there is very limited demand for student accommodation within the Borough. It is therefore not considered appropriate to modify the KLPCS policies to account for this change.

(f) Planning obligations

3.4.27 Changes to the general process of setting and collecting planning obligations, arising from ministerial statements and amendments to the PPG can be summarised as follows:

- Clarification that a proposed Section 106 planning obligation connected with a planning application may only constitute a reason for granting planning permission if it meets the tests that the obligation is necessary to make the development acceptable in planning terms, directly related to the development, and fairly and reasonably related in scale and kind to the development¹⁵;
- The role of planning obligations is in assisting the mitigation of the impact of development which benefits local communities and supports the provision of local infrastructure¹⁶;
- The Council's policies regarding the use of obligations should be set in Local Plans or neighbourhood plans to ensure that policies are tested at Examination¹⁷;
- Local communities should be involved in the setting of policies regarding obligations in a Local Plan or neighbourhood plan¹⁸;
- Tariff style or affordable housing contributions are not applicable to sites of 10 residential units or less, and which have a maximum combined gross floor space of 1,000 square metres (exceptions apply); or to developments of Starter Homes¹⁹; and
- An open book approach is required within negotiation of planning obligations involving assessments of development viability to improve the review of evidence submitted and for transparency²⁰.

3.4.28 Additional measures seek to tackle delays associated with Section 106 planning obligation negotiations²¹.

3.4.29 The strategic approach to planning obligations within the Proposed Modifications version of the KLPCS (CS09a) is set out within Policy CS27.

¹⁴ Paragraph 021 ID: 2a-021-20150326

¹⁵ Paragraph 001 ID: 23b-001-20150326

¹⁶ Paragraph 003 ID: 23b-003-20150326

¹⁷ Ibid

¹⁸ Ibid

¹⁹ Paragraph 012 ID: 23b-012-20150326, Paragraph 013 ID: 23b-013-20150227, Paragraph 014 ID: 23b-014-20150326, Paragraph 015 ID: 23b-015-20141128, Paragraph 017 ID: 2a-017-20141128, Paragraph 019 ID: 23b-019-20141128 and Paragraph 020 ID: 23b-020-20141128

²⁰ Paragraph 007 ID: 23b-007-20150326

²¹ Written statement to Parliament Planning update, 25 March 2015, CLG

They are also mentioned in Policies CS7, CS15, CS17, CS19, CS21 and CS22. All of these policies have been developed within the wider process of KLPCS preparation, which involved numerous periods of public consultation. All policies by virtue of their inclusion in the KLPCS as currently drafted have also been subject to scrutiny as part of the Examination in Public of the Plan to date.

3.4.30 Policy CS27 and its accompanying policies have been prepared in the light of the legal tests regarding the circumstances in which planning obligations should be sought. Policy CS27 is clear that where it is appropriate that they are sought, the role of planning obligations is to mitigate the impacts of development to benefit local communities and support the provision of infrastructure.

3.4.31 KLPCS policies contain sufficient flexibility to ensure that restrictions introduced on eligible schemes for tariff-style or affordable housing contributions can be accounted for in their implementation. As noted under point (c), Policy CS15 which specifies that developments of 15 dwellings or more are eligible for affordable housing contributions is already in excess of the 10 dwelling standard minimum introduced by the Government. The Council plans to set the detail of other tariff-style obligations, such as those for greenspace contributions, within the Developer Contributions SPD. The process of preparation of this SPD will enable the Council to account for restrictions for example on the size of schemes eligible for contributions.

3.4.32 The Council has already demonstrated its flexibility to adapt to ministerial statements and changes in national policy (including changes to the PPG) within its current approach to greenspace contributions, for which it has recently adopted an 'interim' approach. This reflects legislative changes associated with the Community Infrastructure Levy about the "pooling" of developer contributions, and also reflects the changes around the size thresholds for development eligibility which means that the Council no longer collects tariff-based contributions for greenspaces for developments of 10 dwellings or less.

3.4.33 With regard to the negotiation of planning obligations on viability grounds, Policy CS27 is clear that the assessment of evidence submitted by a developer must be undertaken objectively and transparently. This complies with the PPG advice that an "open book" approach be taken where possible to such negotiations.