



SUBMISSION STATEMENT

in respect of

Flintshire LDP

Matters Arising Changes

on behalf of



July 2022



MAC029 : Amendment to Policy STR2 Settlement Hierarchy*Support*

The more explicit confirmation of the tiered settlement hierarchy is welcomed.

It specifically enables affordable housing exception schemes (of any size) that are located adjoining Tier 1 to Tier 5 settlements.

However, whilst this mirrors Policy HN4-D this does raise a potential conflict with PPW11 Para 3.75 which states that affordable housing outside of settlements in either Green Belt or Green Wedge (nee Barrier) is considered inappropriate development and must therefore be refused. Quite where this places a whole raft of settlements bound by such designations is unknown because which should take precedent – PPW11 or the primacy of an adopted Development Plan and S38(6).

The fact remains though that the policy has been presented in a vacuum of the Council not having undertaken a full review of settlement boundaries and Green Wedge and this has resulted in the failure to consider a matrix approach to sustainability where BMV, floodrisk, access and infrastructure have been ignored so that former UDP sites have been rolled forward and sites that, during the Examination, were shown to be questionable on viability and deliverability grounds have been identified as draft allocations whilst reasonable alternatives have been dismissed without any obvious assessment or methodology for doing so.

MAC074 : Amendment to Policy HN1*Support with additional changes + Object*

The addition of the housing allocations table with a summary indication of delivery timescale is welcomed.

The 15-year plan period is 2015 to 2030 and it is clear that even if the plan is found to be sound and adopted the plan will not become effective until 2023 (assuming it is adopted before the end of 2022) thus this leaves the plan just 7 years to deliver its trajectory.

During the Examination it became clear that the Inspectors (and WG) never questioned the under-delivery of the UDP and indeed the Welsh Government representatives went out of their way to ignore the shortfall and support the slate being wiped clean. There is, in our opinion, a grave risk that once again the plan will fail to deliver by 2030 and the WG will avoid holding the Council to account even if the AMR process reveals failing to deliver.

The Council have sought to present an over-allocation of housing and suggest this represents a healthy 13% flexibility allowance; yet this has ignored a Non-Delivery Allowance (NDA) which is entirely different to a Flexibility Allowance (FA) as clearly expressed in DPM3 (Para 5.62) – this is a fundamental error in how the housing figures have been derived.

We do not consider the plan to be sound on this basis alone as it fails to meet Tests 1, 2 and 3.

However, to further compound this error is the dual fact that not only have the vast number of draft housing allocations failed to demonstrate they are viable and deliverable there is now the challenge presented by the Phosphate Neutrality hurdle.

So, whilst the Inspectors might be happy for the plan to be found sound, which would naturally delight WG and FCC as a job well done the reality of the situation is that the development industry will, in Flintshire, largely be at an impasse because the Phosphates issue has introduced a moratorium on all new development that flows into the riverine system of the River Dee / Bala Lake SAC.

Thus, the practicalities of actually delivering a large amount of development across the County will be frustrated and impeded for what could be at the very least the next 2-years until a solution can be found.

The reality is that permissions will not be granted and new homes will not be delivered which will place a massive amount of pressure upon the delivery trajectory to the extent that almost as soon as this plan is adopted it will be behind on its delivery path.

The plan identifies a total of some 3,014 allocations but 550 of these (20%) :

- HN1.1 Well Street Buckley (140)
- HN1.5 Denbigh/Gwernaffield Road Mold (238)
- HN1.9 HAAC (80)
- HN1.10 Cae Isa New Brighton (92)

are constrained by Phosphates and none have planning permission in place.

Their delivery is, like the other large housing allocations, strategic to the plan successfully delivering; yet their under or non-delivery would, along with windfalls which might have come along in Phosphates areas, wipe out the Flexibility Allowance with some ease.

The Council's Phosphates Hearing statement of 23 November 2021 stated that the Council were assuming just a 12-month delay and that the sites would all be able to deliver in full by April 2026 (HN1.5 by April 2028). This is pure fantasy and the trajectory tables (with their base date of April 2020) need to be urgently re-aligned to mirror the reality of the slippage in not only the plan, decision-making but also the harsh reality that the Phosphates issue has not moved on and is here to stay.

The Council will clearly defer the problem as being the fault of the development industry and down to the Phosphates problem and if this scenario of under delivery does take place then I can predict that once again this plan, like the UDP before it, will fail to deliver its housing numbers and whilst the Inspector mentioned on several occasions that she did not wish to see another failed plan I fear she will be greatly disappointed as we head towards 2030.

The only way in which to arrest the situation is by accepting there is a need for Reserve sites that are not only located in sustainable locations but in areas not constrained by Phosphates.

The trajectory table provided has a base date of April 2020 so is already 2-years out of date; moreover, it assumes that there will be delivery on every housing allocation site between years 6 and 10 (i.e. 2020 and 2025), yet most of these sites don't even have planning permission and many will be impeded by the Phosphates issue. This will result in compression of delivery within the last 5-years of the plan (assuming the Phosphates problem has been resolved by 2025).

There is every chance that the Council will already be under-delivering on its trajectory and there will be a need for supplementary sites coming forward. Yet the Council have not revealed any Reserve sites and their Plan B is to simply leave it to the AMR process to monitor delivery and thus rely upon the advice in DPM3 about plan review.

As such we would support the instilling of greater certainty and direction of the Inspector on this matter for the avoidance of doubt and avoid the potential for early plan review and the AMR becoming a material consideration where sites that might not be located in or adjacent to Tier 1, 2 or 3 settlements coming through as windfalls and challenging the sustainable objectives of the plan through Para 4.2.11 of PPW11.

MAC101 : Amendment to Policy EN16 : Phosphates and the impact of development on the SAC

Support with additional changes

Policy EN16 is specific to Phosphates and provides no consideration of how addressing this might impact upon viability as it is solely focused upon development demonstrating nutrient neutrality. There is presently no approved DCPRS in place and as very limited understanding of the impact that meeting nutrient neutrality might have upon development costs will have; as such this introduces a degree of uncertainty, which could undermine site viability and, potentially, plan delivery.

Policy EN16 and the DCPRS provide a reasonable starting point to ensuring the protection of the River Dee and Bala Lake SAC from an increase in phosphorus levels. Whilst it is envisaged that the requirements of Policy EN16 will, for the most part, be capable of being satisfied by development proposals without undue harm to viability, it must be noted that the need to either make contributions to the Dee Catchment Phosphate Reduction Strategy (DCPRS) Development Contributions Scheme (DCS), or deliver other site-specific mitigation, has not been taken into account in the Flintshire Viability Study (May 2019) that, we are led to believe, informed the plan, its allocations and indeed the affordable housing targets of the LDP.

It is considered important for this fact to be recognised within either the Policy wording to EN16 or its supporting text, to ensure that the relationship of the Policy with the LDP's evidence base is clear. In the same vein, it is important to ensure that the DCPRS does not set any requisite developer contributions at a level that prevents development coming forward or otherwise delays its delivery; yet we fear that this issue will present such challenges which risk undermining plan delivery.

For this reason we consider the plan must consider reasonable alternatives to delivery and support sites that are located in sustainable locations unconstrained by the DCPRS to come forward; thus assisting the plan to deliver and not fail.

MAC075 and MAC077 : Amendment to Policy HN3 : Affordable Housing*Support with additional changes*

We support the new text in the Policy which confirms that the affordable housing percentages should be taken as a “target” as opposed to the starting point with the policy being subject to viability considerations.

However, if, as the Council expressed many times during the Examination, they are so sure that the evidence base supporting their draft housing allocations are all based upon sound viability assessment then surely the targets for these sites must be fixed and that this policy should only apply to windfall sites ?

We would therefore recommend that if the Inspector too is minded to believe the viability and deliverability position as presented by the Council is sound then there is no reason to believe that the affordable quantum should be made explicit and fixed as part of HN1 to mirror their locational sub-market areas. This would mean that the table under MAC077 would provide a more detailed split / breakdown and show exactly how many affordable units were expected of the HN1 housing allocation sites.

MAC115 : Trigger Points*Object*

It is assumed that the trigger points for under-delivery are based upon Para 8.6 of DPM3 which states that:

“Trigger points that have specific numerical outputs (e.g. housing completions / employment land take up) should be measured over two consecutive years (to be clear this means annual delivery rates not the number of AMRs submitted) allowing for trends to develop and become clearly identifiable.”

However this is not clear and should be made more explicit.

Nonetheless, this plan, which has a plan period that expires in 2030, is unlikely to be adopted anytime before the end of 2022 and as such will have just 7-years to deliver its housing trajectory.

Clearly having the certainty of an adopted and sound LDP is a major benefit as it brings certainty and clarity to delivery of development and my clients are keen to see a plan in place because without an up-to-date plan there has been a reluctance of s78 planning appeal Inspectors to give weight to emerging allocations and plan policies. Naturally local decision makers have sought to resist and refuse schemes, but most participants who were involved in the LDP Examination that sat in March to May 2021 never envisaged the delays caused by the still unresolved Phosphates issue to the LDP but also to decision-making.

Presently there is a moratorium on all development (of any scale) in large swathes of Flintshire due to the Phosphates/SAC issue and it is unclear how long this will take to resolve.

However, what is clear is that this has compounded slippage in delivery and could still have dramatic and fatal consequences. Thus, the suggestion that a distant two-year trigger is sensible to apply becomes a little academic since there is every chance the under-delivery of this emerging plan will be so great that far more drastic action is needed and a plan review is not going to be the panacea.

The Council has failed to produce a list of reserve sites, but if provision was made it could go some way to enhancing and accelerating delivery in a period which is already going to be challenging without the Phosphates issue having to be addressed.

We would recommend that provision is made to not only delete the triggers aligned to the 2 consecutive years (as advised by DPM3) because the plan period will be nearing expiry by the time this timescale comes around, but to also instigate and introduce a mechanism to enable Reserve Sites to come forward from day one in order to arrest what appears to be the almost certain under-delivery of the plan before it's even been adopted.

The problem is that the table in Appendix 3a identifies the timing and phasing of housing allocations with a base date of April 2020; this is already 2-years out of date and its referencing sites that should be delivering dwellings right now (2022-23) yet none of these have planning permission and many will be subject of the Phosphates moratorium.

We would suggest that is table and the pursuant tables in Appendix 3b and 3c need to be updated.

IMAC01.5 / IMAC01.12 : STR3B : Warren Hall

Object

We do not consider that any evidence this site will deliver the employment it is purported to deliver has been presented to the Examination and there is no proof that B1 office or light industrial will work here other than anecdotal supposition.

It involves massive BMV loss (which is contrary to policy)

Moreover, how is any local decision maker supposed to differentiate between low-quality B2 and high-quality B2 – where is the definition or benchmark being set ?

In addition, no proper assessment of height has been undertaken; the height to ridge apex of many B2 industrial units regularly seek in excess of 12 metres which suggests that the site would not compare or compete at all well with alternative locations (on Deeside) where such restrictions do not apply; so whilst the height restriction of 12 metres (to reflect the Hawarden/Broughton Aerodrome safeguarding measures) is being applied, the fact is that few industrial operators/occupiers (be they low or high quality users) will be keen to locate on a site where potential units are having to be less than what they need.

The site has not been marketed to demonstrate there is a need and the reliance for the allocation is based solely upon a historical desire by the Welsh Government / Council to establish the area as an inward investment node. This market has now gone and we heard about this from the former head of planning.

Additionally, no site-specific viability evidence has been produced and in our opinion the proposed allocation is entirely unsound.