

Mendip District Local Plan 2006-2029: Part 2 – Sites and Policies

Examination into the soundness of the Plan

Interim Note - Post Hearing Advice

Introduction

1. This Interim Note, which I referred to on the last day of the Hearing sessions, provides post Hearing advice, following the receipt of information from the Council and several other parties on a range of matters which I asked for during the two weeks of Examination Hearing sessions. Firstly, I must thank all the parties for providing me with this information, on time, or in exceptional cases, with good reason, within a relatively short period after the deadlines I set. The statements which were submitted in response to my questions can be found on the Examination website, referenced IQ-1 to IQ-34, and I have had regard to these statements in this Note, together with my consideration of all the written evidence submitted to the Examination and the discussion at the Hearing sessions.
2. At this stage, I consider that the Mendip District Local Plan 2006-2029: Part 2 – Sites and Policies (which I shall refer to as the Plan from now on), is a plan which could be found sound, subject to the main modifications (MMs) below. However, I have reached no final conclusions at this time. The MMs will be subject to consultation, and I will reach my final conclusions taking any representations into account.
3. During the Hearing sessions, several potential MMs were discussed, and Appendix 1 at the end of this Note sets these out in summary or headline form. I indicated at the Hearings that there were matters I needed to deliberate on before I could advise the Council on whether any additional work or further MMs should be considered, and this Note summarises my thoughts. This Note also sets out the administrative arrangements relating to all potential MMs.
4. I am not inviting any comments about the contents of this Note, although I am seeking the Council's response on the matters raised. I will provide the reasoning in relation to these issues in my final report on the Plan.

Potential Changes to the Plan

1. Housing Delivery

5. Several housing allocations were challenged by representations and following discussion at the Hearing sessions, further detailed work has

been submitted by the Council. In particular, the additional work on the Council's housing trajectory [Document ED1, Table 1 and following detailed tables] has been helpful in showing when the 6,030 dwellings projected to come forward over the period 2018/19-2028/29 are to be implemented.

6. However, this figure appears to be at odds with the totals included in Note IQ-5, of 5,052 dwellings, and 5,571 dwellings in Note IQ-15. In view of these figures, it is clearly important for the Council to send me Table 1, either as it stands or amended in the light the other figures set out in IQ-5 and IQ-15, as part of a revised housing completions summary table for the District, i.e. a combined table showing all the components of housing delivery over the plan period, as a MM [Requested Document MF1].
7. This table, of course, which can be annotated if appropriate, will cover completions from 2006 and housing currently under construction (if omitted from Table 1). I note that Table 1 makes an allowance for windfalls. I am assuming that the updated total will be equal to or exceed the figure of 10,987 dwellings provided by the Council in its Matter 3 Statement; and if so, whether the 14% buffer above the minimum requirement will be exceeded. Either way, I need to know the percentage buffer now contained in the updated Plan.
8. My conclusions on the submitted evidence for the main towns and other areas are as follows:
9. Frome: The reasons advanced in support of the deletion of the bulk of the proposed Future Growth Area (FGA) as included in Mendip District Local Plan Part 1: Strategy and Policies (LPP1) from Frome are based on the Council advocating the forthcoming Single Plan Review as the appropriate way to consider this. This appears to be the appropriate course of action, and the highways evidence presented by Highways England to the Examination would in my view strongly support this approach. The increased yields for sites FR1, Saxonvale and FR3a, Land South of Little Keyford and The Mount, should be fed into the above-mentioned Document MF1.
10. Glastonbury: The constraints restricting the potential for development are recognised by most parties, which explain the relatively low contribution the settlement makes to the overall Mendip total, combined with its close proximity to Street. I support this approach.
11. The proposed allocation of housing at Glastonbury Highway depot is scheduled for 2025/26 and 2026/27 in the updated Housing Trajectory [Document ED1]. There was considerable doubt expressed over whether this site would be implemented within the plan period, and I need a detailed Note demonstrating whether its implementation is likely to occur within the plan period [Requested Document MF2].

12. Shepton Mallet: The Shepton Mallet table, included within Document ED1, shows the LPP1 allocation at Cannards Grave Road. Note IQ-6 shows that this large site is scheduled to commence in 2020, with the bulk of the 600 dwellings to be delivered within the plan period. Note IQ-6 provides useful and realistic detailed information on this site and others within Shepton Mallet, and I see no reason to disagree with this evidence.
13. Wells: I note that site WL2, for 60 dwellings on the site of the Wells Rugby Club, is dependent on the relocation of the club (policy WL3), and ED1 Table 1 projects the first completions in 2028/29, which is the last year of the plan period. I am not persuaded at present that this is a realistic proposal for inclusion in the Plan, and I am therefore requesting more information on the likelihood that the Wells Rugby Club would relocate before the end of the plan period to enable the housing development to happen [Requested Document MF3].
14. I note that the relevant information on odour assessments in relation to policy WL1, land off Bubwith Walk, Wells, is covered in Note IQ-30; however, it would appear that there is a need for previous assessment work by the developers to be reviewed in accordance with IAQM guidance, and I am hereby requesting a situation update on consultation with the relevant regulatory authorities regarding this site, and also in relation to odour impact at site WL5 – land at Elm Close, Wells [Requested Document MF4].
15. Street: The largest site, ST3, Land West of Brooks Road, Street, for up to 340 dwellings, is dependent on the preparation of a masterplan for the FGA. I need to know whether the anticipated completion dates of 2025/26 onwards, with a projected number of completions within the plan period of 170 dwellings (out of a total of 340 dwellings) are realistic; when the master plan is programmed for completion; and whether there are any other constraints affecting the development potential for this site [Requested Document MF5].
16. Land to the North-East of Mendip District: The overall distribution of development proposed in the Plan broadly conforms with the relevant policies in LPP1, with one exception. The table in policy CP2 of LPP1 makes specific reference to an additional figure of 505 dwellings; furthermore, paragraph 4.21 in LPP1 refers to the requirement to address the housing needs of the north-eastern part of the District, including land adjacent to the towns of Radstock and Midsomer Norton. These two towns are located just over the Mendip border in the local planning authority (LPA) of Bath and North-East Somerset (BANES).
17. From my reading of the LPP1 Inspector's Report and LPP1 itself, and from the discussion at the Hearing sessions, it seems to me that there is a strategic expectation that allocations for development in this part of the Plan area should be considered. I consider that in these circumstances it is appropriate for this additional element of 505 dwellings to be apportioned to sustainable settlements in the north-east part of the

District, both on sites adjacent to the two aforementioned towns within BANES, and possibly also within other settlements which lie within the District, which could lead to other sustainable benefits, for example to provide additional pupils to assist schools with decreasing complements, or where the future existence of these schools within the plan period is at risk.

18. It is not within my remit to suggest where these additional 505 dwellings should be allocated. However, several sites were suggested by representors, and these could form a starting point for the Council to put forward main modifications (MMs).
19. There would also be a requirement for sustainability appraisal (SA) in relation to any additional housing sites put forward by the Council in MMs. This work could be undertaken so that its results could be consulted on, at the same time as the MMs.
20. This total of 505 dwellings should be added to the total housing provision of the Plan [and therefore included within Document MF1].
21. Other areas/caps on development: The identification of Primary and Secondary Villages, which have a number of necessary community facilities to take a proportion of the District's growth, accords with the LPP1 strategy and is therefore supported.
22. It is essential, however, that the Council does not place arbitrary caps on development, which would be contrary to the aim of national policy to "*boost significantly the supply of housing*" [Paragraph 47 of *the Framework*]. Clearly in some areas, Green Belt, landscape designations, flood risk areas and other infrastructure constraints will limit future housing growth to zero or close to zero. However, the fact that a specific area has reached its housing target as set out in LPP1 should not, of itself, be a reason for placing a cap on future development within the plan period. A MM to paragraph 3.38 is therefore required to ensure the Plan accords with national policy in this regard.
23. It is also necessary, for the same reason, for housing allocations to delete the words "up to" and replace with "a minimum of". I accept the Council's reasoning [as set out in its Note IQ-9] that small sites of 5 dwellings or less should be exempt from this requirement.
24. My overall conclusion on housing delivery is that the Council, subject to the above suggested MMs, has sufficient housing put forward in its allocations to provide a realistic prospect of delivering the LPP1 housing provision for the District over the plan period, and that its distribution would accord with the strategy in LPP1.

2. Gypsy and Traveller Accommodation

25. There is a requirement in policy DP15 of LPP1 for gypsy and traveller provision to meet the needs as identified in the Gypsy and Traveller Accommodation Assessment (GTAA) (September 2013) by means of a Site Allocations document (90 additional residential pitches by 2020, and a further 51 pitches between 2021 and 2029, in addition to transit pitches and showmen's yards).
26. The need for gypsy and traveller accommodation in Mendip is perhaps unusual; the evidence pointed to a sizeable element of New Age Travellers in addition to other gypsy and traveller groups (e.g. Irish Travellers and Romany Gypsies). The need for this issue to be addressed in line with national policy is therefore urgent.
27. The Council's response has been to include provision for a Gypsy and Traveller Site Allocations Plan in its Local Development Scheme, and it was programmed for completion in 2019. However, work on this Plan has not yet commenced, and the Council's energies over the next few months are to work on securing a submitted Local Plan Review (LPR), to encompass parts 1 and 2, as soon as possible for sound planning reasons which were considered during the Hearing sessions. The LPR clearly needs to make provision for gypsy and traveller site allocations, in line with an updated GTAA. The Council has since updated its LDS, with a timetable to progress the gypsy and traveller plan (GTP) to adoption by May 2022, in parallel with the LPR.
28. These issues need to be addressed fully in the GTP, but there is an urgent need to address the issue in the period between now and mid-2022, in this Plan, at least in part, for the above reasons.
29. Within this context, a site at Glastonbury (Morlands) has been promoted at the Examination by Glastonbury Town Council. The latest responses by both Mendip District Council and Glastonbury Town Council to the questions I asked at the Hearing sessions are set out in Note IQ-16. The Note covers the principal factors that were discussed at the Examination Hearings. The main considerations identified by the Council and which unchallenged would weigh against the appropriateness of the site for gypsy and traveller accommodation include: potential ground contamination, proximity to a sewage treatment works, flood risk and the fact that the site is an employment land allocation.
30. However, the report by independent consultants states [summarised in Note IQ-16] advises that a membrane placed over the area and covered with hardcore could be acceptable for travellers' accommodation; updated odour modelling would provide more clarity; and the Environment Agency (EA) has advised that, providing that a minimum of 300mm height is maintained above the Flood Zone 2 land, its concerns are mitigated. To my knowledge, no employment use is currently seeking to locate on the site. My preliminary view therefore is that the Morlands site should be

included as a MM, and I will consider carefully any representations made during the MM consultation.

3. Local Green Space

31. The Council set out its methodology for selecting areas to be designated as Local Green Space (LGS), and it also responded to my request for detailed LGS work sheets [Notes IQ-17, 18 and 19]. In order to make the request manageable, I restricted the sample to the proposed LGS designations that were the subject of representations, and which were also raised at the Hearing sessions.
32. The sample included three of the main towns, and five of the villages, and I consider this to be a representative sample of the District. In addition to showing the proposed LGS designations, the maps included in the Council's evidence show areas of green space which were reassessed and removed from LGS designation following pre-submission consultation; sites that were drawn to the Council's attention as potential LGS and assessed but rejected; and areas of green space that were not assessed. I also requested the Council to show Conservation Areas, Flood Zones 2 and 3, and protected recreation areas/playing pitches/playing fields. The Council complied fully with my request. I also visited some of the sites which are subject to proposed LGS designations.
33. It is clear that the Council has put in a lot of work into preparing its proposed LGS designations in the Plan. However, unlike a 'call for sites', which LPAs are encouraged to do in the interests of maximising opportunities for housing development to meet the needs of Districts, national policy in relation to LGS designation is completely different.
34. National policy, as expressed through *the Framework* and National Planning Policy Guidance (PPG), sets a very high bar for LGS designation. The opening sentence, which amounts to the 'headline' message, in paragraph 77 of *the Framework*, states that LGS will not be appropriate for most green areas of open space. This is a clear message that the bar for LGS designation is set at a very high level. I therefore consider that it is clear from national policy that LGS designation should be the exception rather than the rule. One good reason for national policy setting this high bar is explained in paragraph 78 of *the Framework*, which states that local policy for managing development within LGS should be consistent with policy for Green Belts.
35. In order to reinforce the message that LGS designation is to be used sparingly, paragraph 77 of *the Framework* sets out three criteria, which spell out where LGS designation should only be used. It is clear from the phraseology that all three of these criteria are necessary for LGS designation. These criteria state that LGS designation should (i) only be used where the green space is in reasonably close proximity to the community it serves; (ii) where it is demonstrably special to the local

community (holding a particular local significance); and (iii) where it is local in character and is not an extensive tract of land.

36. Para 76 of *the Framework* places LGS designation in the context of provision of sufficient homes, jobs and other essential services. Therefore, LGS designation has to be integral to the proper planning for the future of communities, and not an isolated exercise to put a stop on the organic growth of towns and villages, which would be contrary to national policy.
37. The PPG sets an equally high bar in relation to LGS designation and requires that landowners should be contacted at an early stage about proposals to designate any part of their land as LGS and have opportunities to make representations [ID: 37-019-20140306]. Some landowners at the Hearing sessions claimed that this had not happened, and it is not clear to me that this process has been followed in all cases.
38. The clear message in national policy is that LGS designation is to be used sparingly, as part of the overall consideration of the planning and development needs of communities and is not a tool to stop development. The PPG also makes clear that designation of any LGS will need to be consistent with local planning for sustainable development in the area and must not be used in a way that undermines this aim of plan making [ID: 37-007-20140306].
39. It is clear from the allocations maps in the Plan, that in not only the eight sample areas I have already referred to, but more generally in relation to all the maps in the Plan, LGS designations have been distributed liberally within the towns and to an even greater extent in several of the villages.
40. The methodology set out in the Council's Background Paper- 'Designation of Local Green Spaces' [Document SD20] omits the 'headline' element of *the Framework*, that LGS designation will not be appropriate for most green areas of open space, and nowhere in this document does that message come through. Although the document describes each site subject to proposed LGS designation, often in some detail, the criterion of being demonstrably special to the local community is not sufficiently rigorous to comply with national policy, and the resultant distribution of LGS designations in several instances can be said to apply to sites which can be described as commonplace (which I do not¹ view as a negative term) rather than of a limited and special nature.
41. I recognise that many if not all the proposed LGS designations are important to local communities; but this is a lower bar than being 'special' and of 'particular local significance'.

¹ Amended from ...(which I do view...) - Mike Fox - 27/1/20

42. In the Council's detailed evidence provided in relation to the eight sample areas that I requested, several proposed LGS designations are already within Conservation Areas, and in a few cases within Flood Zones 2 and 3. Moreover, there are examples of extensive tracts of open land, some of it in agricultural use, in particular on the edge of some villages, where LGS designation appears to be at odds with national policy. These factors were not adequately considered in the LGS assessment work.
43. In some villages for example, several green spaces, including agricultural fields, are joined up to form extensive tracts of land, several of which are located within Conservation Areas and other protective designations, which is contrary to national policy. In some villages, the proposed LGS designations approximate to up to a quarter of the entire urban area of the relevant villages, often with Conservation Area coverage and other constraints.
44. Consequently, I suggest the Council has two options:

Option 1: To delete the LGS designations from the Policies Map and remove references to LGS designation where they appear in the Plan. Taking the above factors into account, the Council could then undertake a comprehensive review of LGS methodology and assessment as part of its work on the emerging LPR. MM7 would reflect the Council's decision to follow this option.

Option 2: To revisit the methodology and designations, taking on board the considerations I have highlighted above. This would entail a suspension of the Examination until the additional work and consultation is completed. It may also be necessary to hear evidence on this matter at a further Hearing session. This would inevitably result in a significant delay to the Examination.

Next Steps

45. The Council should consider its options in relation to LGS designation and also submit its responses to Requested Documents MF1-MF5.
46. Details of the work which the Council intends to undertake, together with timescales for the work, should be clearly set out in a Note to the Programme Officer as soon as is practicably possible.
47. The additional MMs which will be required as a consequence of the issues raised by this Note will need to be incorporated into a consolidated schedule of all the potential MMs. The Council should also consider the need for any consequential changes to the Plan and the Policies Map in connection with any potential MMs. All changes to the Policies Map must be made available for comment alongside the MMs.

48. I will need to see the draft schedule of MMs and changes to the Policies Map, and it is possible that I could have further comments to make. I will also need to see the final version of the schedule before it is made available for public consultation. In Appendix 1 below, I have set out a draft summary of the key points to be included in the potential MMs.
49. The Council should satisfy itself that it has met the requirements for SA in respect of the allocation of sites in relation to the 505 dwellings which is included in the table attached to LPP1 policy CP2. This new SA could be attached as an Addendum to the main body of the SA. The Addendum should be published as part of the future MMs public consultation.
50. If the Council wishes to produce a list of proposed Additional Modifications (also known as Minor Modifications), these are solely for the Council, as they do not go to the soundness of the Plan, and it should be made clear that such changes are not a matter for the Inspector.
51. Advice on MMs and SA, including on consultation, is provided in 'Examining Local Plans Procedural Practice'. This states that the scope and length of the consultation should reflect the consultation at the Regulation 19 stage (usually at least 6 weeks). It should be made clear that the consultation is only about the proposed MMs and not about other aspects of the Plan, and that the MMs are put forward without prejudice to the Inspector's final conclusions.
52. The Procedural Practice also states that the general expectation is that issues raised on the consultation of the draft MMs will be considered through the written representations procedure, and further Hearing sessions will only be held exceptionally.
53. I look forward to hearing from the Council as soon as practicably possible, with its suggested work programme, its responses to my requests for information [MF1-5] and its decision as to which way it wishes to pursue the matter of LGS designation. If there are any queries or matters that require clarification, please contact me through the Programme Officer.

Mike Fox

Inspector

10/9/19

Appendix 1

Mendip Local Plan Part 2

Draft Schedule of Main Modifications (MMs)

- MM1 With the exception of sites of 5 units or less, in all housing allocations policies, delete "up to" and replace with "a minimum of". [See wording in IQ-9].
- MM2 New policy - LP1 -committing the LPA to an early Review of the Local Plan, specifying a target date for submission to PINS. [Wording as per IQ-4].
- MM3 Explanatory text to new policy LP1 [Wording as per IQ-4].
- MM4 Add the following sentence to para 3.38: "However, small residential development schemes on sustainably located sites within all Primary and Secondary Villages, will in principle be acceptable, subject to environmental and infrastructure considerations and impact on the living conditions of neighbouring residential occupiers."
- MM5 Allocation of 505 additional dwellings (with reference to the table in core policy CP2 and para 4.21 of the supporting text) in the north-east of the District, at sites adjacent to Midsomer Norton and Radstock, and on sustainable sites at primary and secondary villages within this part of the District. All the sites considered for possible allocations, including those identified in Note IQ-3, will be subject to Sustainability Appraisal.
- MM6 Allocation of site at Morlands, Glastonbury, for gypsy and traveller accommodation, subject to a set of parameters. [See Note IQ-16]
- MM7 Delete all LGS designations and indicate that they should be reconsidered within either Neighbourhood Plans or the Local Plan Review.
- MM8 Extend development boundary at Baltonsborough to include existing employment site at eastern end of the village.
- MM9 New section to policy DP25 (Employment Land) to clarify provisions for marketing of employment land prior to applying for a change of use, and to refer to the Council's SPD on marketing and business evidence. [See Note IQ-23.]
- MM10 Clarification of the Housing Trajectory, to include three categories – (a) 5-year period; (b) remainder of plan period; and (c) beyond the end of the plan period. The trajectory is to be published within LPP2.
- MM11 Updated Table 4, to include additional rows to cover (a) the new allocations in the north-east of the District; and (b) overall totals for Mendip.
- MM12 Change to policy FR3a (Land South of Little Keyford and The Mount), to increase total to at least 325 dwellings. [See Note IQ-13].
- MM13 New policy to address the impact of the Local Plan housing allocations on the Strategic Road Network; and to address more detailed matters, including key highways links and junction improvements in the Frome area. [Wording set out in IQ-20a]

- MM14 Changes to policy BT1(Land at West View, Butleigh), to clarify the LPA's response to concerns such as soil conditions/subsidence and impacts on heritage assets. [Wording set out in Note IQ-32a; agreement with LPA suggested wording.]
- MM15 Changes to policy WM1(Land at Court House Farm, Westbury sub Mendip), to clarify what is required from the LPA in terms of requirements for community facilities. [See Note IQ-33 for wording].
- MM16 Include new definition of affordable housing in glossary, to reflect the 2019 NPPF.
- MM17 Changes to policy FR2 (1), to refer to a minimum of 200 dwellings, making provision for affordable housing in line with relevant policies, and approx. 4.5 ha of employment uses to include B1, B2 and B8 premises, commercial (to include Use Class A3/A5) and retail units. Changes to FR2 (7), include 'provisionally' after 'include'. [See Note IQ-25].
- MM18 Changes to policy FR1 (Saxonvale), to include provision of new footpath river crossing and clarify provision of at least 250 new homes.
- MM19 Change bullet point 7 of policy FR3a to read: "Each part of the site should contribute appropriately to achieving effective mitigation of the potential loss of and provide enhancement for biodiversity, ensuring that habitat connectivity is maintained throughout the site and with the wider countryside."
- MM20 Change explanatory text to policy FR3a, under 'Landscape and Ecology' to reflect the change to bullet point 7. [Wording as per IQ-2]
- MM21 Change bullet point 8 of policy FR3a (Land South of Little Keyford and The Mount), to add after "properties", "with regard to noise, disturbance, overlooking, privacy, outlook, odour and pollution".
- MM22 Change policy FR3a to include the requirement for a masterplan approach [See wording in Note IQ-26].
- MM23 Change policy ST1 (Land West of Somerton Road) to increase housing allocation from 200 to a minimum of 280 dwellings.
- MM24 Change policy WL4 (Tincknells Depot) to add additional bullet point 9, to read: "All houses will be required to be located outside flood zones 2 and 3.
- MM25 Change policy CX1 (Land adjacent to the Pound Inn and A30, Coxley), bullet point 3, and replace with: "Development to be restricted to flood zone 1 only."
- MM26 Include new, more detailed description of employment land [As set out in Note IQ-21].
- MM27 Revised housing completions summary table for the District [see Interim Note, paragraph 6]