

Pendle Local Plan

Preamble

1. I held an advisory meeting at Pendle Borough Council's offices on 1 November 2024. The meeting focused on the emerging Local Plan (the Plan). Prior to the meeting, the Council circulated a covering letter, suggested agenda and associated documents, which helpfully identified specific topics to be covered.
2. Where necessary in what follows, I will make references to the National Planning Policy Framework (the Framework), the Planning Practice Guidance (PPG) and any relevant Written Ministerial Statements (WMS). All paragraph references to the Framework are to the December 2023 version of the document. I will also refer to the Planning and Compulsory Purchase Act 2004 (the 2004 Act) and the Town and Country Planning (Local Planning) (England) Regulations 2012 (the 2012 Regulations), where necessary.
3. The Planning Inspectorate's general advice is included in its Procedure Guide for Local Plan Examinations (the Procedure Guide), which has recently been updated
<https://www.gov.uk/government/publications/examining-local-plans-procedural-practice>

Current position

4. The Council has just embarked on Regulation 19 consultation on the Plan which is intended to supersede the adopted Core Strategy, the 'saved policies' of the extant Local Plan, and the Bradley Area Action Plan. Submission of the Plan is anticipated in early 2025. Once adopted it will form part of the development plan for the area alongside 4 made neighbourhood plans and the Lancashire Minerals and Waste Plan.

The Minister's Letter

5. We touched on the Minister of State's Letter to the Chief Executive of the Planning Inspectorate of 30 July 2024 (the Letter), which sets out the Government's expectations on the conduct of plan examinations. It reiterates that s20 of the 2004 Act sets out that Councils should only submit plans to the Secretary of State when they consider them to be ready for independent examination. The Letter indicates that Inspectors should focus attention on plans that are capable of being found sound to realise the Government's aim of universal plan coverage. Against this background, the Letter expects that any pauses to an examination to undertake any additional work necessary to make a plan sound should take no longer than 6 months overall. Inspectors do, however, have the discretion to extend any pauses to deliver adopted plans, but in agreeing any extensions, they should be confident that councils can complete any outstanding work within an agreed timeframe. The implications of the Letter are reflected in recent changes to the Procedure Guide.
6. We also discussed national policy as expressed in the 'Providing the homes we need' WMS of 30 July 2024, which sets out the Government's goal "for universal coverage of ambitious local plans as quickly as possible".

Duty to Co-operate

7. We discussed statements of common ground and the Duty to Cooperate (DtC) Compliance Statement. The DtC only relates to plan preparation and is not something that can be 'fixed' by an Inspector at an examination. However, it is not a duty to agree and legitimate differences of opinion may remain on the planning merits of an issue. It would be useful if any such instances are covered in relevant statements of common ground and the Compliance Statement (see paragraph 1.15 of the Procedure Guide, in particular).
8. In terms of the Statements of Common Ground to be produced we agreed that it would be useful for these to cover the strategic cross-boundary matters relevant to the Plan, even if in some instances these may be fairly brief documents (for example, in relation to the National Landscape which straddles the border with Ribbles Valley Borough Council).

Sustainability Appraisal

9. The sustainability appraisal is based on matrices and methodologies that have been used in previous plan-making exercises and have supported the Borough's adopted plans. We discussed the iterative nature of sustainability appraisal and how it might evolve, including over the course of the examination itself in response to any main modifications that might be recommended.
10. The sustainability appraisal considers alternative housing requirements, which include the current local housing need (LHN) – 124 dwellings per annum (dpa); a much higher figure linked to anticipated employment development in the Plan- 230 dpa, and the figure included in the Plan – 148 dpa. The 230dpa figure is considerably lower than that suggested in the draft revised LHN which the Government has recently consulted on, but it is based on locally derived demographic and economic analysis. This taken together with the draft nature of the proposed LHN, which may be subject to further change, mean that the figures assessed by the sustainability appraisal could be characterised as differing realistic options which provide a range of alternative scenarios. We discussed this in the context of reasonable alternatives and the PPG advice on this topic ('Strategic environmental assessment and sustainability appraisal' at paragraph: 018).

Housing Requirement and Economic Development

11. The Framework sets out that housing requirements may be higher than the identified housing need if for example, they reflect growth ambitions linked to economic development (at paragraph 67). The Council's housing needs assessment arrives at an annual need of 230, a figure considerably above the output of the standard method, in order to meet housing needs that may be associated with increased employment development over the Plan period. Nevertheless, it is recognised that these assumptions are based on the current very low rate of economic activity in the Borough.
12. Ongoing initiatives in the Borough aim to address low economic activity rates. If these are successful it would mean that fewer new homes would be needed to address in-migration as more members of the Borough's existing and projected households would take up the jobs

created through anticipated employment development. Furthermore, there are strong travel to work links with the adjacent Burnley Borough. We talked about the criticality of monitoring economic inactivity rates, to inform future plan review activity, and an indicator which measures this is included in the Plan. The Council will also prepare a brief topic paper to explain the approach taken, and include the Economic Strategy for the Borough in the examination library.

Viability

13. Evidence produced in support of the Plan points to a challenging picture in terms of viability for residential development, and that it would be difficult to provide affordable housing through the planning system. Recent development activity in the Borough also highlights the difficulty of securing affordable housing via planning obligations. Nevertheless, the Plan includes a requirement of 10% affordable housing, using the percentage given in the Framework (at paragraph 66) as a basis for this. However, the tenure mix sought would not be consistent with the Framework. At examination, the Council should be prepared to justify the approach taken to the tenure mix, and provide evidence of the measures taken to meet affordable needs through means other than planning obligations. A brief topic paper on this matter, setting out the Council's position with reference to relevant documents would be useful.

Local Green Spaces

14. The Plan identifies several areas of Local Green Space (LGS), the designation of which confers the same protection as Green Belt. The Council's methodology for assessing sites is based on the Framework considerations relating to this matter and the advice set out in the 'Open space, sports and recreation facilities, public rights of way and local green space' PPG. Whilst this provides a reasonable starting point, the Council can expect questioning of the methodological approach and the justification for the designations during the examination. It is also possible that some landowners may object to the designation of sites.
15. We noted that both national policy (paragraph 105 of the Framework) and guidance (paragraph: 007 of the PPG) anticipate that designating LGS will need to be consistent with local planning for sustainable development, and that plans must identify sufficient land in suitable locations to meet identified development needs. On the face of it, as the Council considers that the Plan is making sufficient provision for these needs, the designation of LGS as proposed would appear to be broadly consistent with this aim.
16. The Council is concerned that it may not be possible to demonstrate that the boundaries of LGS would endure beyond the Plan period given the anticipated uplift to the standard method. However, the proposed alterations to the standard method may be refined further, and there could be other changes in land use patterns and availability of land in the Borough, which may also reduce pressure on sites. We acknowledged the challenges of thinking beyond the Plan period on this matter and against this background, and noted that reviews of the Plan would provide a mechanism for considering whether matters need to be revisited. Nevertheless, even at this stage it may be evident that some of the sites would be likely to endure when compared to others. I am of the view that any alterations to secure consistency with national policy on this matter could be done by way of main modification by the appointed Inspector/s

should they consider them necessary.

17. Critically, we noted that any designated LGS might reasonably come within the ambit of any future Green Belt review, as both designations are subject to the same national planning policies. In this light, we discussed the distinction between 'exceptional circumstances' necessary to justify Green Belt boundary alterations at the plan-making stage and the 'very special circumstances' necessary to justify inappropriate development in the Green Belt when taking decisions. This distinction is unpacked further in *Compton Parish Council & Ors v Guildford Borough Council & Anor* [2019] EWHC 3242 (Admin).

Flood Risk

18. Some site allocations are less sequentially preferable to a non-allocated site in flood risk terms. The Council should expect questions at the examination on the justification for this and why a site which appears to be sequentially preferable has not been allocated in preference to those included in the Plan. I note that although the relevant site has not been allocated that it is nevertheless within the settlement boundary, previously benefited from an outline planning permission, and may be a source of windfall development in any event. However, the Council is of the view that developer interest in the site has waned and that it may not therefore meet the Framework definition of 'deliverable' at this point. It may be useful for the Council to seek the views of the Environment Agency and the Lead Local Flood Authority on the relevant flood related documents, and this issue in particular, as part of the Regulation 19 consultation.

Format of Consultation Statement

19. We discussed the formats of the Consultation Statement and the Regulation 19 responses. It is useful for Inspectors to see the whole representation as well as representations by policy or other issue (such as sustainability appraisal). Paragraphs 1.18 to 1.21 of the Procedure Guide contain general advice on these matters. Whilst not a legislative requirement it is very useful to have the Council's summary of the main issues raised and its response to these. We discussed that this is not necessary at submission, but should be provided as soon as is practicable afterwards to avoid delays to the examination timetable.

Programme Officer

20. The Planning Inspectorate has a list of programme officers and this will be sent to the Council under a separate cover. The list is not comprehensive and there may well be others who can offer this service, including Council officers. Programme Officer training is provided by the Planning Inspectorate and usually held in central London. The dates for these are usually published well in advance on <https://www.gov.uk/guidance/local-plans#programme-officers> . Specific advice for programme officers is also available on that link.

Main Modifications

21. The starting point of an examination is the Regulation 19 version of the Plan. Only appointed Inspectors can make main modifications to a submitted plan, and they can only do so where

they consider them to be necessary to remedy legal compliance or soundness problems. In approaching this aspect of an examination an Inspector's task is one of securing adequacy and not perfection, because if elements of a plan are sound and legally compliant as submitted Inspectors do not have the power to recommend main modifications to those elements.

22. Whilst Councils often submit suggested changes to a plan alongside their other documents, unless those amendments have been consulted on in the same manner as the Plan itself, they will not form part of the starting point of the examination. Whilst Inspectors will consider the Council's suggested changes, they will not recommend them unless they view them to be necessary to address a problem with the Regulation 19 version. General advice on these matters is set out in the Procedure Guide paragraphs 1.1 to 1.6.

Concluding remarks

23. The above advice is based on a light touch assessment on the basis of the issues raised by the Council. It is not binding on the Inspector (or Inspectors) who will subsequently be appointed to carry out the independent examination, who will also take into account the evidence base and representations made at the Regulation 19 consultation stage.

G J Fort

INSPECTOR

11 November 2024