

Pendle Core Strategy Examination

Pendle Borough Council

Hearing Statement

Session 3 – Tuesday 14th April 2015

Matter – The Environment, Design and Energy

1. Will the policies of the Plan be effective in protecting the natural and built environment? Does Policy ENV1 provide sufficient distinction between different levels of designation (paragraph 113 of the Framework refers)?

- 1.1 Policy ENV1 sets out the Council's approach to protecting and enhancing the natural and historic environment. The intention of the policy is to provide the strategic direction for protecting the environment with more specific detail being added in the Site Allocations and Development Policies plan.
- 1.2 The policy includes commitments to work with partners to establish ecological networks across the borough looking at opportunities to provide links for species migration including across administrative boundaries. It is anticipated that this work will form a key part of the preparation for the Site Allocation and Development Policies plan. The policy also sets out the requirements which development proposals should meet in order to ensure that the natural and historic environment is protected. These policy strands should ensure the effective protection of the environment.
- 1.3 In relation to the distinction made between different levels of designation paragraph 8.14 explains that the borough has habitats and species which are recognised as being of international, national, regional or local significance for biodiversity and it includes a list of the different levels of designation. The third paragraph of the policy explains that the impact of new developments should be kept to a minimum and should not have an adverse impact on designated sites of international, national or local importance. This part of the policy is intended to highlight that there are different levels of designation and that the impact of development on such designations should be considered in relation to the importance of the designation.
- 1.4 However, the Council suggests that the following amendments are made to Policy ENV1 to clarify the hierarchy of designated sites and that the protection that is afforded to them is relative to their status. In addition, the policy should also be amended to explain that the impact of development on such sites should be judged according to the importance of the designation.

- Suggested Main Modification: reword the second paragraph of the policy to read:

“The biodiversity and geological assets of the borough will be protected and enhanced. Those sites which have been designated for nature conservation purposes, including areas of ancient semi-natural woodland, aged and veteran trees, should be protected in a manner appropriate to the status of their designation.”

- Suggested Main Modification: reword the third paragraph of the policy to read:

“The impact of new developments on the natural environment (biodiversity and geodiversity) should be kept to a minimum. Development that is likely to have a significant effect on an international site either alone or in combination with other plans or projects will be subject to assessment under the Habitats Regulations. Development

that is likely to have an adverse impact on a site of national or local importance will only be allowed if, commensurate with the site designation, it can be shown that:

- *the proposal does not affect the special interest of the site, or*
- *the proposal, including the extraction of minerals, is deemed necessary in socio-economic terms and that suitable and sufficient mitigation is provided, or*
- *there are imperative reasons of overriding public interest.”*

2. Have biodiversity and green infrastructure considerations been fully taken into account in preparing the Plan, including cross boundary wildlife sites and networks?

- 2.1 Policy ENV1 has been included in the plan to specifically address the issues relating to biodiversity and green infrastructure.
- 2.2 A Sustainability Appraisal report [CD/01/02] has been produced at each stage of the plan’s preparation. The Sustainability Appraisal includes specific criteria relating to the natural environment (P1-7) and biodiversity (P7) against which the policies of the plan are assessed. This process has been used to highlight the wider effects that the implementation of the plan may have on existing conditions. This has ensured that the appropriate consideration has been given to biodiversity issues.
- 2.3 A Habitat Regulations Assessment Screening Report [CD/01/03] has also been produced at each stage of the plan’s preparation to determine whether the plan in combination would have a significant effect on a European Site.
- 2.4 In the early stages of the preparation of the plan the North West of England Plan (the Regional Spatial Strategy) was in place. The RSS included an indicative biodiversity resource and opportunity diagram which highlighted the core biodiversity areas. These were divided into different sections to identify areas where there was a need to maintain the extent, achieve condition, enhance, restore, reconnect and buffer. This work provided a starting point for the consideration of biodiversity issues in Pendle at a broad scale.
- 2.5 The Biodiversity Audit [CD/08/06] provides part of the evidence base used to support the preparation of the plan and in particular Policy ENV1. It identifies the key sources of information on biodiversity. These sources have been used to identify those sites, habitats and species which are recognised and/or designated as being of international, national or local significance for biodiversity. The key habitat types from the UK Biodiversity Action Plan (now the UK post-2010 Biodiversity Framework) present in Pendle have also been identified in the Core Strategy (paragraph 8.15) in order to highlight their importance and the need to protect them.
- 2.6 The Lancashire Environment Record Network (LERN) has recently carried out work to identify an ecological network for Lancashire. Although the Council has been involved in its preparation, the final maps and report have only just been published and therefore it has only had a limited influence on the preparation of the plan. However, Policy ENV1 clearly sets out the Council’s approach to establishing ecological networks for Pendle. The work

carried out by LERN will form the basis for more localised work to be taken forward in the Site Allocations and Development Policies plan.

- 2.7 The Statement of Compliance with the Duty to Cooperate [CD/01/05] explains that the Council has engaged and worked with various partners in the preparation of the Core Strategy to look at strategic cross boundary issues including those relating to biodiversity and green infrastructure (paragraphs 2.16, 2.18, 2.33, 2.35, 3.157-3.166, Appendix 2 (pages 81-83)).
- 2.8 The Lancashire Economic Partnership prepared the Lancashire Green Infrastructure Strategy [CD/08/11] in 2009 to identify existing green infrastructure assets and potential opportunities for improving these assets and creating new ones. This work included a mapping exercise to highlight the different types of green infrastructure and the networks that existed within and across each local authority area. Policy ENV1 reflects this strategy, with the Council encouraging and supporting improvements to existing open spaces and creation of new sites as part of a wider programme of green infrastructure provision.
- 2.9 Pendle Council was involved in the preparation of the Burnley Green Infrastructure Strategy in 2014 and specifically requested that any cross boundary issues were identified, particularly in relation to wildlife corridors which either cross or run parallel to the borough boundary.
- 2.10 In preparing the Core Strategy the Council has had regard to the Open Space Audit and it is highlighted as a key document to be used in determining the amount and quality of open space that needs to be provided as part of new developments (see Policy LIV5). Policy ENV1 also indicates that the Open Space Audit is used to identify those sites which are to be protected as open space. Furthermore, the Council is committed to preparing a Green Infrastructure Strategy for Pendle to inform the preparation of the Site Allocations and Development Policies plan. This strategy will replace the existing Open Space Audit, providing a new assessment of existing open space and green infrastructure assets. It will highlight surpluses and deficiencies of open space and highlight the opportunities to provide new or enhanced green infrastructure. This information will be used to inform policies in the Site Allocations and Development Policies plan.
- 2.11 The Council is involved with a number of bodies responsible for the management of designated sites including the AONB Joint Advisory Committee (JAC), Pennine Prospects (an organisation which works to promote the South Pennine Moors), the South Pennine Moors Local Nature Partnership (LNP), and the Lancashire Local Nature Partnership. Working with these bodies helps to ensure that consideration is given to cross boundary biodiversity issues as many of the nature conservation designations in Pendle traverse with the boundaries of neighbouring authorities.
- 2.12 A wide range of evidence sources have been used to identify the key biodiversity and green infrastructure assets in Pendle and the plan has been prepared to reflect the importance of these assets and the need to protect and enhance them. The policies in the plan provide

the strategic approach and 'hooks' for further detail to be added in the Site Allocations and Development Policies plan. The evidence will be used to help inform the allocation of sites for development.

3. Does Policy ENV2 sufficiently promote and reinforce local distinctiveness such as that arising from the Leeds-Liverpool Canal?

3.1 The Council has proposed a number of main and additional modifications (see C/009 and C/010 – Schedules of Main and Additional Modifications) to the plan in order to resolve issues raised by English Heritage and to ensure that the plan is sound and responds to the requirements of the NPPF in relation to conservation and enhancement of the historic environment. In particular, the proposed amendments to Policy ENV1 look to conserve and enhance those key elements that make a contribution to the local character and distinctiveness of Pendle. As part of this amendment the policy includes specific reference to the Leeds and Liverpool canal reflecting its historical importance but also acknowledging the opportunities for its future promotion.

3.2 Policy ENV2 has also been amended to require proposals to contribute to the sense of place and make a positive contribution to the historic environment and local identity and character. Policy ENV1 includes a reference to Policy ENV2 to acknowledge the link between conservation, local character and distinctiveness and the design of new developments.

3.3 These proposed modifications to Policies ENV1 and ENV2 will ensure that the plan sufficiently promotes and reinforces local distinctiveness, including that of the Leeds and Liverpool canal.

4. Are the requirements for sustainable design within the policies of the Plan such as Policy ENV2 too prescriptive and likely to affect the viability of new development? Are there any implications for the wording of Policy ENV2 from the Government's announcement about possible exemptions for small builders from low carbon/zero carbon requirements?

4.1 Policy ENV2 states that all new development should viably seek to deliver the highest possible standards of design. The policy aims to achieve high standards of design but is flexible by recognising that there may be viability issues which restrict/limit the design response.

4.2 The third part of the policy which looks at 'designing development to move towards a low carbon future' sets out a flexible approach based on that recommended by the Government's zero carbon buildings policy i.e. it adopts the zero carbon hierarchy approach [see CD/10/06]. This approach gives applicants/developers a series of options in order to achieve a low/zero carbon building in the most viable way. This approach will provide sustainable buildings for Pendle while ensuring that the viability of development is not compromised.

- 4.3 The Development Viability Study (DVS) [CD/07/01] has assessed the plan to test whether the policies place an undue burden on developers which would threaten the viability of a development and the deliverability of the plan. There have been a number of changes to policies in the plan since the assessment was carried out. For example, the plan no longer requires developments to generate 10% of their energy from renewable sources and no longer encourages the use of the Code for Sustainable Homes. However, Policy ENV2 now includes an overarching approach to designing low/zero carbon buildings and this effectively replaces the previous requirements.
- 4.4 In this respect, the requirements set out in the design policies of the Pre-Submission version of the plan are comparable in cost terms to those requirements in the set out in the 2012 Publication plan. Appendix 1 of the DVS provides details of the cost implications of the policy requirements. Policies ENV2, ENV3, LIV4, WRK5 and SUP4 are the pertinent policy references in this instance.
- 4.5 The DVS has used the BCIS cost indices in the viability appraisals which take into account the need for high quality design. The appraisals also include an assumption for the cost of certain standards e.g. the Code for Sustainable Homes and BREEAM, and for the provision of renewable energy (where these costs are not subsumed by the costs of meeting the standards). The DVS acknowledges that these requirements will have implications for the cost of development. However, paragraph 6.10 explains that although there is a current lack of viability in sites in the borough, the Council has not formulated a set of policies that are expensive for the developer to implement.
- 4.6 The Council does not believe that the requirements for sustainable design are too prescriptive. Policy ENV2 takes a step-by-step approach, outlining the key elements which developers should address when designing a low/zero carbon building. These are practical measures which most experienced developers will already be using. The policy aims to help developers meet the zero carbon requirements in the most viable way. Proposed changes to the Building Regulations will link in with the requirements in this policy. However, the policy is still necessary to ensure that at the planning stage the appropriate design considerations are taken into account.
- 4.7 In terms of the Government's announcement relating to possible exemptions from the zero carbon buildings policy for small builders / small sites, the Council suggest making a wording change to the policy text so that the policy only applies to relevant applications.

- Suggested Main Modification: Rephrase the last sentence of the fifth paragraph of Policy ENV2 to read:

“Where they consider this is not cost effective a contribution towards allow solutions will be necessary, for those developments which meet the relevant size threshold, to offset the development's remaining carbon emissions.”

5. Is the strong encouragement for the use of Building for Life standards justified?

- 5.1 The Building for Life standards are described as a government-endorsed industry standard for well-designed homes and neighbourhoods. The standard is led by three partners: Cabe at the Design Council, the Home Builders Federation and Nottingham Trent University. The standard was redesigned in 2012 (and now in 2015) to reflect the NPPF's commitment not only to build more homes, but better homes. The standard has been designed to help local planning authorities assess the quality of proposed and completed development and help to structure local design policies.
- 5.2 The North West Best Practice Design Guide [CD/10/01, page 5] indicates that only 14% of new residential properties in the North West could be described as 'good' or 'very good' in terms of their design. The use of the Building for Life standards is one way to help ensure that new residential developments achieve good levels of design.
- 5.3 The Development Viability Study [CD/07/01] acknowledges this policy requirement in its assessment of plan viability and takes account of the potential increased development costs within the tested series of development appraisals it uses to consider the viability of sites for residential development in different parts of the borough. Paragraphs 4.54-4.78 consider the policy requirements and development costs. Appendix 1 also provides details of the cost implications of the policy requirements.
- 5.4 Policy LIV5 is worded to "*strongly encourage*" the use of Building for Life standards, however, the policy does not "*require*" their use. The aim of the policy is to raise design standards in the borough in order to create attractive places where people want to live. The evidence shows that design quality for new residential developments is often below a good standard and therefore this policy aims to address this issue. This is in line with the NPPF's [CD/12/01, paragraph 50] requirement to deliver a wide choice of high quality homes.

6. Is the plan sufficiently clear on what is expected from developers in terms of sustainable design/construction measures? Are any such measures consistent with the Government's zero carbon buildings policy and nationally described standards?

- 6.1 Policy ENV2 provides the Council's approach to achieving sustainable design in new developments and sets out a flexible way for the developer to decide how best to achieve carbon compliance in the design of their building. This approach is based on the Zero Carbon Hierarchy [see CD/10/06] which was developed by the Zero Carbon Hub – the public/private partnership which was established to support the delivery of zero carbon homes from 2016. This is part of the government's zero carbon buildings policy and is therefore considered to be a consistent approach. The response to Question 4, states that the policy offers a step-by-step guide as to the elements to consider when designing a zero carbon building.