



The Planning
Inspectorate

Report to Pendle Borough Council

by Kevin Ward BA (Hons) MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Date 26 May 2011

PLANNING AND COMPULSORY PURCHASE ACT 2004

SECTION 20

REPORT ON THE EXAMINATION INTO THE BRADLEY AREA ACTION PLAN DEVELOPMENT PLAN DOCUMENT

Document submitted for examination on 23 December 2010

Examination hearing held on 15 March 2011

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Abbreviations used in this report

AA	Appropriate Assessment
AAP	Area Action Plan
CH	Change proposed by the Council to make the AAP sound
DPD	Development Plan Document
HMR	Housing Market Renewal
LDS	Local Development Scheme
PPS	Planning Policy Statement
RS	Regional Strategy
SA	Sustainability Appraisal
SCI	Statement of Community Involvement
SCS	Sustainable Community Strategy
SHMA	Strategic Housing Market Assessment

Non-Technical Summary

This report concludes that the Bradley Area Action Plan Development Plan Document provides an appropriate basis for the regeneration of the area over the next 10 years. The Council has sufficient evidence to support the strategy and can show that it has a reasonable chance of being delivered.

A limited number of changes are needed to meet legal and statutory requirements. These can be summarised as follows:

- Extending the plan period to 2021 to ensure that the Area Action Plan is sufficiently flexible and realistically deliverable;
- Clarifying potential funding and delivery mechanisms following the demise of the Housing Market Renewal Programme;
- Providing a clearer and more effective framework for monitoring and review;
- In a number of cases, amending the wording of policies to ensure that they are sufficiently clear and flexible and justified by evidence;
- Deleting Policy 6 as it has in part already been implemented and is otherwise not a genuinely spatial policy; and
- Making it clear which Local Plan policies will be superseded to comply with Regulations.

All of the changes recommended in this report have been put forward by the Council in response to points raised and suggestions discussed during the public examination. The changes do not alter the thrust of the Council's overall strategy.

Introduction

1. This report contains my assessment of the Bradley Area Action Plan Development Plan Document (the AAP) in terms of Section 20(5) of the Planning & Compulsory Purchase Act 2004. It considers whether the AAP is compliant in legal terms and whether it is sound. Planning Policy Statement 12 (PPS12) makes clear that to be sound, the AAP should be justified, effective and consistent with national policy.
2. The starting point for the examination is the assumption that the Council has submitted what it considers to be a sound plan. The Council made a number of changes to the publication draft plan in response to representations made and to update text. These were incorporated into the submitted plan. In all cases they were minor changes which did not alter the scope or meaning of policies. The basis for my examination is therefore the submitted AAP (December 2010).
3. My report deals with the changes that are needed to make the AAP sound. They are identified in bold in the report (**CH**) and are set out in Appendix A. All of these changes have been proposed by the Council during the course of the examination. None of the changes materially alter the substance of the plan and its policies. They have been subject to consultation and Sustainability Appraisal (SA) and I have taken account of consultation responses and the findings of the SA in writing this report.
4. The Council also wishes to make a small number of minor changes to the submitted AAP in order to update various parts of the text. Although these changes do not relate to soundness, I endorse the Council's view that they improve the plan. These changes are set out in Appendix B. I similarly endorse the correction of any minor typographical, grammatical or formatting errors provided that they do not alter the substance or meaning of the text.

Assessment of Soundness

Preamble

5. The Government announced the revocation of Regional Strategies with immediate effect on 6 July 2010. At the time of the consultation on the publication draft plan (6 August to 20 September 2010) it was considered therefore that the North West of England Plan (the RS) no longer formed part of the development plan. The decision to revoke Regional Strategies was subsequently quashed and the RS currently forms part of the development plan therefore. Given the nature of the AAP i.e. a plan for only part of Nelson, and taking account of the views of the Council, the re-instatement of the RS does not affect my conclusions on soundness.
6. The Ministerial Statement "Planning for Growth" was issued after the hearing session. The Council and those who had made representations on the AAP were given the opportunity to comment on the potential implications of the Statement. The Council considers that the approach of the AAP in promoting regeneration and investment accords with the principles of the Statement. I share this view. There were no comments from those who had made representations on the AAP.
7. It would normally be expected that AAPs would follow on from the adoption of the Core Strategy. In this case the consultation on preferred options for the Core Strategy is planned for 2011. The sequence of Development Plan Documents (DPDs) is clearly set out in the approved Local Development Scheme (LDS) however and is understandable given the priority given to housing market renewal and regeneration in the area.

Main Issues

8. Taking account of all the representations, written evidence and the discussions that took place at the examination hearing session I have identified seven main issues upon which the soundness of the plan depends.

Issue 1 – Whether the strategy of the AAP is justified and can be effectively implemented

9. The AAP contains a set of clear and specific objectives to achieve the distinctive vision for the future of Bradley. These include transforming the housing market in terms of quality and choice, increasing open space provision, enhancing the quality of the local environment and improving accessibility to services, facilities and employment opportunities. These objectives and the overall approach of the AAP are justified by a robust and credible evidence base which provides a wide ranging assessment of the social, economic and environmental issues facing the area and the need for change.
10. Policy 18 of the Replacement Pendle Local Plan (the Local Plan) provides the basis for regeneration and housing market renewal activity in the area. The strategy of the AAP accords with policies in the RS, in particular Policies DP2, RDF1 and L3 which promote housing renewal and regeneration. It is also closely aligned with the vision and goals of the Sustainable Community

Strategy. The strategy and overall approach of the AAP is therefore consistent with the wider strategic context for the area.

11. Considerable effort has gone into involving local people in the process and there is evidence that this has influenced the strategy and specific proposals within the AAP, for example in determining the location of open space and recreational facilities and the extent of housing clearance.
12. The alternative options for regenerating the area were clearly and openly set out. They were assessed in the light of their contribution to the objectives of the AAP and the wider policy context, community support and cost and deliverability. Sustainability Appraisal has played an integral role in informing the process and determining preferred options. In overall terms I am satisfied that the strategy of the AAP is the most appropriate when considered against the reasonable alternatives that exist. There are strong links from the vision and objectives to the specific policies and proposals. Subject to the changes referred to later in this report there is a clear and effective mechanism to achieve the vision and objectives of the AAP. The strategy of the AAP is therefore justified and can be effectively implemented.

Issue 2 – Whether the focus on particular areas for housing redevelopment and improvement is justified and effective

13. The AAP proposes a focussed approach to housing clearance and redevelopment. The relatively limited areas identified for demolition are based on evidence relating to stock condition and vacant dwellings and the results of community consultation in terms of considering options for the scale and location of such intervention. Crucially the scale of proposed clearance also takes account of cost and the potential availability of resources. More widespread clearance would not only increase costs significantly, it would also generate substantial disruption for local people and run the risk of undermining community cohesion.
14. The proposals for housing improvement also take account of stock condition and vacancy rates. Properties to be improved are concentrated along key routes such as Leeds Road and Scotland Road and close to areas identified for new housing and open space. The intention is to make the best use of resources by focussing on improvements which would have most effect on the perception of the area and help to support other forms of investment. Additional improvement over a much wider area would further enhance the perception of the area and improve the quality of the living environment for local residents. However, this would add significantly to costs.
15. Taking into account evidence on stock condition and vacancy rates, the results of community consultation and the likely availability of resources, I consider that the AAP focuses clearance and improvement where it is most needed and where it would have most effect in terms of achieving the objectives of housing market renewal and regeneration without causing undue disruption to the local community. Importantly in a time of financial restraint, it takes a realistic view of the potential resources available. The focus on particular areas for housing redevelopment and improvement is justified and effective therefore.

Issue 3 – Whether the approach to new housing development set out in Policy 1 is justified and effective

16. Policy 1 of the AAP proposes housing development with a potential element of mixed use on the Riverside Mill site which is a Protected Employment Area under Policy 22 of the Local Plan. A mixed use scheme including housing is also proposed on part of the Throstle Nest Mill site which is currently in employment use.
17. The latest assessment of the supply of employment land (March 2010) indicates that there is a shortfall of less than 1 hectare across Pendle as a whole compared with planned requirements up to 2021. It is anticipated that additional employment land will be identified in the M65 corridor through the Land-Use allocations DPD. On this basis the development of housing on the Riverside Mill and part of the Throstle Nest Mill sites would not have any undue effect on the supply of employment land in the area. The Riverside Mill site has in any case been vacant for a number of years and its location within a densely built up residential area is likely to be a constraint on the development of alternative employment uses.
18. Whilst references to mixed use provide a useful degree of flexibility, it is insufficiently clear how this aspect of Policy 1 would be implemented and whether it would ensure that the objectives in terms of housing market renewal are met.
19. Part b) of Policy 1 appears to place some restriction on the amount of new housing above that required to replace existing dwellings. This is not justified given the need to encourage development in the area and would reduce the flexibility of the AAP.
20. The basis for requiring new housing to be built at a minimum density of 30 dwellings per hectare is insufficiently clear and there is no evidence to justify a requirement for higher density development on the Cooper Street site.
21. The housing stock in the AAP area consists almost entirely of relatively small terraced houses. Evidence from the Strategic Housing Market Assessment (SHMA) and the related report on PPS3 outputs and housing market balance supports a requirement for the majority of new houses to be larger (3+ bedroom) dwellings to diversify the housing market and meet housing needs in the AAP area. However it is unclear how part d) of Policy 1 would be interpreted and implemented practically.
22. In terms of the proportion of new housing which should be affordable, the SHMA recommends a target of 45% for Pendle as a whole. The viability study in relation to the housing sites identified in the AAP (Bradley Area Action Plan Viability Study: March 2010) subsequently recommended a target of 20% although it indicates that even this level of affordable housing provision would be likely to require grant assistance and/or a significant increase in house prices. With this in mind it is crucial that the approach towards seeking an element of affordable housing on market housing sites is sufficiently clear and flexible and takes full account of the effect on the viability of the proposal. It is also important that the policy does not act as a disincentive to developers given the need for regeneration and housing market renewal. Whilst some

flexibility is built into part e) of Policy 1, this could be expressed more clearly. In particular it is not clear that in some cases it may not be viable to provide any affordable housing.

23. There is no specific evidence to support a requirement for new housing to achieve the Code for Sustainable Homes Level 3 or to demonstrate that this would be viable. Building Regulations would ensure that new housing meets the standards for decent homes.
24. The lack of clarity in terms of the definition of environmentally friendly materials and procedures would not enable this aspect of part h) of Policy 1 to be implemented effectively. Without reference to viability, the requirement for development to incorporate sustainable urban drainage systems would lack sufficient flexibility.
25. It is not clear how development proposals would be considered in the light of the standards referred to in part l) of Policy 1. Likewise part m) lacks sufficient clarity and in any case the issue of the effect of development on the character of the area is comprehensively dealt with in Policy 7.
26. In overall terms it is unclear which elements of Policy 1 would apply to all housing proposals and which would apply to the specific sites identified.
27. The Council's proposed changes (**CH7-CH10**) would introduce sufficient clarity and flexibility to Policy 1 and ensure that it is based on evidence. The changes are necessary to provide a justified and effective policy.

Issue 4– Whether the approach to flood risk set out in Policy 2 is justified, effective and consistent with national policy

28. The four sites proposed for housing development in the AAP are within the indicative floodplain identified by the Environment Agency. Detailed flood risk reviews undertaken on behalf of the Council provide a more accurate assessment and show that the Cooper Street site is in fact in Flood Zone 1 and at low risk of flooding. The updated situation regarding the extent of flood risk zones is not clear however and there is a degree of inconsistency in the text of the AAP and the illustrative maps. The Council's proposed change (**CH5**) would address this concern.
29. The relatively small area covered by the AAP and the densely developed nature of the residential areas limits the potential for housing sites to be identified. Taking this into account along with the regeneration objectives of the AAP I consider that the sequential test as set out in PPS25 has been correctly applied and satisfied. It has been demonstrated that there are no reasonably available alternative sites for housing in areas of lower flood risk. The sites concerned are all previously developed and housing development would bring wider environmental, social and economic benefits. Subject to further detailed assessment and mitigation measures, it has been demonstrated that development would be acceptable in terms of flood risk. In terms of identifying sites for housing development in the AAP, the exception test as set out in PPS25 has also been satisfied.
30. Although Policy 2 contains specific requirements for the development of the three identified housing sites potentially at risk of flooding, these are justified

by evidence from detailed and up to date flood risk reviews and necessary to ensure that development would not be at an unacceptable risk of flooding or increase flood risk elsewhere. Despite the detailed nature of the policy I am satisfied that it retains sufficient flexibility in terms of the form, layout and design of development on the sites concerned and would not prejudice the viability of proposals.

31. Parts 1bii) and 1cii) of Policy 2 lack sufficient clarity in terms of the information required from developers and the definition of habitable accommodation. This would be addressed by the Council's proposed change (**CH5**).
32. The approach to flood risk set out in Policy 2 is justified and consistent with national policy. Subject to the Council's proposed change (**CH5**), it would also be effective.

Issue 5– Whether the approach to employment sites and retailing set out in Policy 5 is justified, effective and consistent with national policy

33. Policy 5 promotes employment use (including B1 office use) on the sites at Bradley Hall Road and Throstle Nest Mill. These are both out of centre sites and therefore the policy is not consistent with Policy EC5.2 of PPS4 which advocates a sequential approach favouring sites within or at least on the edge of centres for main town centre uses including offices.
34. However, both sites are relatively small and are very close to Leeds Road, one of the main transport links with good public transport accessibility. The development of a relatively small amount of office space on the sites is not likely to have any significant effect on the town centre. The added flexibility in terms of the form of development would assist in attracting potential investment which in turn would contribute to the economic regeneration of the area. In terms of the location of B1 office uses, Policy 23 of the Local Plan gives public transport accessibility corridors such as Leeds Road the same priority as town centres and local shopping centres.
35. Taking these factors into account I consider that Policy 5 represents a modest departure from the sequential approach set out in PPS4 which in this case is justified.
36. Whilst references to mixed use on the part of the Throstle Nest Mill site west of Queen Street provide a useful degree of flexibility, it is insufficiently clear how this aspect of Policy 5 would be implemented. There is also a lack of clarity given the inconsistency between the policy and sites shown on Map 9.
37. The implementation of the policy is unclear given the reference to the Local Shopping Frontage on Scotland Road which is already designated by Policy 26 of the Local Plan.
38. The Council's proposed change (**CH10**) would provide necessary clarity. Subject to this change the approach to employment sites and retailing set out in Policy 5 would be justified and effective.

Issue 6 – Whether Policy 6 concerning community development is justified and effective

39. Part a) of Policy 6 refers to support for a new youth and community centre off Leeds Road. This is already being built and at the time of the examination was nearing completion. Part b) of the policy simply refers to continued support being given to various social and community initiatives. This aspect of the policy is not spatial. Policy 6 is therefore neither justified nor effective. The Council's proposed change (**CH6**) would delete the policy and associated text.

Issue 7 – Whether the AAP is realistically deliverable, sufficiently flexible and able to be monitored effectively

40. The AAP covers only a part of Nelson. It focuses on a limited number of key sites and the overall scale of development envisaged is modest. Much has already been achieved in terms of property improvements and the acquisition and clearance of poor quality housing. The new youth and community centre is due to open during 2011.
41. I am satisfied that the estimated costs of the renewal programme are realistic taking into account experience to date and that the AAP is based on sound infrastructure delivery planning. There is evidence of partnership working and some commitment from the private sector to bring sites forward for development. There are no regulatory or national policy barriers to delivery.
42. The renewal programme to date has been heavily reliant on significant amounts of Housing Market Renewal (HMR) funding. As of the end of March 2011 the HMR programme has ceased however and there is considerable uncertainty as to the future sources of funding for the proposals in the AAP. There is a realistic prospect that the overall amount of funding available will be noticeably reduced at least in the short term. This uncertainty over funding poses the key risk to delivery.
43. The Council is also pursuing regeneration initiatives elsewhere in Nelson (the town centre and Whitefield) and in other parts of the Borough (Colne and Brierfield). At the same time the housing market and private sector investment in development generally continues to be affected by the wider economic climate.
44. On the other hand, as I have noted above, much has already been achieved and the AAP takes a very focussed approach to the redevelopment of sites. Housing led renewal remains a priority for the Council and strenuous efforts are being made to develop and secure alternative sources of funding. In the very short term residual HMR funding can be carried over into 2011/12 to continue the process of property acquisition and clearance. The Council has allocated additional capital resources and there have been encouraging discussions with the Homes and Communities Agency regarding potential funding.
45. Nevertheless, it is crucial that the AAP takes a realistic approach to the timescale and mechanisms for delivery, it is sufficiently flexible and that there are clear and robust monitoring arrangements.

46. Inevitably, given the timing of its preparation, the submitted AAP contains wide ranging references to the role of the HMR programme. Given the change in circumstances it no longer provides sufficient clarity in terms of funding and delivery. The Council's proposed changes (**CH1 and CH11**) would address this concern, clarifying potential alternative sources of funding and likely delivery mechanisms in the absence of the HMR programme.
47. Despite the limited scale of development planned, the Council accepts that given the demise of HMR funding and the wider economic climate the plan period up to 2018 is not realistic in terms of delivery and does not provide sufficient flexibility for the implementation of specific projects. Extending the plan period to 2021 as in the Council's proposed change (**CH2**) would introduce sufficient additional flexibility and provide a more realistic approach to delivery.
48. Whilst they form a coherent overall package, the proposals within the AAP are largely independent of each other in terms of implementation and a delay on one project is not likely to affect progress on others to any significant extent. Within the overall timeframe, projects could readily be brought forward or held back to take account of changing circumstances including the availability of funding and there is potential to phase development schemes such as in the case of the Riverside Mill site.
49. It is likely that the process of acquisition and clearance will be largely completed with funding already committed. The most obvious effect of delays due to funding or developer interest would be the lack of new housing on cleared sites. It is intended that these areas would be grassed over and managed in the interim, as in the case of the site at Cooper Street. Given the location of the development sites and the limited amount of land involved, this would not have a significant effect on the local community or the quality of the living environment.
50. Table 3 of the AAP lacks sufficient clarity in relation to expenditure and progress to date and there is a degree of inconsistency between the phasing of projects in Tables 3 and 4. The phasing periods in Table 4 would also not reflect the extended overall plan period to 2021. The Council's proposed changes (**CH12 and CH13**) would address these concerns.
51. The AAP sets out the Council's commitment to regular and comprehensive monitoring. Given the uncertainty over funding and the proposed extension of the timescale for delivery, the monitoring arrangements would be strengthened by reference to a substantive review of progress mid way through the plan period. The Council's proposed change (**CH14**) would achieve this by the introduction of a commitment to such a review in 2016.
52. The targets in Table 5 relate to the plan period as a whole and it is insufficiently clear how progress will be measured on an ongoing basis. In the case of new housing, the targets and indicators would not relate well to the intended outcome or the actual requirements of Policy 1. The Council's proposed change (**CH15**) would provide more relevant targets and indicators for new housing and introduce target milestones to allow more responsive monitoring.

53. Subject to the changes referred to above I am satisfied that the AAP is realistically deliverable, sufficiently flexible and able to be monitored effectively.

Legal Requirements

54. My examination of the compliance of the AAP with the legal requirements is summarised in the table below. I conclude that subject to the changes indicated the AAP meets them all.

LEGAL REQUIREMENTS	
Local Development Scheme (LDS)	The AAP is identified within the approved LDS (December 2008). The update on preparation timescales produced in November 2010 indicated the examination would be held in Spring 2011. This was achieved. The AAPs content and timing are compliant with the LDS as updated.
Statement of Community Involvement (SCI) and relevant regulations	The SCI was adopted in 2007 and consultation has been compliant with the requirements therein.
Sustainability Appraisal (SA)	SA has been carried out and is adequate.
Appropriate Assessment (AA)	The Habitats Regulations AA Screening Report (2007) sets out why AA is not necessary.
National Policy	The AAP complies with national policy other than in the case of Policy 5 where the modest departure from the sequential approach set out in PPS4 is justified.
Sustainable Community Strategy (SCS)	Satisfactory regard has been paid to the SCS.
2004 Act and Regulations (as amended)	The AAP complies with the Act and the Regulations other than that it does not clearly state which policies will be superseded. This matter is addressed by the Council's proposed change (CH4).
Regional Strategy (RS)	The AAP is in general conformity with the RS. The Council's proposed change (CH3) is necessary to clarify that the RS currently provides part of the strategic context for the AAP.

Overall Conclusion and Recommendation

55. I conclude that with the changes proposed by the Council, set out in Appendix A, the Bradley Area Action Plan Development Plan Document satisfies the requirements of s20(5) of the 2004 Act and meets the criteria for soundness in PPS12. Therefore I recommend that the plan be changed accordingly. And for the avoidance of doubt, I endorse the Council's proposed minor changes, set out in Appendix B.

Kevin Ward

INSPECTOR

This report is accompanied by:

Appendix A (separate document) Council Changes that go to soundness

Appendix B (separate document) Council's Minor Changes