



Cheshire East Local Plan

Site Allocations and Development Policies Document

Cheshire East Council Hearing Statement

Matter 11: Recreation and Community Facilities

Hearing date: Wed 3 Nov 2021

Introduction

1. This hearing statement has been prepared by Cheshire East Council in response to the Inspector's Matters, Issues and Questions for the Examination Part 2 [INS/10] and Addendum to Matters, Issues and Questions for the Examination [INS/11]. It addresses Matter 11: Recreation and Community Facilities.
2. The abbreviations used in this hearing statement are as defined in the Inspector's MIQs.

Key documents

3. The following key documents are relevant to this response:
 - Draft policies map [ED 02]
 - Green Space Strategy Update 2020 [ED 18]
 - Indoor Built Facilities Strategy [ED 20]
 - Cheshire East Green Infrastructure Plan [ED 47]
 - SADPD Regulation 20 Representations Statement (Consultation Statement Part II) [ED 56a]

Green/open Space Protection (Policy REC 1)

Q172 Is Policy REC 1 justified, effective and consistent with the LPS and national policy in protecting open space in Cheshire East of recreational or amenity value? In particular:

- a. **Is the inclusion of term 'green space' clear and unambiguous, is it clearly defined in the SADPD and is it consistent with national policy for the protection of open space?**
- b. **Is the methodology used to define open spaces for protection robust and are the areas of land identified on the Policies Map as protected open space justified, based on proportionate evidence?**
- c. **Is the identification of the following areas of land as protected open space justified based on their current status?**
 - **Land at Goddard Street, Crewe**
 - **Dyers Mill pond, Bollington**
 - **Land bound by Brook Street, Hollow Lane and Mobberley Road, Knutsford**
 - **Car park on land at Radbrooke Hall, near Knutsford**
 - **Land to the rear of 43 London Road North, Poynton**
 - **Land at Waterworks House, Dingle Lane, Sandbach**
 - **Land at Pownall Park, Wilmslow**

- d. Is the protection of incidental open spaces and amenity areas which are not identified on the Policies Map justified and effective, and is it compliant with Regulation 9(1)¹ which requires the Policies Map to illustrate geographically the application of the policies in the Plan?**

Q172a

4. The use of both of the terms 'green space' and 'open space' is intended to make sure that the full range of outdoor spaces of public value are encompassed by the policy. The council acknowledges that 'green space' is not defined in the LPS or the SADPD. Given that 'open space' encompasses 'green space' and that 'open space' is defined in the Glossary to the NPPF and the SADPD (the SADPD repeats the NPPF definition), the terminology used in the policy could be amended to 'open space' only, replacing those references to 'green/open space'. 'Open space' includes all outdoor spaces of public value whether they are green (vegetated and thereby comprising green infrastructure) or not (such as hard playing courts or 3G sports pitches). It includes land in public and private ownership.
5. Policy REC 1 also reflects NPPF ¶¶99 in the protection it offers to open spaces.

Q172b

6. NPPF ¶¶98 requires the use of open space assessments to inform open space, sport and recreational provision. The council's Green Space Strategy Update 2020 [ED 18] forms the principal evidence underpinning Policy REC 1. The document sets out the green space requirements of each of the borough's main settlements, itself informed by substantial background evidence². This background evidence includes the council's Open Spaces Assessment³. This is a 'living document', first published in 2012 and updated annually. The assessment surveys all open spaces within the borough's main 24 settlements (all PTs, KSCs and LSCs) using an approach originally set out in PPG 17 (withdrawn 2014).
7. The PPG provides updated and current national guidance regarding open space provision/assessment and does not state a preferred methodology. The Green Space Strategy formed part of the evidence base to justify policies for open space in the LPS, being considered appropriate and robust. The Green Space Strategy Update 2020 [ED 18] sets out appropriate and robust evidence to justify Policy REC 1.

Q172c

8. The sites listed vary in status, as do the many other sites that are identified in the Open Space Assessment and subsequently identified on the Policies Map. As per the council's responses set out in SADPD Regulation 20

¹ Of the Town & Country Planning (Local Planning) (England) Regulations 2012

² See section 3 of [ED 18] in particular.

³ https://www.cheshireeast.gov.uk/planning/spatial-planning/research_and_evidence/open_spaces_assessment_2012.aspx

Representations Statement (Consultation Statement Part II) [ED 56a] (pg 292/293), the council's (annual) Open Spaces Assessment monitors open space provision. Designation changes are made with sites taken out once development has taken place. Until the development takes place, the land continues to function as open space.

9. Amendments to the site boundary have however been made on the interactive polices map to the car park on land at Radbroke Hall, near Knutsford as documented in [ED 56 pg 577]. These amendments were made prior to publication of the Revised Publication Draft SADPD in 2020.

Q172d

10. The council carries out as thorough and comprehensive exercise as it can in identifying and designating open spaces, which is evidenced through the Green Space Strategy Update [ED 18]. However, given the size of the borough and the myriad of open spaces within it, some being very small, it is impossible to capture every single parcel of land that may qualify as an open space. In addition, there will be new open spaces created through new development and other initiatives that also warrant an equivalent protection to designated open space. The policy, importantly and reasonably, allows for these open spaces to be considered on a case-by-case basis in the context of individual planning applications.

Q178 Is the identification of the land adjacent to Total Fitness, Handforth Dean as protected open space under Policy REC 1 justified based on its current use and status?

11. The site is correctly listed in the Open Space Assessment; Key service centres open spaces summary reports March 2012, Handforth Open Space Assessment (site 32 HA – see p5) under typology 4 Outdoor Sports facility. It also appears in the more recent [ED 18b] Outdoor Sport technical Appendices April 2021.
12. As set out previously in [ED 56] and [ED 56a] “Green/open space designations do include private sports facilities such as tennis courts, bowling greens, sport pitches etc.”
13. In accordance with the NPPF and SADPD definition, ‘Open Space’ is:

All open space of public value, including not just land, but also areas of water (such as rivers, canals, lakes and reservoirs) which offer important opportunities for sport and recreation and can act as a visual amenity.

Indoor Sport and Recreation Implementation (Policy REC 2)

Q173 Is Policy REC 2 justified and consistent with the LPS and national policy in:

- a. Requiring housing developments to contribute towards indoor sport and recreation facilities where they would increase the demand for such facilities, rather than where there is an existing deficiency in the quantum or quality of facilities in the area or the development would lead to a deficiency?**
- b. Where there is no existing leisure facility nearby, requiring contributions to be directed to the nearest community facility providing recreational activities, rather than nearby private leisure facilities?**

Q173a

14. The policy builds upon LPS Policies SC 1 'Leisure and Recreation', SC 2 'Indoor and Outdoor Sports Facilities' and SC 3 'Health and Well-being'⁴. Criterion 1 seeks the use of Sport England' (objective) demand calculation tools whilst also considering the council's Indoor Built Facilities Strategy [ED 20]. The Strategy details opportunities for investment within existing facilities and where new facilities are likely to be needed in response to planned development. Reference to the strategy therefore enables contributions to be sought only when needed and can be applied to specific projects. Overall, this enables the tests set out in NPPF ¶157 to be better informed. In addition, any planning obligation seeking a contribution towards indoor sports and recreational facilities will be governed by the statutory tests in regulation 122⁵ of the CIL regulations, namely, necessary to make the development acceptable in planning terms, directly related to the development and fairly and reasonably related in scale and kind to the development.

Q173b

15. As per the council's response within the SADPD Regulation 20 Representations Statement (Consultation Statement Part II) [ED 56a] page 293 to a similar question, contributions can be directed towards 'private' facilities. The example of a village hall is cited within the policy, some of which may be under public ownership (e.g. Cheshire East Council or a Parish Council). Equally however, many may be owned by other bodies such as a diocese, brewery or club/society that could be interpreted as 'privately owned' simply by the virtue of not being publicly owned. The policy therefore does not strictly distinguish between public/private ownership. The term 'community facility' within the policy should therefore be interpreted simply as 'facilities used for the benefit of the community' (or similar)⁶. However, the council

⁴ In particular, Policy SC 1 criteria 2 and 5; Policy SC 2, criterion 3; and Policy SC 3 criterion 5.

⁵ <https://www.legislation.gov.uk/ukxi/2010/948/regulation/122/made>

⁶ Examples of 'community facilities' are listed in SADPD ¶11.15.

would not channel contributions towards privately owned, for profit facilities where fees or membership arrangements may limit wider public access. It should be noted that whilst the NPPF does not define the term ‘community facility’⁷, ¶184 states that planning policies should enable the retention and development of community facilities in rural areas.

Green Space Implementation (Policy REC 3)

Q174 Is Policy REC 3 justified and consistent with the LPS and national policy in requiring:

- a. all major employment and other non-residential development to provide open space as part of good design and to support health and well-being, and if so, to what open space standards should it be provided?**
- b. a commuted sum for maintenance of areas of open space of strategic significance for a minimum period of 20 years?**

Q174a

16. NPPF ¶198 states that planning policies should seek opportunities for additional open space. These opportunities have been identified through the council’s Green Space Strategy Update 2020 [ED 18] and Cheshire East Green Infrastructure Plan [ED 47] and builds upon LPS Policies SC 3 ‘Health and Well-being’ and SE 6 ‘Green Infrastructure’⁸.
17. The policy does not specify particular open space standards in relation to major employment and other non-residential development. As per criterion 1, the policy is proposed to be applied flexibly, with the quantum of ‘green space’⁹ sought dependent upon the location, type and scale of development. Unlike residential development, which is single use and could support prescriptive standards¹⁰, ‘major non-residential’ development includes a broad and often mixed range of uses – making the preparing/applying of particular standards too complex. The quantum of open space is therefore expected to be addressed on a case-by-case basis, with reference to the council’s Green Space Strategy Update 2020 [ED 18] and Cheshire East Green Infrastructure Plan [ED 47].

Q174b

18. NPPF places great importance upon the provision of strategic green infrastructure¹¹. Where opportunities arise for new open space to connect to

⁷ Nearest definition can be found within NPPF ¶20 c) – “*health, education and cultural infrastructure*”

⁸ Particularly Policy SC 3, criterion 3 and Policy SE 6, criterion 4.

⁹ The terms ‘green space’ and ‘open space’ are used interchangeably within the SADPD and national policy (NPPF ¶¶98-103), but essentially mean the same – both fall within definition of ‘open space’ within NPPF glossary.

¹⁰ I.e., Table 13.1 within the LPS.

¹¹ See NPPF ¶¶92 c), 154 a), 175 and 186. The NPPF glossary lists a range of benefits green infrastructure can bring.

an existing green infrastructure network owned/operated by the council, adoption of the space to ensure its perpetuity is therefore consistent with national policy.

19. As per NPPF ¶98, planning policies should seek opportunities for additional open space, but is not prescriptive on how this should be achieved. As per ¶10.5 of the Green Space Strategy Update 2020 [ED 18], a developer contributions SPD is currently being prepared and is expected to be consulted upon in early 2022. This will provide additional guidance on the calculation of commuted sums.

Community Facilities (Policy REC 5)

Q175 Is Policy REC 5 consistent with national policy and will it be effective in guarding against the unnecessary loss of community facilities? Should the policy stipulate that development proposals which would result in the loss of a community facility, must provide an assessment of the value of the facility and the impact of its loss on local services and demonstrate that the loss is necessary?

20. The NPPF (¶93) requires that, to provide the social, recreational and cultural facilities and services the community needs, planning policies and decisions should (amongst other matters):
 - guard against the unnecessary loss of valued facilities and services, particularly where this would reduce the community's ability to meet its day-to-day needs; and
 - ensure that established shops, facilities and services are able to develop and modernise, and are retained for the benefit of the community.
21. NPPF ¶28 also supports the provision of community facilities. To support a prosperous rural economy, ¶84(d) requires planning policies and decisions to enable the retention and development of accessible local services and community facilities, such as shops, meeting places, sports venues, open space, cultural buildings, public houses, and places of worship.
22. LPS Policy SD 1 'Sustainable development in Cheshire East' requires development to, wherever possible, provide appropriate infrastructure to meet the needs of the local community, including community facilities. Policy SC 3 'Health and well-being' Criterion 5 seeks to protect existing community infrastructure and ensure the provision of a network of community facilities. Policy EG 2 'Rural economy' seeks to support the rural economy and promotes the retention and delivery of community services such as shops, public houses and village halls.
23. Policy REC 5 seeks to retain community facilities that make a positive contribution to the social or cultural life of a community unless suitable alternative provision is made. Where a facility makes a positive contribution to the social or cultural life of a community, it is reasonable to consider it as 'valued' to that community. Any application seeking to remove a community

facility with no suitable replacement would need to provide evidence to demonstrate that the facility makes no positive contribution to the social or cultural life of a community (and is therefore not 'valued'). As written, the policy would already require an assessment of the value of the facility to a community in order to demonstrate that proposals are in accordance with the policy.

24. When considering the impact of the facility's loss on local services, the NPPF ¶93(c) requires policies to guard against the unnecessary loss of valued services and facilities, particularly where this would reduce the community's ability to meet its day-to-day needs. The word 'particularly' is used to emphasise the importance of day-to-day facilities but the requirement to guard against the unnecessary loss of valued services and facilities applies to all valued services and facilities, even where their loss would not reduce the community's ability to meet its day-to-day needs. Furthermore, ¶93(d) requires planning policies and decisions to ensure that established shops, facilities and services are able to develop and modernise, and are retained for the benefit of the community. There is no requirement under ¶93 or ¶84 to consider the impact on local services.
25. With regard to demonstrating whether the loss is 'necessary', whilst the NPPF ¶93(c) does refer to the 'unnecessary' loss of facilities, ¶93(d) and ¶84 require the retention of community facilities with no reference to consideration of whether the loss is 'unnecessary'. The NPPF therefore only allows limited flexibility regarding loss and this is mirrored within Policy REC 5 which does allow for the loss of facilities where suitable alternative provision is made and the approach is consistent with the LPS and national policy.
26. The policy is justified, effective and consistent with the LPS and national policy. It already inherently requires an assessment of the value of the facility, but there is no need for the policy to stipulate that development proposals which would result in the loss of a community facility, must provide an assessment of the impact of its loss on local services and demonstrate that the loss is necessary.