



Matter 8: Natural Environment

Examination of the Cheshire East Local Plan Site
Allocations and Development Policies Document

for Wainhomes

Emery Planning project number: 17-087

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Project : 17-087
Site address : Representations to the
Cheshire East Site
Allocations and
Development Policies
Document, .
Client : Bloor Homes
Date : 29 September 2021
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1. Introduction

1.1 This hearing statement is submitted on behalf of Wainhomes in relation to Matter 8: Natural Environment. The hearing session is scheduled to take place on 2nd November 2021.

2. Ecological network (Policy ENV 1)

Q117. Is Policy ENV 1 positively prepared, justified based on proportionate evidence, effective and consistent with the LPS and national policy?

2.1 No.

2.2 Policy ENV1 identifies 'sustainable land use areas' and other areas where development must meet the criteria set out at part 4 of the policy. It is a restrictive policy and it is not clear how the criteria could be met. The policy requires new development to seek 'proportionate' opportunities to protect, restore and enhance the ecological network. It is not clear what is considered 'proportionate' for the type of development or different designations. The policy is ambiguous and does not meet the requirements of paragraph 16 f) of the Framework.

In particular:

a) In the absence of up to date site specific ecological assessments does the evidence adequately demonstrate the value or potential value for ecology of the land within each of the ecological network components, namely core areas, corridors and stepping stones, restoration areas, and Meres and Mosses catchments, and justify the extent of the buffer zones?

2.3 No. The evidential basis for the 'core areas, corridors and stepping stones' shown at Figure 4.1 and the proposals map is not robust, and site specific assessments and field surveys have not been undertaken to justify the designation of the land. In the absence of any detailed site assessments there is no justification for providing restrictive land use designations which assume that the land is of ecological value. The policy is therefore not justified and should be deleted.

b) Are the boundaries of the respective wildlife designations and components of the ecological network accurately represented and differentiated on the Policies Map, so that the requirements in Part 4 of the policy for any particular site can be readily understood?

2.4 No. The core areas, corridors and stepping stones, restoration areas and buffer zones are all shown by the same key on the interactive proposals map. The areas covered by the individual designations are not clear. Furthermore, it is not clear what is required for the respective wildlife designations particularly where there is overlap between the designations. It is also noted that on the printed version, the Key on page 5 sets out designations but there is no cross reference to the applicable policy. There is also no reference to ENV1 or ENV2 on the key. Whilst the Ecological Network is shown on page 69, the scale of that plan means that it is not a document that can be used to any extent for development management purposes.

c) To avoid conflict with ecological designations and policies in made Neighbourhood Plans, is there a need for Part 4 of the policy to reference local wildlife corridors identified in Neighbourhood Plans as part of the ecological network?

2.5 No comment.

d) To what degree would the requirement for development to protect, conserve, restore and enhance the ecological network act as a constraint on the delivery of uncommitted site allocations identified in the LPS and SADPD and further windfall opportunities for housing in the period to 2030?

2.6 The requirement to provide 'proportionate opportunities' to protect, conserve, restore and enhance the ecological network will be a constraint on the delivery of uncommitted site allocations and individual proposals. The explanatory text to the policy at paragraph 4.3 states that the policy does not seek to stifle or preclude development but seeks to secure ecological enhancement. It goes on to state that the policy will be applied on a case by case basis so that proportionate enhancement is sought. This approach does not provide any certainty to applicants and is ambiguous. It does not provide any guidance of what is required in relation to the scale of development proposed. The policy is not clearly written and unambiguous.

e) Would it be evident to a decision maker what site specific mitigation measures are necessary within each of the ecological network component areas and zones to satisfy part 4 of the policy?

2.7 No. The requirements of the policy are not clearly written, it is unclear what is expected of applicants in terms of increasing the size of core areas or creating new priority habitat, the policy requirements are not measurable. Some sites will be covered by more than one designation and the policy is certainly not clear in terms of how it should be applied in these circumstances.

2.8 Furthermore, the relationship between Policy ENV1 and ENV2 are not clear.

Ecological implementation (Policy ENV 2)

Q118. Is Policy ENV 2 consistent with national policy, in particular with regard to the following requirements:

a) In Part 1, that all development ‘must’ deliver an overall net gain for biodiversity?

2.9 No. The NPPG states that Section 40 of the Natural Environment and Rural Communities Act 2006 places a duty on all public authorities in England and Wales to have regard, in the exercise of their functions, to the purpose of conserving biodiversity. A key purpose of this duty is to embed consideration of biodiversity as an integral part of policy and decision making throughout the public sector (paragraph 8-009).

2.10 The Framework states at paragraph 179 that plans should:

“promote the conservation, restoration and enhancement of priority habitats, ecological networks and the protection and recovery of priority species; and identify and pursue opportunities for securing measurable net gains for biodiversity”.

2.11 Paragraph 180 of the Framework sets out principle of determining planning applications. This includes refusing planning permission if significant harm to biodiversity resulting from development cannot be avoided or mitigated and refusing development which would result in the loss or deterioration of irreplaceable habitats such as ancient woodland unless there are wholly exceptional reasons and a suitable compensation strategy (paragraph 180 a & c).

2.12 The emphasis of national policy is to protect and enhance biodiversity but it does not require all development to deliver an overall net gain for biodiversity and this is not a mandatory requirement.

b) In Part 1, that major developments and those affecting semi-natural habitats ‘must’ be supported by a biodiversity metric calculation?

2.13 The proposed approach is not justified by the evidence base. The policy specifically requires biodiversity metric calculations to be applied to all major development. However, the policy is not clear as to which metric calculator will be applied, and/or whether a local metric has been developed.

2.14 Calculating net gains in biodiversity therefore needs to be clearly set out and the implications for development fully understood, including an assessment of the implications for the supply of housing and employment land. This includes sites allocated in the CELPS, which was prepared and adopted prior to biodiversity metric calculations being implemented. If land is required within sites for biodiversity offsetting this could reduce the capacity and/or viability of sites, which would in turn impact upon the Council's ability to meet its development requirements.

c) In Part 2, that all development which 'impacts' on biodiversity and geodiversity, must satisfy the terms of the mitigation hierarchy?

2.15 There is no requirement in national policy for a mitigation hierarchy. Paragraph 180 a) of the Framework simply states that if significant harm resulting from a development cannot be avoided (through locating on an alternative site with less harmful impacts) adequately mitigated, or as a last resort, compensated for, then planning permission should be refused. The mitigation hierarchy in the policy is not consistent with the Framework in this regard.

2.16 In addition, 2 iii of ENV2 states that off-site habitat provision should be prioritized firstly towards those areas identified as nature improvement areas and those areas identified by the ecological network map as delivering the most benefit for biodiversity. The policy does not explain how this off-site habitat provision will be secured both in terms of control of the land within the nature improvement areas and land within the ecological network map (i.e. is this all controlled by the local planning authority) and is this is not the case how the off-site habitat will be secured.

Q119. Does the SADPD Viability Assessment demonstrate that a requirement for delivery of biodiversity net gain could be viably supported by the range of development types assessed, alongside all other policy requirements? Landscape character (Policy ENV 3)

2.17 In respect of viability, we note that the Council's own evidence on viability (ED 52) suggests that numerous sites within the borough would not viably support the proposed standards. Furthermore, CIL was introduced based on the costs of policy requirements established through the CELPS. The SADPD seeks to introduce additional requirements at significant cost. It is fundamentally flawed to introduce additional standards which have a negative impact upon viability, but not revisit CIL.

3. Landscape character (Policy ENV3)

Q120. Does Policy ENV 3 serve a clear purpose and avoid unnecessary duplication of Policy SE 4 in the LPS in seeking to ensure that the effect of development proposals on the landscape of Cheshire East is informed by the Cheshire East Landscape Character Assessment? As such is it consistent with paragraph 16(f) of the NPPF?

- 3.1 Policy ENV3 requires development proposals to respect the qualities, features and characteristics that contribute to the distinctiveness of the local area as described in the Landscape Character Assessments. Policy SE 4 of the LPS states that in Local Landscape Areas Cheshire East will seek to conserve and enhance the quality of the landscape and to protect it from development which is likely to have an adverse effect on its character and appearance and setting. Although the wording of the policies is slightly different, the overall purpose is the same. There is unnecessary duplication between the policies contrary to Policy 16 f) of the Framework.

Q122. For clarity and effectiveness, should the LLDs and their identified qualities be referenced in Policy ENV 3, so it is clear how decision makers should assess development proposals within them?

- 3.2 Yes. The proposals map should also reflect the individual LLDs. At present, this simply advises whether a site is within an LLD or not. For clarity, it should identify which LLD applies to which areas.

4. Trees, hedgerows and woodland implementation (Policy ENV 6)

Q125. Does Policy ENV 6 serve a clear purpose in addition to the existing policies in the LPS for biodiversity and the protection of trees, hedgerows and woodland? Does it avoid unnecessary duplication of national policy and LPS policies, in particular Policy SE 5, in protecting trees, hedgerows and woodland and ensuring the mitigation of their loss?

- 4.1 Policy ENV 6 duplicates LPS policy SE 5, it is unnecessary and inconsistent with Policy 16 f) of the Framework.
- 4.2 As set out in our December 2020 representations, hedgerows are protected by the Hedgerow Regulations 1997. Policy ENV 6 creates an unnecessary and unreasonable additional policy

restriction to development. As a minimum, Part 7 should be redrafted to state that the preference is to retain hedgerows in situ, but that any loss of protected hedgerows should be offset by mitigation.

Q126. Is the requirement in criterion 3 of Policy ENV 6 for developments to replace any significant tree which must be removed with at least 3 new trees, justified by proportionate evidence and consistent with national policy?

4.3 This requirement is not justified by any aspect of the evidence base.

5. Climate change (Policy ENV 7)

Q128. Is the requirement in part 2 of Policy ENV 7 for new residential development to achieve reductions in CO2 emissions of 19% below the Target Emission Rate in the Buildings Regulations justified as appropriate in Cheshire East, based on proportionate evidence, and is it consistent with national policy?

- 5.1 Our December 2020 representations set out that this requirement is not feasible or viable.
- 5.2 The requirements of the policy are inconsistent with national planning policy and guidance, which makes clear that the only additional technical requirements exceeding the minimum standards required by Building Regulations, which LPAs can impose in respect of residential development can only be up to the equivalent of Level 4 of the Code for Sustainable Homes (Paragraph: 012 Reference ID: 6-012-20190315).
- 5.3 In respect of viability, it should be noted that requiring developers to comply with additional technical standards will inevitably have a negative impact. Furthermore, CIL was introduced based on the costs of policy requirements established through the CELPS. The SADPD and SPD seek to introduce additional requirements at significant cost. It is fundamentally flawed to introduce additional standards which have a negative impact upon viability, but not revisit CIL.

Q129. Does the SADPD Viability Assessment demonstrate whether or not the higher emissions target could be viably supported by residential development in the borough? If not would this place the delivery of the remaining housing requirement at risk?

- 5.4 As set out in respect of our comments in relation to ENV 2, the viability assessment suggests that numerous sites within the borough could not viably support the proposed standards. We would reiterate that CIL was introduced based on the costs of policy requirements established through the CELPS. The SADPD seeks to introduce additional requirements without revisiting CIL.

Q130. Does Policy ENV 7 unnecessarily duplicate criterion 2 of Policy SE 9 in the LPS for renewable and low carbon energy sources and criterion 12 of Policy GEN 1 of the SADPD regarding the layout and design of development to facilitate waste recycling?

- 5.5 Yes, there is unnecessary duplication between these policies.