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Ashfield District Council
Forward Planning
Urban Road
Kirkby-in-Ashfield
Nottingham
NG17 8DA

Our ref: LT/2006/000229/CS-
07/PO1-L01
Your ref:
Date: 29 January 2024

Dear Sir/Madam

Consultation on the Ashfield Local Plan 2023 to 2040: Regulation 19 Pre-Submission Draft

Thank you for consulting us on the above regulation 19 pre-submission draft and please find our response detailed below.

Please note that the details contained within this letter have also been uploaded to the council website via the representation form.

Environment Agency position

The Environment Agency consider that the Local Plan is legally compliant, sound and in compliance with the duty to cooperate. Relevant national policies have been referenced throughout the Local Plan and we have been in regular contact regarding aspects of the local plan through various consultation periods.

We should note that while we consider the document to be legally compliant, sound and in compliance with the duty to cooperate we do still have some comments to make around some wording within the plan which will be detailed below.

We would also like to note that we previously provided general comments on a series of Strategic Objectives namely SO4, SO11, SO13 and SO14. These are pasted below for completeness.

Strategic Objectives

SO4 – Timely and viable infrastructure

We welcome that green and blue infrastructure are included within this strategic objective. Green and blue infrastructure are key areas that need to be protected and enhanced.

Environment Agency
Trent Side North, West Bridgford, Nottingham, NG2 5FA.
Customer services line: 03708 506 506
www.gov.uk/environment-agency
Cont/d..

SO11 – To meet the global challenge of climate change

We welcome that objective SO11 is part of this draft Local Plan and highlights the requirements to mitigate against climate change including future flood risk.

SO13 – Minimising our impact on the Environment

We welcome that improving water quality is included within this strategic objective. Also welcome the requirements to minimise pollution.

SO14 - Protecting and Enhancing the Quality of the Local Environment

Again we welcome the inclusion of green and blue infrastructure, how they need to be interconnected, and how they can provide multifunctional benefits.

Policy S3 - Meeting the Challenge of Climate Change (previously policy S2 during the regulation 18 consultation). I will include our previous comments and our updated comments.

Previous comments

We welcome some of the wording within this strategic policy. The wording for 2b could be stronger, ie 'Mitigate the impacts of climate change through ensuring that new development proposals have ***no potential adverse environmental impacts*** during their construction and eventual operation'. The suggested wording is stronger to ensure no negative environmental impacts.

Updated comments

We would reiterate our previous comments above as we are still of the opinion that the wording could be stronger. We would still recommend wording along the lines of "Mitigate the impacts of climate change through ensuring that new development proposals have ***no potential adverse environmental impacts*** during their construction and eventual operation'. The suggested wording is stronger to ensure no negative environmental impacts.'

Previous comments

We welcome that 2c directs development to areas at lowest risk of flooding.

Updated comments

We are pleased that this comment remains unchanged and included.

Previous comments

For part 2 d(i) we welcome the requirement to improve the water quality of the watercourses highlighted. This objective could also mention the requirement to improve waterbodies to a good ecological status in line with the requirements of Water Framework Directive (WFD).

Updated comments

Again we would reiterate our previous comments as stated above. We would still recommend greater emphasis placed on the requirements of the Water Framework Directive (WFD).

Previous comments

For part 2 d(ii) we welcome wording to minimise risk to groundwater quality. This should also be expanded to include secondary aquifers alongside the requirement for SPZ's and principal aquifers.

Updated comments

We are pleased to note that this section has been updated to include secondary aquifers and have no further comments.

Previous comments

For part 2 d (iv) we note the wording to achieve greenfield runoff rates. If this is on sites that are currently brownfield then we encourage this opportunity to provide betterment. Where development is on greenfield sites then developers should look at reducing the run off rates from existing greenfield run off rates to again provide betterment. The lead local flood authority are the relevant authority for surface water and will need to be consulted for their comments on this.

Updated comments

We would reiterate the comments as stated above. This section makes specific reference to the River Leen which is a key strategic watercourse in relation to the flood risk posed to various locations along the river corridor. As previously mentioned we would recommend that the wording within this point should be expanded to encourage development on brownfield sites to reach greenfield run off rates or better and for development on greenfield sites to provide further betterment by reducing run off rates below greenfield run off rates where possible.

Strategic Policies S6 and S7

We previously made comments regarding proposed new settlements to be located on land at Whyburn Farm in Hucknall and land at Cauldwell Road in Sutton in Ashfield however we note that these proposed allocations have been removed from the local plan. Therefore we will not make further comment.

Strategic Policy S6: Meeting Future Needs - Strategic Employment Allocation Junction 27, M1 Motorway, Annesley (previously policy S8)

Previous comments

We note that this large strategic development is situated within flood zone 1. We welcome that Suds are required for the site and they should tie in with new and existing green and blue infrastructure to ensure multifunctional environmental improvements. We would also encourage this proposed development to look at options and opportunities to reduce surface water run off rates from the existing greenfield rates.

The site will need to ensure that there is sufficient capacity in the receiving sewage treatment works and where required, suitable phasing of the development, to allow for any future upgrades if required.

Updated comment

We would like to reiterate the above comments as we note that our recommendations for wording around pushing for greater than Greenfield run off rates has not been incorporated. We would still suggest this as this would run in parallel to our comments on Policy S3.

Policy S9: Aligning Growth and infrastructure (previously policy S11 as noted in our previous response).

Previous comments

Strategic Policy S11: Aligning Growth and Infrastructure

We welcome that Ashfield has a policy within their draft Local Plan looking at aligning growth with future needs of infrastructure.

We note that this policy doesn't include anything around sewage treatment works and ensuring future growth ensures that there is sufficient capacity within the existing treatment works.

Updated comments

While we would still recommend specific wording within the policy to address potential sewage treatment works capacity it could be argued that paragraph 3.102 does provide a 'catch all' approach to the definition of the provision of necessary infrastructure required to support new development.

Strategic Policy S13 Protecting and Enhancing Our Green Infrastructure and the Natural Environment (previously policy S15)

Previous comments

This strategic policy should also include the requirements for biodiversity net gain. The emerging Environment Bill is expected to require 10% biodiversity net gain but this is a minimum requirement and we would encourage that Ashfield looks for developers to provide 20% biodiversity net gain.

Updated comments

We would still recommend the above text which draws attention to the requirements for delivery of a minimum of 10% biodiversity net gain but to encourage in excess of this where possible (up to 20%). We do however recognise that the requirements of BNG are covered within policy EV4 which will be covered later in our response.

Policy CC2: Water Resource Management

Previous comments

We support point 1) re sewage treatment capacity.

With regard to point 2 a) we welcome the inclusion for development to have regards for the Humber River Basin Management Plan and the water framework directive (WFD).

We welcome all the points in 2 b) where development will not permitted.

Regarding point 2 c) we would also recommend that large development sites are required to do pre development, during development and post development monitoring to demonstrate that there has been no impact on water quality and flows.

3) We support the tighter measures highlighted within this section for water efficiency. In support of the tighter water usage of 110 litres per person per day, the Environment Agency has recently (July 2021) upgraded the designation of the Severn Trent Water management area (excluding Chester) to 'seriously water stressed'. This designation came into force on the 1st July 2021. Further information can be found within the Water Stressed Areas document, found [here](#) and this only reiterates the need for tighter water efficiency measures to be required for future development.

Updated comments

We have no further comment with regard to points 2 a) and 2 b) in addition to those already provided in our previous comments and as detailed above.

With regard to point 2 c) we still note that wording around the requirement to monitor pre development, during the development and post development water quality and flows has been incorporated. We would still recommend that this is included.

Regarding point 3 we are pleased to note that while changes have not been made to the policy wording itself the accompanying paragraphs, notably 4.26 draws specific attention to the requirement for new tighter water efficiency measures of 110 litres per person per day have been incorporated.

Policy CC3: Flood Risk and SuDS

Previous response

We welcome the inclusion of a policy for flood risk. We would recommend that point 2 of the policy is tightened up to read as follows to keep it in line with the requirements of the NPPF.

*'All development proposals will be required to consider the effect of the proposed development, including access and egress, on flood risk from all sources, **ensuring on-site and off-site flood risk is not increased and where feasible is reduced**, commensurate with the scale and impact of the development. Where appropriate this should be demonstrated through a Flood Risk Assessment (FRA) which demonstrates how flood risk will be managed now and over the development's lifetime, taking climate change into account, and with regard to the vulnerability of its users.'*

With regard to the surface water section of this policy we welcome that the proposals require that runoff rates are not increased and are maintained at existing greenfield runoff rates. We note that within the River Leen catchment development is required to return runoff rates to existing greenfield rates. If this is on sites that are currently brownfield then we encourage this opportunity to provide betterment. Where

development is on greenfield sites then developers should look at reducing the run off rates from existing greenfield run off rates to again provide betterment. The LLFA are the relevant consultee for surface water and should be consulted for their comments on the surface water element of the proposal.

We note that in section 4.31 the wording encourages infiltration through the Suds process to increase groundwater levels. We encourage this where there are no existing groundwater flooding issues and as long as suitable pollution prevention measures are incorporated to protect the quality of the groundwater.

We support the inclusion of requirements for a FRA, including looking at opportunities to look at reducing flood risk within Section 4.36. FRA should also look at opportunities to provide flood risk improvements through the incorporation of natural flood management techniques that also helps to support wider environmental enhancements such as habitat creation, water quality improvements etc.

Updated response

We are pleased to note that the proposed wording of point 2 has been carried forward in to the policy wording.

We are also very pleased that in section 4.32 greater emphasis has been placed on the requirement for greenfield run off rates or better are to be provided for new development in order to protect the River Leen within Hucknall.

We would still recommend that in section 4.39 (previously 4.36) regarding the production of a FRA being a requirement could go further that provide flood risk improvements through the incorporation of natural flood management techniques that also helps to support wider environmental enhancements such as habitat creation, water quality improvements etc.

Policy EV4: Green Infrastructure, Biodiversity and Geodiversity

Previous comments

Green Infrastructure

We would encourage this section to be called ***Green and Blue Infrastructure***. Development should integrate and increase blue/green infrastructure to build in multi-functional solutions to future impacts such as increased flood risks, wildlife buffer zone corridors, water shortages and overheating. Blue and green infrastructure can work together to achieve these aims and therefore it would be beneficial to put these together within this chapter, for example sustainable urban drainage schemes (Suds) providing attenuation to surface water, but also providing opportunities to improve water quality, encourage infiltration to groundwater through passive (no energy) design, as this can contribute to aquifer recharge and improve the water quality of surface watercourses by intercepting pollutants, as well as providing open space for local residents to enjoy. We would suggest the following amendments to the written policy:
'Green *and Blue* Infrastructure

1. The delivery, conservation and enhancement of Green ***and Blue*** Infrastructure will be achieved through the establishment of a network of green ***and blue*** corridors and assets, having regard to the Council's Green Infrastructure and Biodiversity Technical Paper. This approach requires that:

a. Existing Green **and Blue** Infrastructure corridors and assets are protected and enhanced to maintain the integrity of the overall **Green and Blue** Infrastructure network. Priority for the creation of new or enhanced strategic **Green and Blue** Infrastructure will be given to strategic and local links;'

Updated comments

We would reiterate our above comments which while appearing minor in nature it is important to recognise the importance of the relationship, linkage and benefits of Green and Blue Infrastructure.

Biodiversity and Geodiversity

Previous comments

We welcome the inclusion of this policy in particular. Point 2) mentions all new development providing a minimum of 10% biodiversity net gain. We would encourage that this minimum requirement is raised to 20% to ensure a significant amount of biodiversity net gain is provided for all new development.

Updated comments

We would still recommend that the policy wording should seek to encourage the implementation of BNG in excess of the 10% mandatory requirement where possible. If the LPA do not wish to attach a definitive figure of 20% then wording encouraging BNG in excess of 10% would be beneficial.

Policy H1: Housing Allocations

Previous comments

We note that this policy allocates a number of sites for housing. After speaking with the council we understand that none of these sites are situated in fluvial flood zones 2 or 3. The allocations will need to have regard for all the relevant policies within the draft local plan to ensure they are deliverable.

Updated comments

We note that further housing allocation has been proposed in the Hucknall, Selston, Jacksdale, Underwood and Sutton areas. The initial screening has indicated that all of these sites appear to be located within flood zone 1.

The allocations will need to have regard for all the relevant policies within the draft local plan to ensure they are deliverable.

Policy SD8: Contaminated Land and Unstable Land

Previous comments

SD8 2c) This section mentions 'Avoiding the contamination of any watercourse, water body, groundwater or aquifer.' However there is no mention of remedying any impacts of contamination caused by the site or previous use. This is mentioned later in the policy but we feel it should be explicitly stated within this section of the policy as well to avoid confusion.

Updated comments

We note that the above recommendation has not been incorporated in to the policy wording. We maintain that we would recommend this is incorporated in to the specific policy wording.

Section 9.80

Previous comments

Please could the following wording in bold italics be incorporated within this section. 'A substantial part of the District of Ashfield is located on a principal aquifer where groundwater is sensitive to pollution. It is important that standards of design, materials specification and of on-site construction practices respect the vulnerability of these aquifers as well as all watercourses, and environmentally sensitive areas. During and post construction it is possible that this contamination could be mobilised and find its way into the aquifer. The Council will need to be satisfied that any risk has been properly assessed and ***viable mitigation*** and remediation is in place. The Council will require the applicant to provide such information as is necessary to determine whether the proposed development can proceed. Investigations will need to consider the possibility that new pathways may be introduced as a result of development activities, such as piling, drain laying and trenches for services and that new receptors may be introduced by the development proposed. Development proposals should not create a pathway into the water supply.'

Updated comments

We are pleased to note that the recommended additional wording highlighted above has now been included within the wording of section 9.80.

Sustainability Appraisal

Previous comments

We have had a look through the Sustainability Appraisal that was provided as part of this consultation.

Looking at Appendices E, F, G, I and J, they highlight the impact of the Local Plan proposals as well as the strategic and development management policies. We have paid particular interest in the outputs for strategic objective 10) Water Quality and 12) Climate Change and Flood Risk. We note that there are no major negative impacts associated with these and where any minor negative impacts are proposed, the mitigation measure will need to be put into the Local Plan as part of the strategic and development management policies. After reviewing the document it would appear that policies are included within the Local Plan and where they aren't, they should be included.

The Sustainability Appraisal Scoping Report should also be considering Biodiversity Net Gain, this should include an objective around biodiversity and net gain that could be tested against all policies in the emerging draft plan.

Updated comments

We are satisfied that there will be no negative impacts with regard to the strategic objectives 10 and 12 as detailed above.

We are encouraged that with regard to climate change and flood risk minor positive impacts have been noted.

We are satisfied that Biodiversity Net Gain (BNG) has been addressed within the Sustainability Appraisal. While BNG is only specifically mentioned once within the document we are satisfied with the wording which states “It is anticipated that potential effects on biodiversity could be lessened through the application of Draft Local Plan policies and at the individual planning application stage, when detailed design and mitigation measures will also be considered (such as ecological mitigation and enhancement measures). Furthermore, the requirements for biodiversity net gain for all new development will allow for enhancement.”

Yours faithfully

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Planning Specialist

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