Chesterfield Local Plan Examination

Chesterfield Borough Council Response to
Inspectors’ Matters, Issues and Questions

16th September 2019

Matter 7 – Development Management Policies
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Issue 1: protect and enhancing the natural and historic environments [Policies LP14, LP15, LP17, LP19, LP20, LP22 and LP23]

The cited individual policies should be clear, justified and consistent with national policy and effective. The following questions are guided by these principles.

7.1 To accord with the NPPF, should the opening sentence of Policy LP14 also ensure that flood risk is not increased elsewhere and should criterion b) seek to reduce flood risk?

Agreed; Opening sentence to be amended to read: “The Council will require flood risk to be managed for all development commensurate with the scale and impact of the proposed development, in order to ensure that flood risk is not increased elsewhere; part b) to read b) be assessed for their contribution to reducing overall flood risk, taking into account climate change.

7.2 What is the purpose of the reference to ‘or water resources’ within criterion a) of Policy LP14? Under ‘Improving the drainage network’, what is meant by ‘make space for water across the whole borough’?

Agree; Delete ‘or water resources’ within criterion a).

‘make space for water across the whole borough’ refers to the need to reduce flood risk.

7.3 Policy LP14 seeks to incorporate Sustainable Drainage Systems into all relevant development, unless it can be demonstrated that this is not appropriate in a specific location. What is meant by ‘relevant development’? Is this requirement clear, justified and in accordance with the NPPF?

The council will clarify that 'relevant development' should equate to 'major development' in order to accord with NPPF paragraph 165.

7.4 Policy LP14 requires development to meet the optional Building Regulation water standard of 110 litres per occupier per day. What evidence does the Council have to support this requirement? Would this requirement be based on clear local need and consideration of viability in accordance with guidance on water efficiency standards set out in the PPG?

The evidence for this policy requirement lies in the Humber River Basin Flood Risk Management Plan (2015-21) which provides the framework for protecting and
enhancing the benefits provided by the water environment. To achieve this, and because water and land resources are closely linked, it also informs decisions on land-use planning. The FRMP includes a summary programme of measures to achieve statutory objectives. The plan requires regulators, operators, influencers and project undertakers make sure water is used efficiently: This requires all sectors take up or encourage water efficiency measures and specifically for local government to set out local plan policies requiring new homes to meet the tighter water efficiency standard of 110 litres per person per day as described in Part G of Schedule 1 to the Building Regulations 2010. The Environment Agency has provided further evidence for water efficiency in the statement of common ground on flood risk (SCG3).

7.5 Is it reasonable and necessary for Policy LP14 to require development to demonstrate that water is available to support it?

The requirement for development to demonstrate that water is available to support it was introduced at the request of the Environment Agency at the draft plan stage (2017). The Environment Agency supported the proposed wording at the submission stage. A modification will be prepared to remove the wording.

7.6 Paragraph 7.2 of the Plan identifies an Air Quality Management Area (AQMA) at Church Street Brimington, and that an Air Quality Action Plan is being drafted. Has the Council any updates in this respect? What are the likely consequences of the Action Plan for the Local Plan?

The AQAP is currently being prepared by the councils Environmental Health Department. The Local Plan has already incorporated policies that will form part of the action plan, including the requirements for Electric Vehicle Parking and Safeguarding of land for the Chesterfield-Staveley Regeneration Route.

7.7 Policy LP15 requires all developments to have an acceptable impact on the amenity of users or adjoining occupiers, taking into a number of factors, which includes reference to tranquillity and appearance (Inspectors’ emphasis). The word ‘or’ implies that development need only have an acceptable impact on either users or adjoining occupiers and not both; is this the intention? Are references to ‘tranquillity’ and ‘appearance’ clear? Would references to ‘disturbance’ and ‘outlook’ be more precise?

The intention is both. A modification will be prepared to replace the word 'or' with 'and'. The council would also be happy to propose a modification to replace the word 'tranquillity' with 'disturbance', and 'appearance' with 'outlook'.
7.8 Would reference within Policy LP15 to ‘not normally’ permitting development that would make any AQMA ‘materially worse’ offer sufficient protection for air quality and accord with paragraph 181 of the NPPF?

Agree that a rewording of the "air quality" section of the policy be reworded.

7.9 Policy LP15 would require all development on the best and most versatile agricultural land to include realistic proposals for the protection and use of soil resources in line with ‘accepted best practice’. In the interests of clarity, should the best practice document envisaged be identified?

The current best practice can be identified in either the policy justification or the policy. However, best practice can change and such a change can occur more rapidly than a plan can be reviewed. To ensure that the policy remains current and flexible enough to remain relevant should best practice change the Council's preference is to refer to it in the policy justification and an associated modification will be prepared on this basis.

7.10 Would Policy LP15 criterion a) relating to soil and agricultural land quality be consistent with Policy LP2 criterion b)? Is Policy LP15 criterion c) justified and in accordance with NPPF footnote 53?

Policy LP2 requires consideration of the degree to which a site is consistent with its criteria, criterion c) not being a pass/fail requirement in itself. The intention of the policy is it to prefer previously developed land and also land of lower agricultural quality but not to rule out sites which are necessary for sustainable development but which contain land which is categorised as being best and most versatile. As such Policy LP15 complements Policy LP2. In respect of Policy LP15 criterion c) this was drafted prior to the revised NPPF being published. As such a modification will be prepared to ensure consistency with the revised NPPF and a more justified policy approach. The modification will reflect the NPPF approach whereby agricultural land can be developed if necessary and justified provided that areas of poorer quality are preferred unless other sustainability considerations outweigh the protection of higher quality agricultural land.

7.11 To ensure effectiveness and clarity, under Unstable and Contaminated Land, is the reference in Policy LP15 criterion b) to ‘any full and reserved matters planning applications’ necessary? For example, a phase II study and strategy could be submitted at outline stage or could be required by a planning condition.
The Policy could be clearer (phase II studies and strategy can be provided and may sometimes be necessary at outline stage) and a main modification will be prepared to ensure clarity.

7.12  **Is it appropriate and justified that bullet point 1 of Policy LP17 refers to the protection, enhancement and management of ‘species’ rather than specifying that it applies to protected and priority species?**

The council will propose a modification in line with NPPF paragraph 174b to Policy LP17 to clarify that bullet point 1 refers to ‘protected and priority’ species.

7.13  **In relation to land at Staveley Basin, the last paragraph of Policy LP19 sets out that planning permission will be granted for development that delivers a number of requirements (Inspectors’ emphasis). As other consideration may also be applicable, would it be more appropriate to set out that the policy will support development that delivers these requirements? Who would be responsible for delivering the master plan for this site?**

Revised wording would be appropriate for this policy.

Derbyshire County Council, as the major landowner, are responsible for delivering the masterplan and it is currently under preparation and comments have been provided on initial proposals by the council’s Urban Design and Conservation Officers.

7.14  **Similar to the point above, Policy LP20 sets out that ‘Planning permission will be granted for proposals that result in the removal or enhancement of existing weirs...’ (Inspectors’ emphasis). As other consideration may also be applicable, would it be more appropriate to set out that the policy will support development that delivers this?**

Revised wording would make the policy more effective.

7.15  **Paragraph 7.28 sets out the ecological and wildlife importance of rivers. Does Policy LP20 as written appropriately recognise this?**

The policy could be more explicit in relation to the ecological importance of rivers and the council will consider preparing a modification on this basis. Such a modification would complement Policies LP16 and LP17 given that river corridors form an important part of the ecological network in Chesterfield.
7.16 Paragraph 8.17 of the LP sets out that the Council is preparing a Local List of Heritage Assets which is expected to be in place by 2017. Are there any updates on this matter? If a local list has been produced, has it been consulted upon and is it intended that it will accord with paragraph 188 of the NPPF and the approach suggested in PPG paragraphs 006 Reference ID: 18a-006-20140306 and 041 Reference ID: 18a-041-20140306? Would this list include important archaeological sites as referred to at criterion e) of Policy LP22?

A draft Local List of over 200 potential local heritage assets was published by the Council in August 2019 in accordance with Paragraph 188 of the NPPF. The majority of the buildings included in draft Local List were identified during consultation with relevant groups and individuals during 2012. The list has been assessed to clarify whether nominations put forward were consistent with local listing criteria and guidance (as set out in Historic England guidance). The draft list is now being put forward to property owners for comments. The draft list does not include any important archaeological sites as referred to in appendix d), as none were put forward for inclusion during the 2012 consultation. Archaeological sites of national and local importance are identified through consultation with Derbyshire County Council and access to Derbyshire’s Historic Environment Record as part of the development management process.

7.17 Would Policy LP22 be effective and consistent with national policy? In particular and with reference to paragraphs 193-196 of the NPPF, should Policy LP22 set out that great weight is afforded to the conservation of assets, and detail the assessment required when substantial or less than substantial harm to the significance of designated heritage asset occurs? Is the approach of Policy LP22 to non-designated heritage assets (including the requirement set for any justified replacement development) justified and consistent with national policy?

The Council will prepare a modification to LP22 that seeks to emphasise that great weight is afforded to the conservation of heritage assets and their setting and provide details on any assessments required, including: details of the assets to be affected and degree and nature of the likely impact on asset significance; an evaluation of how harm could be avoided, minimised or mitigated; a justification for the development which enables the level of harm to be considered against the public benefits; evidence that all reasonable efforts have been made to sustain the existing use, find a new use or mitigate the harm to the asset’s significance. With regard to the approach to non-designated assets, the council acknowledges that paragraph 4 of policy LP22 could more clearly reflect national guidance, and criteria i to iv should be considered as part of a balanced judgement on whether harm or loss of a non-designated asset is justified. A modification will be prepared to this effect.
7.18  **Is the last paragraph within Policy LP22 regarding the justified loss of heritage assets consistent with national policy?**

National Policy is clear that loss or damage to heritage assets will only be acceptable where there are exceptional circumstances, (for example, where there would be benefits to the community or for sustainable development that would decisively outweigh the historic value of the heritage asset). In these circumstances the Council expects that a developer will undertake an appropriate level of recording for the historic building or archaeological asset. It would enhance the effectiveness of the policy if reference was made to the requirements for surveying and recording where there is complete and partial loss of heritage assets. A modification will be proposed to this effect.

7.19  **Criterion g) of Policy LP22: is it justified that it applies to all development proposals within the Town Centre Historic Core? For example, would it apply to a proposed change of use? Criterion f) of Policy LP22 refers to a number of places: what planning status do each of these have?**

The NPPF glossary defines heritage assets to have archaeological interest where they hold or potentially hold “evidence of past human activity worthy of expert investigation at some point.” The council will propose a modification to criterion f) so that it places emphasis on requiring an appropriate and proportionate archaeological assessment where proposals would affect archaeological remains (whether known / unknown and designated / undesignated. Planning status of listed heritage assets: Queen’s Park – Historic Park and Garden (Grade II*). Chesterfield Market Place – no listing but a number of listed buildings sit at the edge of the Market Square including Market Hall (Grade II) and the listed Town Pump (Grade II*) sits within it. Hipper River Valley – the route of the Hipper contains a number of listed buildings and features such as the Mill buildings at Walton Works (Grade II*), Cannon Mill and Wheel (Grade II) and Somersall Hall (Grade II). Chesterfield Canal – A historic canal which contains listed features along its length, including Tapton Lock (Grade II) and the Tapton Hill Bridge (Grade II).

7.20  **Is Policy LP23 consistent with national policy? In particular, are the requirements of providing certain improvements and highway network optimisation as set in Policy LP23 criteria c) and d) early in the build out periods of new development justified, reasonable, based on viability considerations, and consistent with national policy, including paragraphs 55 and 56 of the NPPF relating to the tests for planning conditions and obligations? Would criteria e) requiring highway capacity enhancements to deal with residual car demand and the paragraph below starting with ‘the impacts of any remaining traffic growth expected shall be mitigated and..’ be consistent with NPPF paragraphs 108c) and 109)?**
The policy seeks to ensure that infrastructure required to ensure that a development functions properly should be in place at the point at which it is required. In relation to paragraphs c) and d) it is considered reasonable to require the provision of transport improvements early in the build out period as a means of ensuring that sustainable development patterns are secured as soon as possible. The policy is not specific about precisely when in the build out period such improvements take place yet the policy signals the expectation is that the necessary improvements will be delivered at an early stage. Early provision will help to support new residents in locking into sustainable travel patterns. NPPF para 109 advises that "Development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe." Paragraph following criterion f) seeks to ensure to ensure that development has an acceptable impact on the highway network, by requiring the mitigation of any remaining impacts of traffic growth where necessary.

7.21 Are Policy LP23 and Appendix C justified, considerate of viability and consistent with national policy in its requirement that all residential proposals with off street parking provision dedicated to individual properties should include provision for charging electrical vehicles on each property? Is this aspect of the policy as written clear in what type of proposals it would apply to? For example, would it apply to an extension to an existing residential property?

The use of electric vehicles is a key measure in reducing emissions locally and therefore the provision of infrastructure to facilitate and stimulate this change is essential. Growth in the uptake of plug in vehicles is also growing significantly and therefore it is important that developers recognise and respond to this change.

The National Planning Policy Framework [NPPF] encourages the provision of EVCPs in development. Paragraph 110 states that ‘applications for development should (e) be designed to enable charging of plug-in and other ultralow emission vehicles in safe, accessible and convenient locations’. It is also stated in paragraph 181 of the Framework that ‘Planning policies and decisions should sustain and contribute towards compliance with relevant limit values or national objectives for pollutants, taking into account the presence of Air Quality Management Areas and Clean Air Zones, and the cumulative impacts from individual sites in local areas’.

The cost of installing an EVCP to an existing dwelling is approximately £800, this cost is decreased if the unit is installed as part of the construction process. Given the relatively modest sums involved it is considered unlikely that installation of an EVCP is very unlikely to impact the viability of a development scheme.
The policy is written in a way that allows it to be applied if appropriate; i.e. if a development results in the provision of garaging or off-road parking space(s).

7.22 Policy LP23 criterion a): what is meant by ‘intensive travel planning’?

The word ‘intensive’ was included in error and could be deleted without effecting the policy.

7.23 Should Policy LP23 set out requirements for bicycle parking?

Please see the response to question 8.22.

Issue 2: Whether the Plan will provide appropriate measures to enhance design and construction quality, including open space provision [Policies LP18 and LP21]

Are the above cited policies clear, justified and consistent with national policy and will they be effective? In particular:

7.24 Paragraph 7.17 of the Plan states that the Parks and Open Space Strategy is under review with a new assessment and strategy being prepared for adoption in 2019. Has the Council any updates in this respect?

The Parks and Open Spaces Strategy is still under review and the Green Infrastructure Topic Paper (paragraphs 2.37 to 2.40) describes progress on this. The Council is aiming to prepare a new strategy by April 2020.

However, there are updates now on crucial work that will support a new strategy, as follows:

Open Space Assessment and Standards Paper

The new assessment is now finalised and published, as is the finalised standards paper. The final documents are not significantly different to the published drafts although some changes to the amount of open space have been identified through more accurate GIS mapping. This has meant a change to the draft open space standards paper and standards contained within it, albeit these changes are not significant in nature. Accordingly the Council are to propose a modification to Appendix B of the Plan to reflect the final assessment and standards paper which in turn reflect the more accurate mapping of the quantity of open space in the Borough and also a clearer approach to avoiding double counting of amenity greenspace and play provision.
Open Space Strategy and Policy Recommendations

This work is still not finalised but should be so before the end of the year. The Council is unlikely to wish to publish the document without it being in the context of a draft strategy. A draft Play and Fixed Play Equipment Strategy is being prepared and is to be finalised and consulted on this year and it is likely that this will be done concurrently with the publication of the work.

7.25  Is the Chesterfield Parks and Open Spaces Strategy and Playing Pitch and Outdoors Strategy underpinning Policy LP18 robust and up to date in the context of paragraph 96 of the NPPF?

The Chesterfield Parks and Open Spaces Strategy 2015-2024 is considered by officers to be neither robust nor up to date in the terms of paragraph 96 of the NPPF. Accordingly work on a new assessment and also strategy and policy recommendations has been carried out and is largely completed, with the intention that this would support the Local Plan and the preparation of new Council Strategy. The work in the form of a finalised Open Space Assessment, a finalised Standards Paper and a Strategy and Policy Recommendations report, is considered to be robust and up to date. In particular the new finalised assessment and the standards paper underpin Policy LP18, whilst the strategy and policy recommendations will underpin the application of Policy LP18 by identifying surplus and deficiencies, and opportunities for new open space. The Playing Pitch and Outdoor Sports Strategy is considered to be robust in approach but needs to be updated.

7.26  Should the Plan define what comprises an ‘open space’ or cross refer to the definition set out in the NPPF?

The Local Plan could cross-reference to the NPPF definition of an open space or could include a definition in the Glossary to make the policy more clear and effective. The Council will prepare a modification accordingly based on one of these options.

7.27  Does Policy LP18 criteria iii) and iv) accord with NPPF paragraph 97?

There is a tension between the NPPF and the Local Plan criteria in that the Plan would allow demonstrable health and wellbeing benefits from improvements to the quality of open space in a locality to override protection for the amount of open space in that same locality. Furthermore the Policy permits the loss of smaller sites. However, this approach is not consistent with paragraph 97 of the NPPF albeit being justified by evidence. A modification will be prepared to ensure consistency with the NPPF in the
knowledge that the emerging evidence on accessible open space should prevent the rigid application of quantity standards.

Notwithstanding the Topic Paper on Green Infrastructure (in particular paragraphs 3.21 to 3.26), which seeks to explain the reason for the divergence from paragraph 97 of the NPPF, a main modification will be prepared to ensure consistency with the NPPF in the knowledge that the emerging evidence on accessible open space should prevent the rigid application of quantity standards.

7.28 Is Policy LP18 clear in that it will not require development to make provision for existing deficits in open space provision?

The policy could be clearer and a main modification will be prepared on this basis.

7.29 Are the 2018 open space assessment and study documents (examination documents EV4 and EV5) ‘draft’ or are they now finalised?

The open space assessment and standards paper are now finalised and have been published as such.

7.30 The Draft Open Space Standards Paper 2019 (examination document EV4) at table 3.4.3 recommends quantity standards, adjusted to avoid double counting in certain typologies. Appendix B of the Plan does not adopt all of these recommended standards. Why is this?

The recommended standards in Appendix B of the submission Local Plan reflected an earlier draft of the Standards Paper which dealt with the issue of double counting (amenity greenspace and play provision) in a different manner to the 2019 draft of the Standards Paper. The 2019 draft standards paper post-dates the finalisation of the Local Plan for submission. A further final version of the Standards Paper has now been published which benefits from more accurate mapping and so a more accurate quantitative assessment and also a clearer approach to avoiding double counting in respect of amenity greenspace space which contains play provision. The Council wishes to take this opportunity to improve the accuracy of the standards in Appendix B in relation to the evidence base and make them clearer and more effective by reflecting the final version of the Standards Paper. A main modification will be put forward on this basis. The modification will use the final recommended standards whereby there is one for all amenity greenspace which does not host a play site (as well as sites over two ha hosting a play site) and a separate standard for all equipped play provision including informal amenity greenspaces (below two ha) which hosts a play site.
7.31  **Criterion a) of Policy LP21 seeks to promote innovative forms: does this requirement accord with national policy? Would it prevent development that would not have an innovative form from coming forward?**

The NPPF (paragraph 131) gives great weight to innovative designs which promote high levels of sustainability, or help raise the standard of design more generally in an area, so long as they fit in with the overall form and layout of their surroundings.

Policy LP21 criterion a) could be seen to be inconsistent with the NPPF in that it seeks innovative ‘forms’ for all development which would be different in effect to the NPPF. Whilst policy LP21 is criteria based and so not all criterion will be relevant or carry significant weight in all circumstances, the policy (criterion (a) in particular), could be made more consistent with the NPPF and still seek the quality of design aspired to by the Council.

A main modification will be prepared on this basis.

7.32  **Policy LP21 criterion c) refers to ‘centres’, what is meant by this?**

‘Centres’ means town, district and local centres as designated in the Local Plan. A modification will be prepared to clarify this within policy LP21.

7.33  **Is the requirement within Policy LP21 for development to provide a statement that covers the matters detailed at criteria i)-iv) justified and consistent with national policy?**

Yes. Although the Local Plan does not set any local standards on energy efficiency in new buildings, this element of the policy is important in ensuring that emission reduction, climate change and sustainable design is given due consideration in development proposals. This is in line with the statutory duty on local planning authorities to include policies in their Local Plan designed to tackle climate change and its impacts, as well as NPPF paragraphs 124, 148, 149, 150 and the NPPG on Climate Change.

7.34  **Would the Percent for Art requirement within Policy LP21 be justified and consistent with national policy, in particular paragraph 56 of the NPPF? Is the reference to ‘value’ in this section clear? For example this could comprise cost, sale or land value. Is the threshold of £1 million and proportion of 1% justified and reasonable?**

The council has operated a successful 'Percent for Art' scheme since 1994, receiving a commendation for the policy in the RTPI 2003 planning awards. It is noted that previous
guidance (NPPG ID 23b-004-20140306) stated that “planning obligations should not be sought – on for instance, public art – which are clearly not necessary to make a development acceptable in planning terms”. HOWEVER, the reference to Public Art has been deleted from the latest version of the NPPG (ID: 23b-004-20150326), which assumes that public art is an acceptable requirement for some developments.

**Issue 3: Renewable Energy [Policy LP13]**

7.35 Is this policy clear, justified and consistent with national policy and will it be effective?

It is acknowledged that National Guidance states that ‘In the case of wind turbines, a planning application should not be approved unless the proposed development site is an area identified as suitable for wind energy development in a Local or Neighbourhood Plan’. (Paragraph: 005 Reference ID: 5-005-20150618). The council wishes to propose a main modification to replace the word ‘or’ with ‘and’ in LP13 1.