



The Planning Inspectorate

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# Report to Woking Borough Council

**by David Spencer BA(Hons), DipTP, MRTPI**

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

**Date 01 Aug 2016**

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PLANNING AND COMPULSORY PURCHASE ACT 2004 (AS AMENDED)

SECTION 20

**REPORT ON THE EXAMINATION INTO THE  
WOKING DEVELOPMENT MANAGEMENT POLICIES  
DEVELOPMENT PLAN DOCUMENT**

Document submitted for examination on 29 February 2016

Examination hearing held on 10 May 2016

File Ref: PINS/A3655/429/9

## **Abbreviations Used in this Report**

AA	Appropriate Assessment
The Act	The Planning & Compulsory Purchase Act 2004
CS	Core Strategy
DMP DPD	Development Management Policies Development Plan Document
Dpa	Dwellings per annum
DPD	Development Plan Document
DtC	Duty to Co-operate
HMA	Housing Market Area
LDS	Local Development Scheme
LP	Local Plan
MM	Main Modification
MoU	Memorandum of Understanding
NPPF	National Planning Policy Framework
OAN	Objectively assessed need
PPG	Planning Practice Guidance
SA	Sustainability Appraisal
SCI	Statement of Community Involvement
SHMA	Strategic Housing Market Assessment

## **Non-Technical Summary**

This report concludes that the Woking Development Management Policies Development Plan Document (the DMP DPD) provides an appropriate basis for the planning of the Borough of Woking, providing a number of modifications are made to the plan. The Council has specifically requested me to recommend any modifications necessary to enable them to adopt the DMP DPD.

All of the modifications to address this were proposed by the Council, following discussion at the Examination Hearings, and have been published for public consultation. I have recommended the inclusion of all the modifications after full consideration of the representations from other parties and the recommended main modifications are contained at the Annex to the report.

The Main Modifications can be summarised as follows:

- To propose amendments to a number of the proposed Development Management Policies and supporting text to improve their clarity and purpose, and to conform with current Government policy.

## Introduction

1. This report contains my assessment of the Woking Development Management Policies Development Plan Document (DMP DPD) in terms of Section 20(5) of the Planning & Compulsory Purchase Act 2004 (as amended). It considers first whether the Plan's preparation has complied with the duty to co-operate, in recognition that there is no scope to remedy any failure in this regard. It then considers whether the DMP DPD is sound and whether it is compliant with the legal requirements. The National Planning Policy Framework (NPPF) at paragraph 182 makes clear that to be sound, a Local Plan should be positively prepared; justified; effective and consistent with national policy.
2. The starting point for the Examination is the assumption that the local authority has submitted what it considers to be a sound plan. The basis for my Examination is the submitted draft plan of February 2016 which is the same as the document published for consultation in October 2015.

## Main Modifications

3. My report deals with the main modifications that are needed to make the Plan sound and legally compliant and they are identified in bold in the report in the form of **MM1**, **MM2** etc. In accordance with section 20(7C) of the 2004 Act the Council requested that I should make any modifications needed to rectify matters that make the Plan unsound and thus incapable of being adopted. These main modifications are set out in full at the Appendix to this report.
4. The Main Modifications that are necessary for soundness all relate to matters that were discussed at the Examination hearing. Following these discussions, the Council prepared a schedule of proposed main modifications and this schedule has been subject to public consultation for six weeks between 17 May and 29 June 2016. I have taken account of the consultation responses in coming to my conclusions in this report.
5. The Council also prepared a schedule of Additional Modifications, which was published alongside the formal consultation on the proposed Main Modifications. These Additional Modifications are all of a minor nature, correcting typographical errors, terminology and the like and do not affect the substance or soundness of the plan.

## Policies Map

6. The Council must maintain an adopted policies map which illustrates geographically the application of the policies in the adopted development plan. When submitting a local plan for examination, the Council is required to provide a submission policies map showing the changes to the adopted policies map that would result from the proposals in the submitted local plan. In this case, the adopted policies map comprises the set of plans identified as Woking Borough Local Development Documents Proposals Map October 2012 (Document ref. WBC/DM/E001).
7. The policies map is not defined in statute as a development plan document and so I do not have the power to recommend main modifications to it. However, a published MM to the Plan's policies requires a further

corresponding change to be made to the policies map. This further change to the policies map was published as document WBC/DM/020.

8. When the Plan is adopted, in order to comply with the legislation and give effect to the Plan's policies, the Council will need to update the adopted policies map to include the change proposed in the updated Proposals Map and the further changes published alongside the MMs.

## **Assessment of Duty to Co-operate**

9. Section s20(5)(c) of the 2004 Act requires that I consider whether the Council complied with any duty imposed on them by section 33A of the 2004 Act in relation to the Plan's preparation.
10. The Council has demonstrated<sup>1</sup> that there are well-established cross boundary and joint partnership relationships with neighbouring authorities in Surrey on planning policy matters. There is also evidence of genuine and sustained efforts of cooperation with statutory consultees. Significantly, the Council has signed a MoU with Waverley and Guildford Borough Councils (comprising of the HMA and Functional Economic Areas) to work jointly to address cross-boundary planning issues.
11. There is clear evidence that the Council has undertaken effective and positive engagement during the preparation of the DMP DPD, and this was confirmed at the hearing. I am satisfied that the level of co-operation has been proportional given that the DMP DPD raises few, if any, strategic matters of cross boundary significance. Nonetheless, I am satisfied that adjoining authorities, transport, utility and service providers and environmental bodies who would be seeking consistency and integration in planning policy between the Borough and its adjoining areas have been directly and continuously involved throughout the preparation of the Plan.
12. Consequently, I conclude that the statutory Duty to Co-operate has been fulfilled.

## **Assessment of Soundness**

### **Preamble**

13. The DMP DPD sets out local policies and criteria which will be used to inform the assessment of development proposals and to guide the Council's decisions on planning applications.
14. I am satisfied that the Council has sought to resolve soundness issues by appropriate changes to policies or supporting text and consequently a number of representations have been satisfactorily addressed. I have considered the representations on the submitted plan insofar as they relate to soundness, but they are not reported on individually.

<sup>1</sup> Examination Document WBC/DM/010

## **Main Issues**

15. Taking account of all the representations, written evidence and the discussions that took place at the examination hearings I have identified two main issues upon which the soundness of the Plan depends.

### **Issue 1 – The Council's approach to plan-making and consistency of the Plan with the strategic objectives for the Borough.**

16. The Council's approach to plan-making is to replace the 1999 Woking Borough Local Plan with a portfolio of development plan documents. This started with the 2012 Core Strategy which sets out a clear spatial vision to 2027 and policies intended to shape the 'place' of the Borough both directly through land use planning but also through wider actions of the Council, its partners and statutory bodies. As an over-arching document the Core Strategy recognises<sup>2</sup> that delivering the spatial vision and policies will also require the preparation of both the DMP DPD and a Site Allocations DPD.
17. The main purpose of the DMP DPD is to contain detailed policies to determine day to day planning applications. The DMP DPD explains that this will often be in the form of criteria based policies in areas of policy where further detail is needed beyond that contained in the Core Strategy. The DMP DPD identifies the clear interrelationship between the development management policies within it and what are described as 'parent' policies in the Core Strategy. I have little before me to suggest that the DMP DPD is inconsistent or potentially inconsistent with the Core Strategy insofar as its purpose to support the various strategic policies. Accordingly, I am satisfied that a key principle underpinning the preparation of the DMP DPD has been an awareness to deliver the requirements of the Core Strategy through the development management process.
18. The Council's modular approach to plan-making is well established and is clearly explained in the latest LDS<sup>3</sup>. However, the Core Strategy, albeit shortly post-dating the introduction of the NPPF, is now of some age. Consequently, concerns are expressed as to whether the DMP DPD is the right document at the right time with particular reference to the objectively assessed need (OAN) for housing stemming from the recent West Surrey SHMA 2015.
19. In terms of delivering the OAN I note that the West Surrey SHMA target of 517dpa is notably higher than the Core Strategy housing figure of 292dpa which originates from the rescinded South East Plan. However, as set out above the role of the DMP DPD is limited. The purpose of the document is not to revisit the overall level of housing or to allocate sites. It therefore follows, having regard to the exercises prescribed at paragraph 47 of the NPPF, that it is not a matter of soundness for the DMP DPD to address in detail what is the current OAN, how it should be calculated or its application in plan-making. As

<sup>2</sup> Notably paragraph 1.10 but also the Delivering and Monitoring Framework at Appendix 5 identifies where the DMP DPD will be part of the delivery of Core Strategy policies and Appendix 6 of the Core Strategy identifies those 1999 Local Plan policies to be replaced by the DMP DPD.

<sup>3</sup> Examination Document WBC/DM/012

such I find the references to the case of *Satnam Millennium Ltd.*<sup>4</sup> to be of little relevance to this DMP DPD examination.

20. Any change to the housing target would be a matter for a review of the Core Strategy<sup>5</sup> which has its own specific monitoring requirements and review mechanisms. In the interim, I note the forthcoming Site Allocations DPD has a role in identifying specific deliverable sites for various types of development, including housing (with an intention to identify and safeguard housing sites to meet need between 2027 and 2040) informed by the recently completed Green Belt Review process. Additionally, paragraphs 14 and 49 of the NPPF provide a basis for assessing housing proposals should it be demonstrated that that there is not a five year supply of deliverable sites.
21. The DMDPD is set to replace various dated policies from the 1999 Local Plan. I therefore consider that having an up-to-date DMP DPD accords with the tenet of the NPPF to ensure that development plan documents are prepared in a timely fashion so that they are in place to guide decisions on development. I also consider the DMP DPD to be intrinsically, a permissive rather than restrictive planning document such that the net effect of the DMP DPD is to enable and facilitate high quality development in the Borough. As such, there is no strong evidence to indicate that delaying or abandoning adoption of the DMP DPD would assist the supply of housing in sustainable locations or that its adoption would be an impediment to it.
22. I am mindful that some policies in the DMDPD may well be adjudged to be policies relevant to supply of housing. However, the examination I have undertaken has looked at the interpretation of the DMP DPD policies and I am satisfied, as set out in detail under Issue 2 below, that the submitted development management policies, with modifications where necessary, serve a useful and proper planning function. Therefore, bearing in mind the primary purpose of the DMP DPD is a development management tool, I consider that there is no benefit to withdrawing the DMP DPD at this very late stage and concentrating on a new Local Plan.
23. Since the adoption of the Core Strategy, as well as the DMP DPD, the Council has been making solid progress on the more challenging Site Allocations document. I understand that initial consultation has produced a significant volume of responses, perhaps unsurprisingly given its interrelationship with Green Belt review work. Accordingly, the Site Allocations document is following a trajectory approximately 12 months behind that for the DMP DPD. The Council has confirmed to me that it remains on track with the milestones for producing the Site Allocations document as set out in the latest LDS such that adoption in 2017 remains the target.
24. I am satisfied that this timetabling is both justified and judicious in terms of the issues and resources available and there is little evidence to show that the timetable for the Site Allocations DPD could not have been appreciably expedited if the DMP DPD had been rescheduled. In these circumstances it would have been unreasonable for the Council to have delayed or withheld submission of the DMP DPD document. In my assessment, the Council should

<sup>4</sup> *Satnam Millennium Ltd. v. Warrington Borough Council* [2015] EWHC 370

<sup>5</sup> As required by Section 17(6) of the Act

not be criticised for being in a position to expediently produce a set of up-to-date development management policies.

25. Extensive areas of the Borough are designated as Green Belt and an objective of the Core Strategy is to protect its integrity. The policies of the DMP DPD accord with this objective (expressed strategically in Core Strategy Policy CS6). In terms of managing day-to-day development proposals I am satisfied that the DMP DPD is consistent with both the cautious outlook in the NPPF regarding inappropriate development in the Green Belt as well as the Core Strategy's pragmatic approach to Mayford village (which is subsumed within the Green Belt) and the potential of major developed sites<sup>6</sup> in the Green Belt.
26. It is a sensible anticipatory wording for policy DM13 to recognise the Site Allocations DPD. I do not consider this wording represents an undermining of the integrity of the Green Belt or to fetter the outcome of the Green Belt review in Site Allocations DPD. The Site Allocations DPD will be subject to its own independent examination. I would expect any allocations made in that plan would be removed from the Green Belt and so not engage Policy DM13 anyway. Furthermore, I consider the limited references to Green Belt review work in the DMP DPD to represent helpful evidence base for users of the document in understanding the particular characteristics of the Green Belt in the Borough. As such these references are appropriate.
27. In terms of a more positive approach to previously-developed brownfield land in the Green Belt I am mindful that on-going reforms to the planning system may well facilitate this<sup>7</sup> but there is no detail at this examination stage. In broad terms, the Council has already identified two Major Developed Sites in the Green Belt which will allow for infilling and redevelopment, potentially along the lines envisaged in recent announcements. Accordingly, in terms of consistency with the NPPF and the Core Strategy on the respective national and local objectives for the Green Belt I consider the DMP DPD to be sound.
28. Looking at plan-making and consistency in the round, it is clear that the contents of the DMP DPD will need to be considered alongside a number of Neighbourhood Plans that are coming to fruition in the Borough. The Council has identified a number of changes it will make to the document to clarify the inter-relationship of the DMP DPD with Neighbourhood Plans in the Borough. Whilst I consider that these modifications are helpful, and should be included in the final text of the plan, they are not necessary to make the document sound.

### **Conclusion on Issue 1**

29. My conclusion on this first main issue on the approach to plan-making, having had regard to relevant case law<sup>8</sup>, is that the DMP DPD has been positively

<sup>6</sup> Identified at Appendix 2 of the Core Strategy.

<sup>7</sup> Reference in Joint Spending Review & Autumn Statement 2015 to regeneration of previously-developed brownfield sites in the Green Belt, subject to starter homes and local consultation through Neighbourhood Plans.

<sup>8</sup> Gladman Development Limited v. Wokingham Borough Council [2014] EWHC 2320 (admin) & Document ID/DMP/006 : R. (oao Oxted Residential Ltd) v. Tandridge District Council [2016] EWCA Civ 414.

prepared and meets the tests of soundness in that regard. It is also evident that the content of the DMP DPD is consistent with the spatial objectives set out in the Core Strategy insofar as they relate to the need for detailed development management policies to guide day to day planning applications.

## **Issue 2 – Are the proposed Development Management Policies justified, effective and consistent with national policy?**

### **Policy DM3 – Outdoor Recreation and Sport**

30. The policy supports the provision of new, extended or intensified use of outdoor sport and recreation facilities subject to criteria. I am satisfied that the permissive nature of the policy and the general principles set out in these criteria not only provide a clear indication of how a decision maker should react to a proposal but are consistent with the balance in the NPPF between supporting the beneficial use of the Green Belt (paragraph 81) and protecting it from inappropriate development. I am also content that the general principles of the policy complement rather than duplicate or contradict the requirements of Core Strategy policies CS6 and CS17.
31. The policy also applies the same general principles together with additional bespoke criteria in respect of both equestrian and golf facilities. The Council's proposed modification to clarify that equestrian facilities in the Green Belt that are not for outdoor sport, recreation or agricultural purposes would need to be justified by special circumstances. However, to ensure consistency with paragraphs 87 and 89 of the NPPF the reference needs to be "very special circumstances". With this amendment I therefore recommend the proposed modification (**MM1**).

### **Policy DM4 – Development in the Vicinity of Basingstoke Canal**

32. The policy is appropriately permissive and flexible whilst recognising the various positive attributes of the canal such as its heritage significance, biodiversity and water quality require protection. Additional detail is not required in the policy given the content of Core Strategy Policy CS17 (undeveloped buffer zones) and where relevant Core Strategy Policy CS6 (strict control over inappropriate development in the Green Belt).
33. The policy has a clear spatial dimension, applying to a particular physical feature which extends across the width of the Borough. In the interests of effectiveness the spatial extent of the policy should be defined on the Policies Map with an appropriate cross-reference in the text of the policy. I also consider it necessary that applicants and decision makers should be guided to the further detail contained in the evidence document 'Heritage of Woking' in terms of assessing the impact of proposals on the character and context of the canal (**MM8**).

### **Policy DM7 – Noise and Light Pollution**

34. In order to be effective the policy should clarify that where proposals involve external lighting that requires planning permission a decision maker will take into account any adverse impacts from glare or light spillage on nocturnal animals and water species (**MM2**). In more general terms, it is unavoidable

that some developments will result in noise and/or light pollution. However, the policy is consistent with the NPPF requirement at paragraph 123 to avoid "significant adverse impacts" and mitigate and reduce "other adverse impacts". Additional prescription in the policy to define light pollution levels would not be necessary to make it effective.

### **Policy DM9 – Flats Above Shops & Ancillary Accommodation**

35. I consider it appropriate that the starting point in considering such proposals includes an adherence to the Council's parking standards with any exception dealt with on a case specific basis. Accordingly, the policy does not need to be modified in this regard. However, given the correlation between areas of flood risk and retailing in the Borough an expansion of the general criteria for flats above shops to include an additional criterion on flood evacuation and supporting text would ensure consistency with paragraph 103 of the NPPF (**MM3** and **MM4**).

### **Policy DM10 – Development on Garden Land**

36. The policy as submitted is permissive of housing development on garden land provided it does not compromise the overall character of the area. I consider this approach consistent with the NPPF's objective of requiring good design at paragraph 17 and Section 6 and in particular the criteria at paragraph 58 of the NPPF. In this regard the policy is not unduly restrictive, it is justified and is therefore sound.

### **Policy DM11 – Sub-divisions, Specialist Housing, Conversions and Loss of Housing**

37. In respect of the general permissive criteria for considering proposals for sub-divisions and conversions of existing housing, including houses of multiple occupation and other forms of shared housing and residential institutions, an additional criterion on flood evacuation and supporting text would ensure consistency with paragraph 103 of the NPPF (**MM5** and **MM6**).

### **Policy DM13 – Buildings in and adjacent to the Green Belt**

38. In addition to my earlier findings on broader consistency with the Core Strategy on local Green Belt policy and the matter of Green Belt Review (see paragraphs 25-27) I am satisfied that the policy provides an appropriate set of additional circumstances for certain forms of development that would not be inappropriate in the Green Belt. The criteria within the policy are those necessary for the determination of day to day planning applications and do not compromise or undermine the purpose or integrity of the Green Belt in Woking.
39. With regards to development adjacent to the Green Belt the policy is permissive provided that development responds to the transitional character between the built areas and the openness of the Green Belt (which covers some 60% of the Borough). In my view, the policy is consistent with the NPPF's confirmation that great importance must be attached to the design of the built environment and that design should respond to the identity of local surroundings. As such I do not consider this part of DM13 to unjustifiably

place a burden on development proposals, including those intending to meet the housing need.

40. In respect of sports and recreation facilities in the Green Belt I am satisfied, having the NPPF at paragraph 89 in mind, that the Core Strategy Policy CS6 and DMP DPD Policy DM3 provide effective and justified policy direction. Overall, I find that the Council's approach in Policy DM13 is sound.

### **Policy DM18 – Advertising and Signs**

41. Given the extent of commercial activity in the Borough I consider Policy DM18 to be justified and that its content, whilst lengthy and subject to a number of additional modifications by the Council, to be consistent with paragraph 67 of the NPPF. However, in terms of effectiveness it is necessary to amend the supporting text to clarify the treatment of projecting signs (**MM7**).

### **Policy DM20 – Heritage Assets and their Settings**

42. The policy as originally submitted sought to present, in my view, a commendably succinct structure in dealing with the various heritage designations and the respective tests where development proposals would affect the designation or their setting. I also find that the policy supplements and is consistent with the over-arching Core Strategy Policy CS20 on heritage and conservation and Policy CS24 Woking's Landscape and Townscape.
43. I note that Historic England have raised no soundness issues with the policy as submitted. However, I share some of the concerns expressed in a number of representations that some clarification is needed. The Council has set out a number of additional modifications which would sufficiently address minor structuring and editorial issues with the policy and supporting text which would aid the consistency with paragraphs 126 and 154 of the NPPF. Whilst these amendments are not essential to achieve soundness they would be beneficial to users of the adopted document.

### **Other Matters**

44. Thames Water has suggested that there should be a new policy relating to water and sewage infrastructure. However, I am satisfied that Core Strategy Policy CS16 would adequately cover these matters.
45. In respect of submissions on site specific matters, such as the gas holder site and the Brookwood Cemetery area, these are best dealt with as part of the Site Allocations DPD. On a more general matter of hazardous installations I consider the matter is sufficiently addressed at DMP DPD Policy DM8 in a way which is consistent with the NPPF at paragraphs 120 and 121.
46. In terms of housing provision for the elderly, I am content that Core Strategy Policy CS13, in conjunction with any specific proposal as part of the emerging Site Allocations DPD, means that the development plan is consistent with paragraph 50 of the NPPF and that no specific development management policy is required as part of the DMP DPD.

## Conclusion on Issue 2

47. The proposed development management policies will replace a notable number of "saved" policies within the Woking Borough Local Plan 1999. It is imperative that these outdated policies, which pre-date the publication of the NPPF and PPG, are replaced as soon as possible.
48. With the recommended Main Modifications set out in the preceding paragraphs, I conclude that the proposed development management policies meet the tests of soundness as being justified, effective and consistent with national policy, and provide an appropriate basis for the assessment of development proposals across the borough up to 2027.

## Woking Borough Local Development Documents Policies Map

49. The recommended main modification (**MM8**) will require a corresponding amendment to be made to the Woking Borough Local Development Documents Policies Map, in accordance with Regulation 22 of the Town and Country Planning Regulations (Local Planning) (England) 2012. The amendment is to delineate the Basingstoke Canal for the purposes of Policy DM4.

## Assessment of Legal Compliance

50. My examination of the compliance of the Plan with the legal requirements is summarised in the table below. I conclude that the DMP DPD meets them all.

<b>LEGAL REQUIREMENTS</b>	
Local Development Scheme (LDS)	The DMP DPD is identified within the approved LDS February 2016 which sets out an expected adoption date of September 2016. The DMP DPD's content and timing are compliant with the LDS.
Statement of Community Involvement (SCI) and relevant regulations	The SCI was adopted in February 2015 and consultation has been compliant with the requirements therein, including the consultation on the post-submission proposed 'main modification' changes (MM)
Sustainability Appraisal (SA)	SA has been carried out and is adequate.
Appropriate Assessment (AA)	The Habitats Regulations AA Screening Report January 2015 sets out why AA is not necessary as a consequence of the policies having no likelihood of leading to significant adverse effects on European sites either alone or in combination with other plans or projects.
National Policy	The DMP DPD complies with national policy except where indicated and modifications are recommended.
2004 Act (as amended) and 2012 Regulations.	The DMP DPD complies with the Act and the Regulations.

## **Overall Conclusion and Recommendation**

51. The Woking Development Management Policies DPD has a number of deficiencies in relation to soundness for the reasons set out above which mean that I recommend non-adoption of it as submitted, in accordance with Section 20(7A) of the 2004 Act. These deficiencies have been explored in the main issues set out above.
52. The Council has requested that I recommend main modifications to make the Woking Development Management Policies DPD sound and capable of adoption. I conclude that with the recommended main modifications set out in the Annex to this report the Woking Development Management Policies DPD satisfies the requirements of Section 20(5) of the 2004 Act and meets the criteria for soundness in the National Planning Policy Framework.

*David Spencer*

Inspector

This report is accompanied by an Appendix containing the Main Modifications