

Forest of Dean Allocations Plan EXAMINATION

Inspector's Interim Findings

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1. This paper sets out my interim findings on the soundness and legal compliance of the Allocations Plan ('AP'), drawing on the evidence base and on written submissions received on the Publication Version of the AP¹ together with the written and oral submissions at the examination hearings. I would stress that these findings are without prejudice to my final conclusions on the examination of the AP, which will depend on consideration of further evidence.

Duty to co-operate

2. The Council's evidence to demonstrate compliance with the statutory duty to co-operate on the preparation of the AP is set out in Keynote AP19 (LP033). Further information was provided in the Council's written response to my initial questions (ED004).
3. With regard to cross-boundary co-operation, I acknowledge the Council's point that the duty applies to strategic matters with significant impact on at least two local authority areas and that these generally lie within the ambit of the adopted Core Strategy ('CS') rather than the AP. The number of matters on which the AP determines a strategic position is limited. With certain specific exceptions, it appears that for the preparation of the AP the Council has availed of the well-developed networks of regular inter-authority discussion by officers of strategic planning, economic and environmental matters. Details of the comprehensive liaison arrangements are set out in the Keynote.
4. The APPV responses include some by neighbouring authorities and by Gloucestershire County Council, while the Council's statement includes informal responses from several others. While more evidence of focused formal consultation on the AP with individual authorities would have been welcome, there is no reason to conclude that co-operation with neighbouring authorities has been lacking in scope or completeness.
5. The matter of probably greatest cross-boundary significance is housing need, which is considered in more detail below. There is clear evidence of co-operation by the Council with neighbouring authorities in the preparation of a county-wide Strategic Housing Market Assessment ('SHMA'), and in commissioning the subsequent review of objectively assessed need ('OAN') for housing. The strategy of each district absorbing its own housing need derives from that co-ordinated approach. The subsequent July 2015 adjustment for Forest of Dean appears to have been accepted without concern by the other authorities.
6. Another acknowledged cross-boundary issue on which the AP has a significant bearing is the relationship with Chepstow of development at Sedbury/Tutshill

¹ Numbered 'APPV##'

and along the A48 corridor. There is evidence of co-operative working with Monmouthshire County Council and Gloucestershire County Council.

7. As an important element of infrastructure provision, the reinstatement of the Herefordshire and Gloucestershire Canal can be seen as a strategic matter. The AP supports the reinstatement. The difference in the approach to safeguarding the route from that taken by the recently adopted Herefordshire Local Plan Core Strategy ('HLPCS') cannot be regarded as a failure of the duty to co-operate by the Council, as claimed by the Canal Trust. If delivery of HLPCS Policy E4 relies on a specific level of protection by the AP, the necessary co-operation should best have been secured before adoption of the HLPCS. In any event, the duty to co-operate is not a duty to agree. In this case, there is no dispute over the objective, but only over the degree of policy intervention, a matter I consider in more detail later in this paper.
8. The issue of any cross-boundary implications for protected species falls to be considered under the Habitat Regulations Assessment rather than the duty to co-operate. However, it is clear that there has been co-operative working with Natural England, and efforts to involve Natural Resources Wales on cross-border aspects.
9. With regard to co-operation with other prescribed bodies, the Council's Keynote and supplementary submission provide evidence of co-operation with the Environment Agency, Historic England and the local highway authority. It is clear that there has also been co-operation with the Coal Authority, water and drainage undertakers and with the local nature partnership. In response to debate at the hearings, further detail has been provided of contact with the local enterprise partnership² and of the local involvement of the Homes and Communities Agency³. The evidence suggests that the AP is sufficiently aligned with the strategic priorities of both of these bodies.
10. In summary, there are adequate grounds to conclude that the duty to co-operate has been met.

Legal Compliance

11. Concern has been raised about the difficulty of access to very large electronic files owing to slow servers and slow local internet connection speeds. While sympathising with the frustration this can cause, I find that sufficient alternative means of access to AP consultations were available, and that there was no departure from the Council's Statement of Community Involvement. In all other respects, the preparation of the AP appears to have followed correct procedures and to be legally compliant.

Relationship with Core Strategy

12. The role of the AP is to complement the CS by translating the CS's overarching vision and policies into firm allocations and area-specific policies for the major part of the district that does not include the already adopted Cinderford Northern Quarter Area Action Plan ('CNQAAP'). Following adoption of the AP, the three documents, together with the now 'made' Lydney Neighbourhood Development Plan, are to comprise the local plan for the district.

² ED027.4

³ ED027.23

13. There has been considerable criticism in representations of the Council's decision to proceed with the preparation and submission of the AP, rather than a review of the already adopted plans as part of the preparation of a single local plan, of the type now envisaged by the NPPF.
14. The first concern is that the plan period to 2026 is too short, with only 11 years left to run from the AP's submission in 2015. The NPPF advises that local plans should be drawn up over an appropriate time scale⁴. While the preference is for a 15 year time horizon, this is not compulsory. I accept that in this case the Council was correct to give early priority to completing development plan coverage. The most appropriate timescale for the AP was for it to coincide with the CS. The Council is committed to an early review of the three adopted plans to commence soon after adoption of the AP, as part of a co-ordinated project for up-to-date plan coverage across Gloucestershire. It is anticipated that the review would roll plans forward to at least 2031.
15. The second concern is that adoption of the CS predated the publication of the NPPF and that as a consequence some of its policies are now out of date, so that it does not provide a sound basis for the AP. The key area in which the CS can be said to depart from NPPF guidance is in the estimation of its housing requirement. The Council acknowledges that the CS housing figure should be regarded as constrained, but has sought to address this by the adoption for the AP of newly calculated OAN, which I consider in more detail below.
16. Limited evidence has been provided of other respects in which the CS is felt to be significantly out of step with the NPPF. It is suggested that CS policy does not reflect the NPPF approach to rural housing, and that as a result the AP should allow for greater numbers of new houses at the 'service villages' and 'small villages' identified by the CS. However, the CS hierarchy of settlements⁵ provides a proxy for the sustainability of settlements, based on accessibility to services and employment, and other factors. I consider that the CS strategy of directing development in a proportionate manner to the hierarchy of rural villages and of limited change at the smaller villages is not inconsistent with NPPF policy, which advises that housing should be located where it will enhance or maintain the vitality of rural communities⁶.
17. The apportionment of development between categories of villages has been queried in representations. Allocations are proposed at major villages, group villages and service villages, with development at small villages and small settlements without defined boundaries to be drawn from windfall allowances. Whilst a higher number of allocations would improve certainty, I find the AP approach sufficiently reflective of the adopted CS distribution.
18. However, this will need review following revision of the housing requirement. Should the updated requirement prove to be substantially greater than the CS figure, the sustainability of adhering to the CS distribution would need re-appraisal.

⁴ NPPF paragraph 157

⁵ CS: Table at paragraph 7.65

⁶ NPPF paragraph 55

Objectively Assessed Need for Housing

19. The adopted CS plans for the provision of 6200 dwellings over a 20 year period to 2026, which equates to 310 dwellings per year ('dpa'). The derivation of that figure reflected regional policy then in place and pre-dated the publication of the NPPF and subsequent PPG. The Council now regards that figure as constrained.
20. I agree that the Council's decision to inform the preparation of the AP by determining the OAN for housing in accordance with current guidance is soundly based. However, the CS continues to provide the adopted planning strategy for the district, which the AP must reflect. The Council's approach of seeking to apply the strategy and spatial distribution of the CS to the current housing need will be contingent on the amount of up-to-date need.
21. Whilst there has been little significant challenge to the fundamental decision to re-assess housing need, there has been considerable disagreement over the validity of the Council's proposed OAN and the method of its calculation, with detailed alternatives put forward. The most significant areas of dispute are considered below.
22. The evidence for the AP's provision of 320 dpa is primarily based on a report to the Council dated July 2015 by consultants NMSS, which advised an OAN of 310 dpa, based on a total provision of 6200 dwellings over the 20 year period 2011-2031, with flexibility to add up to a further 600 homes (30 dpa) to allow for potential economic growth. The Council's decision was that an allowance of 10 dpa provided sufficient flexibility.
23. This report ('NMSS 2015') was an update of an earlier report of October 2014 ('NMSS 2014') which had appraised the housing needs of Forest of Dean, Cotswold and Stroud districts, in parallel with those of the Joint Core Strategy ('JCS') authorities of Cheltenham, Gloucester and Tewkesbury. The report had advised an OAN for Forest of Dean of 365 dpa, based on a total provision of 7300 dwellings over the 20 year period 2011-2031.

Methodology

24. The first concern raised by this approach is that the second report dealt only with Forest of Dean, so that the revised calculation of OAN was not at the scale of the full Housing Market Area ('HMA'), as envisaged by the NPPF⁷ and the PPG⁸. It is suggested by some that this invalidates the later calculation, and that consideration should only be given to the conclusions of NMSS 2014.
25. It was argued on behalf of the Council at the examination hearings that differing rates of progress by individual planning authorities would inevitably result in local re-appraisals, and that variations at the scale of the 'demographic' OAN in each area should not be significant. It was acknowledged that a greater impact could result when adjustments were made for economic growth to produce the 'jobs-led' OAN, but argued that the approach of disaggregating to the local and sectoral level had been endorsed by the examination of the Stroud Local Plan ('LP'), which had been informed by NMSS 2014.

⁷ NPPF paragraph 47

⁸ PPG paragraph 2a-008

26. The evidence is that neighbouring authorities are each planning to meet their own housing needs and have no concerns about the AP's proposed OAN. Nevertheless, I share the concern that the move away from assessment at the level of the full HMA is a potentially significant departure from good practice, even if in this instance the variation in demographic OAN might not be very great. In evaluating the adjustment to OAN to reflect economic growth (considered in more detail below) NMSS 2014 concluded that, given the sizeable commuter flows between the Gloucestershire authorities, there was a strong case for considering the relationship between homes and jobs on a broader basis than the individual authority⁹. The adjustment for each of the three districts recommended by the report was derived by apportioning half of the potential county-wide growth in the number of homes needed. Whether or not this method would remain a suitable resolution of the effect of economic growth, it does illustrate the value of addressing the issue at wider than the local scale.
27. I consider it important that the calculation of OAN should so far as possible be based at the scale of the full HMA. NMSS 2015 reaches a significantly different conclusion on the economic issue, without being sufficiently clear on any implications for the wider area. I endorse the concern raised in representations that the implications of local adjustments of economic projections must be reflected at the wider scale. I am not aware of all the evidence that was before the Stroud LP Inspector. Although he may have ultimately accepted a sectoral analysis of job growth, he also emphasised the importance of a consistent view across the county when assessing the overall level of housing required to meet population and household needs and support economic growth¹⁰.
28. The Council's justification for not accepting the NMSS 2014 recommendation at the time, in anticipation of enhanced productivity, has not been carried forward in their acceptance of the later recommendation. It would not be justified, as some have argued, to endorse today the NMSS 2014 figure of at least 365 dpa as the most recent fully tested assessment of OAN. Other factors must now be taken into account, not least the more recent household projections and economic assessment that guided the judgements made by NMSS 2015 and subsequently by the Council.
29. Reference was also made on behalf of the Council at the hearings to recent work commissioned by Cotswold District Council, which was said to throw a new light on OAN, but this has not been formally presented or seen by other parties, so that I have not been able to take it into account. Similarly, a number of parties have referred to evidence tabled at the currently on-going examination of the emerging JCS, that is not before the AP Examination.
30. While I recognise that the process of plan preparation cannot be prolonged indefinitely to allow for further information to come forward, it may be that such emerging data would prove helpful. The PPG advises that local needs assessments should be informed by the latest available information¹¹. But even if more recent information is not deemed useful, I consider that the change in the base for NMSS 2015 has been a significant departure from recommended practice and that the Council should therefore now re-examine its estimation of OAN taking account of the situation across the full HMA.

⁹ NMSS 2014 paragraph 132, point e

¹⁰ Inspector's Report paragraphs 44, 53

¹¹ PPG paragraph 02a-016

31. Representations have also drawn attention to the potential distortion caused by the translation to the plan period of estimates prepared for the longer period to 2031. This is a matter that requires further analysis and justification, to be sure that the OAN is not unduly influenced by potentially different circumstances at the latter phase of the 20 year period.
32. Setting aside the above concerns, I turn to the approach to derivation of the OAN taken by the NMSS reports and adopted by the Council. This broadly follows the methodology outlined in the PPG. But the PPG recognises that the household projection-based estimate of housing need may require adjustment to reflect factors affecting local demography and household formation rates. The assumptions made in applying these local factors are the source of query over the robustness of the proposed OAN.

Population flows

33. NMSS 2014, confirmed by NMSS 2015, allows for an increase in population over the period 2011-2031 above the ONS 2012 Sub-National Population Projections ('SNPP 2012'), primarily due to increased population flows from the rest of the UK. As a result the projected growth in population would rise by 8600 rather than 6400 (from 82200 to 90880).
34. There are good grounds for adopting trends over a 10 year period rather than the 5 year period used for the ONS figure, which coincided with a time of severe economic downturn. However, submissions to the examination show that the NMSS bespoke method of calculation produces a significantly lower outcome than an alternative based on the widely used Popgroup software model, which is said to closely follow the ONS approach.
35. However, I accept the argument that the Forest of Dean has tended to display a distinctive pattern of migration, which the NMSS approach seeks to reflect. This pattern might not be accurately reflected by assignment of flows to and from every part of the UK. I also agree with NMSS that the Popgroup projection of a level of increase 60% above the ONS figure (at 508 per year, rather than 318) merits critical examination. By contrast the NMSS projection of 428 per year would exceed the ONS figure by 35%, but would be similar to growth experienced in the 1990s. On balance, I accept that the NMSS figure provides a reasonable basis for this element of the OAN calculation.
36. I also endorse the unchallenged decision, as set out in NMSS 2014, not to make an adjustment for Unattributable Population Change, which would have an unwarranted significant counter-effect on predicted population growth.

Household formation

37. The PPG advises that household projections published by the Department for Communities and Local Government ('DCLG') should provide the starting point estimate of overall housing need¹², and that the 2012 projections published in February 2015 provide the most up-to-date estimate of future household growth¹³. Therefore, there is considerable support in principle for the use by NMSS 2015 of household formation rates based on the DCLG 2012 projections. I accept that NMSS 2015 provides a convincing case in the specific context of

¹² PPG paragraph 2a-014

¹³ PPG paragraph 2a-016

the Forest of Dean for the adoption of these rates, rather than the modified ('partial return to trend') 2011 rates used in NMSS 2014. The 2012 rates, said to be based on a fuller evaluation of the 2011 census data and to have corrected declining rates for certain groups, show a return closer to 2008 rates. This should allow for change from reduced household formation during the recession. Sensitivity testing of the 2012 rates set out in NMSS 2015 show that the more up-to-date rates adequately address concerns over the 2011-based interim projections. In these circumstances, I do not endorse representations that adoption of the 2012 rates would conflict with the NPPF objective to significantly boost the supply of housing.

38. With an appropriate adjustment for vacant and second homes, the Council adopts the NMSS 2015 figure of a total 'demographic' need of 6200 homes over the 2011-2031 period, or 310 dpa. In the light of all the above I conclude that there is sufficient evidence to support that figure.

Economic growth

39. The PPG advises that the effect of future job numbers should be taken into account, based on an assessment of past trends and/or economic forecasts and the growth of the working age population in the HMA¹⁴.
40. Both NMSS reports are informed by projections of future economic growth in the three districts obtained in August 2014 from forecasters Oxford Economics ('OE') and Cambridge Econometrics ('CE'). There are clear differences between the two forecasts, at local and county-wide level, even when the more volatile early years of the period are set aside. For Forest of Dean, CE forecast 2260 additional jobs over the 2011-2031 period, and OE forecast 1220. NMSS 2014 reports that the CE forecast indicated a need for 1900 additional homes to support job growth over the 20 year period, within the context of 6100 extra homes across the county, while the OE forecast suggested no additional homes would be required in either the county or district.
41. As outlined earlier in this paper, NMSS 2014's recommendation of 900 additional homes was based on an apportionment across the three districts of 50% of the CE county-wide growth. The proposed figure expressly took account of the LEP's focus on growth in other parts of the county, the forecast's bullish view of government services growth, and the potential for slower growth due to improvements in productivity. Therefore, although a relatively broad brush approach, the recommended figure had some merit as a considered pragmatic response to the possible scale of the need identified by the CE work.
42. The proposed figure was informed by sensitivity tests which had examined the potential effect of modifying the two more extreme sectoral forecasts (CE's predicted high growth in government jobs and OE's predicted growth in finance and business services), and of increasing CE's economic activity rates. But the test results were presented to show the potential influence of varying key assumptions and were not incorporated into the preferred recommendation. The report does not test the potential impact of increased productivity, but this was clearly a factor to which the Council gave considerable weight in deciding not to adopt the recommended figure, but to rely on a safeguarding approach.
43. By applying 2012 household formation rates, NMSS 2015 revises the CE-based projection to 1600 additional homes above the demographic basis and the OE-

¹⁴ PPG paragraph 2a-018

based to 400 below. The adoption of a mid-point between projections was ultimately accepted in the Stroud examination, and would also provide a reasonable approach for the AP. In this instance, it would result in an adjustment of 600 additional homes over the 20 year period to 2031.

44. The report goes on to consider the review of the forecasts by consultants Nupremis. The outcome of the adjusted jobs figures set out in the Nupremis analysis would be to reduce the CE-based homes figure to 800 homes above demographic and the OE-based figure to 800 below. The report endorses the resulting mid-point of zero adjustment, to recommend an OAN of 310 dpa, which is the calculated demographic OAN without adjustment, but with flexibility to add up to 600 homes (30 dpa) subject to demand. In response to the recommendation, the Council has adopted an OAN of 320 dpa, allowing for part of the additional growth for jobs.
45. A number of concerns have been raised about this approach, some of which I share.
46. It is suggested that the NMSS/Nupremis analysis is flawed by the failure to include a projection by the third major forecaster, Experian. Given the differences between the OE and CE figures, the addition of a third forecast would in my view have been helpful in evaluating trends. It would also have allowed closer comparison with the emerging JCS, which includes major employment centres of the county. Any issues of consistency, such as differing activity rates, could have been addressed in the same way as the JCS work. However, I do not consider that the Forest of Dean projection is undermined by the lack of the third forecast. The use of two respected forecasts should be sufficient for a proportionate assessment, as required by the PPG¹⁵.
47. The OE and CE forecasts date from August 2014, and were informed by employment data from over a year prior to that. It is claimed that more recent forecasts show a considerably different picture, with a narrowing of disparity across the three forecasts and modification of extremes such as the CE forecast on public service jobs. The Council's scepticism about the significance of such changes is understandable, given the acknowledged volatility of these forecasts, and their scope for inaccuracy at the local scale. The plan-making process is inevitably protracted and key inputs must be fixed at some point. Continued updating of data is not necessarily feasible. The PPG advises that needs assessments should be informed by the latest available information, but confirms that projections do not automatically become outdated every time new projections are issued¹⁶. The key issue is whether later updates would have a significant bearing on the assessed need. Therefore, I consider that the Council's assessment is not invalidated by the time elapsed since the forecasts were prepared, but that a further check against the most up-to-date available forecasts would be beneficial for the robustness of the estimate.
48. I have greater concern over the extent to which the revised estimate of OAN in NMSS 2015 has been influenced by the alternative jobs scenario proposed by Nupremis. Although the adjusted figures are not formally recommended as definitive by the Nupremis report, they have clearly informed the conclusions of NMSS 2015 and the Council's adoption of an OAN. The two key sensitivity tests on which the alternative model is based have a very significant impact on the results, both serving to depress the estimate of need. It is notable that the

¹⁵ PPG paragraph 2a-005

¹⁶ PPG paragraph 2a-016

very similar sensitivity tests set out in NMSS 2014 were there presented as supporting data, but they have now become central to the assessment.

49. In my view, the tests are not backed by sufficient analysis of what might have led the forecasts for the two sectors to be seen as out of step, which could then have informed the scale of any adjustment. The CE forecast for Government Services was significantly above CE's national forecast, but the only test given is to apply the national average figure. The OE figure for Financial and Business Services was in line with its forecasts for the South West and the UK. If a reduction could be justified, it is not clear why substitution of the significantly lower CE rate is the only alternative tested. In this regard, the potential for business-based jobs offered by the development of the Cinderford Northern Quarter appears worthy of further consideration. Even if the site is classed as a tertiary location, the ambition of the regeneration project suggests potential for additional job creation. Examination of the most recent data could also reveal the manufacturing sector as a worthwhile upwardly-biased sensitivity adjustment. For these reasons, I consider that there is a need to review the adjustments proposed to the forecast figures.
50. Even with such a review, the scale of any adjustment might well fall within the 600 homes arising from the unadjusted mid-point figure. There is considerable scope for interpretation of the variables. NMSS 2015 embraces the Nupremis adjusted figures, but recommends that 'flexibility' should be retained to add up to a further 600 homes. This suggests a continuing lack of full conviction that the demographic OAN alone would adequately reflect local circumstances. The notion of 'flexibility' also tends to blur a definitive conclusion on the OAN.
51. The Council's final adoption of the 320 dpa figure blurs the judgement even further. The inclusion of just one third of the additional 30 dpa had the merit of maintaining the figure earlier proposed, but in other respects has not been fully justified. If anything, the additional 10 dpa can be seen as a policy response rather than a reasoned adjustment of the OAN.
52. In my view, the evidence should be reviewed in the light of the most recent comprehensive economic forecasts, and the case for adjustment of the OAN to reflect sensitivity testing fully justified. At present the case for an adjustment to the demographic OAN of up to 600 homes appears the most justifiable outcome.

Market signals

53. The PPG advises that the need figure suggested by the household projections should be adjusted to reflect market signals, taking account of a variety of factors, with comparisons made of trends across a range of indicators¹⁷. Factors to be taken into account might include land prices, house prices and rents, affordability, rate of development and overcrowding.
54. Evidence provided in NMSS 2014 suggests that measures of overcrowding and concealed families in Forest of Dean are well below national averages, and at or below county/regional averages. The evidence also shows house price and rent indices to be broadly in line with national trends.
55. There is little reason to conclude that house prices are being inappropriately inflated by a lack of supply. If anything, there is reason to support the Council's

¹⁷ PPG paragraphs 2a-019, 020

interpretation that lack of demand has slowed the development of suitable sites. Similarly, the record of past completions over the past 10 years shows no conclusive evidence of a significant departure from national and local trends that would indicate a particular local constraint on supply.

56. The evidence on affordability (based on lower quartile house price to earnings ratio) shows Forest of Dean rising slightly above the national and county trend by 2012, but as part of a generally consistent pattern of worsening affordability nationally and locally over a 10 year period. Representations on the AP have focused on the absolute level of increase in the affordability ratio, but the advice of the PPG places this concern in the context of appropriate comparisons with the HMA and similar demographic areas, as well as nationally. I note that the Stroud LP Inspector concluded that in the light of such comparisons no specific uplift was required for these factors and I consider that the evidence supports a similar conclusion for Forest of Dean.
57. That is not to say that decreasing affordability is accepted by the AP as a *fait accompli*, as some have interpreted it, but that the particular circumstances of Forest of Dean would not suggest any atypical affordability issue that would be addressed by a local increase in supply.
58. Representations have referred to a finding of the Barker Review¹⁸ that an increase in supply of 86% would be justified to improve affordability. I am not sure that this figure, which is now over 10 years old, should be given authoritative weight, and no such figure is specifically endorsed by the national policy objective of an overall boost to housing supply. The PPG advises that any adjustment in numbers to improve affordability should be set at a reasonable level¹⁹. I note that the alternative estimate of OAN that cites the Barker Review figure makes no further allowance for market signals, on the basis that a housing requirement to reflect jobs-led need (406 dpa in that case) would already represent a significant boost over past delivery rates. Adjustment of the Council's currently proposed OAN to reflect jobs could possibly have a similar effect, if justified by the revised figures.

Affordable housing

59. Representations have cited the identified need for affordable housing as further ground for increase to the AP's housing provision. I agree with those who consider that this is a matter of policy that strictly lies outside the OAN calculation. As pointed out by the Stroud LP Inspector, the PPG compliant methodology and numbers for the assessment of affordable need are not compatible with the overall assessment of OAN. As the OAN includes all tenures, some affordable need will already have been taken into account. Some commentators conclude that it is this component of OAN that NPPF paragraph 47 requires to be met in full²⁰.
60. The March 2014 update to the Strategic Housing Market Assessment ('SHMA') shows a need for affordable housing in Forest of Dean of 814 dpa, as part of a consistent county-wide picture of affordable need greatly in excess of OAN. That figure was derived in accordance with the PPG methodology. However, the Council refers to sensitivity tests set out in the SHMA, allowing for a more up-

¹⁸ Barker Review of Housing Supply 2004

¹⁹ PPG paragraph 2a-020

²⁰ E.g. Peter Brett Associates *Objectively Assessed Need and Housing Targets: Technical advice note* Second edition, PAS July 2015

to-date higher affordability threshold and for the use of private rented accommodation, that would result in a much lower figure of 67 dpa, which is said to be accepted by stakeholders as more representative of the way housing need is actually experienced in Forest of Dean and hence to be seen as the 'core' need.

61. But the SHMA also points out that there is a larger group of households in need that would justifiably benefit from affordable accommodation provided in addition to any to meet the core need. Although private sector housing, with support, might provide acceptable conditions for some households, it does not fall within the NPPF definition of affordable housing.
62. The PPG advises that the total affordable need should be considered in the context of its likely delivery as a proportion of mixed housing development. NMSS 2014 argues that past trends show what provision society has made for households unable to afford market housing, and that such trends should be carried on unless there is evidence of increased funding. There is some evidence of viability pressure that has challenged the provision of to 40% affordable housing sought by CS policy. However, some recent major applications that have gone to appeal have been able to offer provision that has counted in their favour.
63. I agree with the Council that to seek to deliver all of the identified affordable housing need as a proportion of market housing would result in unrealistic and undeliverable allocations. But it does not necessarily follow that some increased provision could not be achieved. The Council's conclusion that the market could not support the raised level of provision needed for significantly increased provision may be unduly pessimistic. The PPG advises that an increase in the total housing figures should be considered where it could help deliver the required number of affordable homes. The NPPF points up the particular importance of this in rural areas²¹. The AP has not in my view adequately considered the scope for additional housing over and above the adjusted demographic OAN to make a contribution towards meeting affordable need. I note that the Inspector's recent interim findings on the JCS have recommended an increase of 5% in the housing requirement, where the identified need appears to be less than in the Forest of Dean. I consider that an uplift of 10%, which has been found reasonable in other plan examinations, would be more appropriate here.

Conclusion on OAN

64. Drawing together the above matters, I conclude that in order to establish a robust OAN for housing the Council needs to do further work on the potential influence of economic growth, and that this and all other assumptions underpinning the OAN should be tested at the scale of the complete HMA in the light of the most recent information and with due allowance for any effect of translating figures to a 2026 end date. At present, I consider that the evidence does not adequately justify an OAN of less than 340 dpa.

Housing requirement

65. The response to the economic factor should be clearly reflected in the OAN, as distinct from any policy response leading to the adoption of the AP's housing requirement. The requirement should also be influenced by reconsideration of

²¹ NPPF paragraph 54

the potential for allowing additional provision to help to address the need for affordable housing.

Housing for different groups

Older people

66. CS Policy CSP.5 encourages a mix of house sizes and types, including those suitable for an ageing population. The SHMA Update of December 2014 includes estimates of the tenure and size of new housing likely to be needed for older people in the period to 2031, including provision for institutional housing estimated at some 573 bedspaces.
67. The Council's proposed additional clarification on the issue, as a Main Modification ('MM') to the AP²², emphasises the intention to secure a broad range of housing choices for older people, including adaptable general needs units and specialist accommodation.
68. I take no issue with the proposed approach of meeting need for small units, which form part of the OAN, through delivery of allocated sites, with the potential of certain specific allocations flagged in the AP text. While some larger villages, such as Newnham, might be particularly suitable for some dedicated provision, making specific allocations in the absence of clear interest in delivery would be unduly restrictive.
69. For the same reason, and also given the scope for specialist accommodation to be permitted as an exception to normal policy restrictions, I accept that the allocation of specific sites for care home provision could be counter-productive. However, the absence of any overall target for such provision, which lies outside the OAN, is of some concern, even in the context of a general national policy shift towards enabling residents to stay in their own homes. Further consideration should be given to the merit of adopting a target figure, in order to make a more positive commitment to addressing need and to assist monitoring.

Self-build and starter homes

70. The requirement to maintain a register of individuals and groups seeking to build homes for their own occupation should give the Council a clearer indication than hitherto of the level of interest in this form of development. The PPG advises that this should be supplemented by further data searches²³. In the light of this more up-to-date information, the Council should now review the scope for specific allocations to consist of or include self-build housing.
71. The recent passage into law of the Housing and Planning Act 2016 will lead to a requirement for a proportion of starter homes on suitable sites. The Council should review the implications for AP policy in the light of the new Act and emerging regulations.

Gypsies and travellers

72. The Council's note in response to my initial questions on the AP gives a clear statement of existing commitments since the 2013 county-wide

²² Examination document ED 027.20 to replace MM001 in ED 027.01

²³ PPG paragraph 2a-021

Accommodation Assessment and of proposed allocations. Although there has been some challenge on the correct capacity of the allocated site at Woodlands Farm, Bromsberrow Heath (AP16), the Council's evidence suggests that outstanding needs have been planned for, with a modest surplus. In the absence of an approach from neighbouring districts, provision is not currently required for any unmet need from those quarters.

Travelling showpeople

73. The AP recognises the distinctive character of showpeople's sites as a mixed live-work activity. The plan's recognition that a range of current or former employment sites or redundant farm property could provide suitable locations for this use provides a suitably flexible approach. Representation was made at the Hearing over the non-availability of the one allocated site specifically mentioned by the AP as a suitable location, and of a long history of fruitless searches for sites. I acknowledge the difficulties faced but I find that the AP does offer the potential for this need to be addressed.

Housing Supply

74. Details of the proposed housing supply were provided in the Housing Need Supply Update Keynote AP11 (EB006) and were updated for the examination hearings²⁴. The total supply from April 2015 on identified large sites is set at 3635 dwellings²⁵, and allowances are also proposed for unidentified small sites²⁶ at 74 dpa and large windfalls at 81 dpa (but discounted until year 8 of the plan period), to give an overall total supply of 4942 dwellings. The AP also identifies potential housing provision of up to 280 units as part of mixed use development of several sites, that is not included in the supply but is expected to contribute over the plan period²⁷.
75. The overall supply will need to be checked against the revised housing requirement, as outlined above.
76. Approximately half of the total supply (2434 dwellings) is made up of sites allocated in an adopted plan –either the 2005 Local Plan or the CNQAAP. Some 519 dwellings would be provided by unallocated sites with planning permission, and 682 by new sites to be allocated by the AP. The high reliance on sites that have been allocated for a long period, some even pre-dating the LP, but without yet coming forward, was a source of considerable objection to the AP, particularly in regard to the identification of a deliverable 5 year supply as required by national policy set out in the NPPF.
77. The Council estimates the deliverable supply as 2227 units, which would equate to 5.6 years' supply, based on a requirement of 320 dpa. This figure will also need to be re-assessed in the light of the revised requirement. In doing so, adjustment will be needed on the application of the agreed 20% buffer to reflect a history of past under-delivery. I accept submissions made at the hearings²⁸ that correct practice should involve application of the buffer after

²⁴ Council's Response, Matter 5a: Housing Provision –Amount and Distribution

²⁵ This figure appears to include 45 units at Stowfield, Lydbrook (Site No.47 in EB006) and 30 at Ross Road, Newent (Site No.21), which Table 5 of EB006 suggests are not intended to form part of the claimed supply.

²⁶ Fewer than 6 units

²⁷ EB006 Table 5

²⁸ Later supported by EB028

adding the shortfall of completions during the plan period to the 5 year requirement, rather than before. This will have a modest influence on the supply estimate.

78. The consideration of supply is hampered by the absence from the AP or the supporting evidence of a clear housing trajectory, setting out anticipated delivery over the plan period. The updated table continues to categorise proposals only by delivery within the first two 5 year periods. As a result, there is insufficient detail of delivery over that time and a lack of clarity over the few proposals that are shown as lying beyond the 10 year horizon, given that the remaining plan period would be only 11 years.
79. I turn to consider the allocations identified at least in part to contribute to the 5 year supply, and to which specific objection has been made:

AP 47 East of Lydney

80. There is little dispute that Lydney provides the district's most sustainable location for significant development. The large allocation for residential and employment-generating uses to the east of the town has formed a key part of the development plan strategy since the 2005 LP, later confirmed by Policy CSP.12. A move away from this approach would be a significant departure from the adopted strategy.
81. As with many of the long-identified sites, the impact of the recession has played a part in inhibiting delivery. The Council acknowledges that progress on bringing forward sites for development has been slower than hoped. It appears that the development of 200 houses on the Oakdale part of the allocation is the only significant achievement to date, and objectors have emphasised that this required public subsidy. Some of the land, which is in several ownerships, relies on completion of other sites to open up access and infrastructure, placing greater importance on the early development of key sites.
82. Despite the Council's confidence that progress on the provision of essential infrastructure and the renewal of historic outline planning permissions indicate imminent progress, I share concerns raised about the early delivery of key sites. Although the land is available, the absence of up-to-date detailed planning permissions and the lack of clear involvement by final developers cast considerable doubt on the predicted rate of achievement. The Forest of Dean is clearly a distinctive market, but there is evidence of past involvement by major housebuilders on sites in the district and in Lydney. Now that the land is closer to being opened up, I consider it premature to rule out interest by housebuilders in these sites. The Council's forecast of 150 dwellings within 5 years on the MMC land at Oakdale and 160 at Lydney B both appear to vary from the promoters' latest estimates, but in different directions. Given the timescales involved before either site could start delivery, I consider that a significant reduction in the predicted output, in the order of 50%, would be warranted for each site.

AP 53 Holms Farm, Lydney

83. The site was allocated in the 2005 LP and received outline planning permission in 2007. The site's promoters expressed confidence at the hearings that the recent submission of an application for full planning permission for 29 houses would address all issues and allow the site to come forward in the short term. Notwithstanding the earlier permission, the impact of development on protected species remains to be resolved. Given the particular significance of

this issue, and in the absence of an up-to-date permission, I consider that inclusion of the site in the 5 year supply would not be justified at this point.

AP 40 Hill Street, Lydney

84. While the bulk of this newly allocated site would appear suitable for the proposed mixed use redevelopment, there are significant issues to overcome to achieve adequate safe access and to accommodate existing frontagers. Omission of 10 of the proposed 25 dwellings from the 5 year supply would be justified at this stage.

AP 33 Station Street, Cinderford

85. The allocation comprises several sites, with the majority of the land said to be in common ownership. The relocation of the main user and the rejection of proposals for retail development on the main site, and the clearance of redundant buildings on the adjoining site are factors that should help to remove obstacles that have inhibited implementation of the long-standing allocation. The completion of other development close by gives confidence that residential development should not be deterred by nearby employment uses. The sites can be considered developable within the plan period. The partial inclusion in the 5 year supply of the cleared sites²⁹, both of which have had full planning permission in the relatively recent past, would be justified at the rate proposed. Adjoining active industrial use will have affected implementation of the past planning permission for the conversion of the former Railway Tavern³⁰. With this issue now apparently resolved and a new application expected, I consider it reasonable to include the site in the 5 year supply.

AP 36 Valley Road, Cinderford

86. The Council state that existing occupation of the site is very limited. The reduced requirement for replacement employment space is supported by the owner. The provision of this space should not be incompatible with regeneration of the Forest Vale area promoted by Policy AP 35 or with the proposed residential use. The housing element of the proposed mixed use can be considered developable, but the lack of a planning permission that would allow detailed consideration of contamination, viability and other issues and the need for clearance of existing buildings suggest that it should not be included in the 5 year supply.

AP 55 Lawnstone House, Coleford

87. Demolition and clearance were in progress at the time of the hearings. With HCA grant to support the construction of starter homes, the housing element of the proposed mixed use can be considered deliverable, with up to 20 units now possible on the enlarged site.

AP 57 King's Head, Coleford

88. The potential for some cross-subsidy by partial redevelopment suggests that the objective of retaining the frontage building might be achievable. If not, redevelopment of entire site would require balancing of heritage harm. But in the absence of any planning permission, viability information or developer interest, inclusion of the site in the 5 year supply is not justified.

²⁹ Site Nos.8 and 9, EB006 and subsequent documents

³⁰ Site No.5

AP 62 Poolway Farm, Coleford

89. The conclusion of the 2005 LP Inspector that landscape issues could be resolved remains valid for the amended site. The active involvement of a developer gives confidence that the site can now come forward in the relatively short term, despite a history of inaction. However, in the absence of planning permission and in the light of likely lead-in times, there is insufficient justification to consider the full allocation deliverable within 5 years, and the figure should be reduced to no more than 50 units.

AP 73 Cleeve Mill Lane, Newent

90. The site has had a recent outline permission and is owned by a registered social housing provider. While the proposed accommodation might change, the site can still be considered deliverable within 5 years at the proposed rate of 40 units.

AP 82 Former tinsplate works, Lydbrook

91. The principle of development is established by the extant outline planning permission. Although there remain significant flooding issues to be addressed at the detailed stage, the allocation can be included in the 5 year deliverable supply.

AP 85 Old coach depot, Mitcheldean

92. The site's history as a vacant employment site does not preclude its allocation for housing development. The amended policy would ensure that heritage issues are addressed. The site can be considered deliverable.

AP 89 Victoria Hotel, Newnham

93. Although described by the Council as an enabling policy, not required to meet need, the full allocation of 20 dwellings is shown as part of the 5 year deliverable supply. Although access issues may be resolvable, a scheme involving the retention of existing principal buildings, which have been vacant for several years, will require considerable work before coming forward. I consider that the allocation should be omitted from the 5 year supply.

AP 90 Land north of Newnham

94. Subject to detailed design, the necessary new access appears achievable. The hearings were informed that a planning application is in preparation by a local developer. Notwithstanding some parties' preferences for alternative forms of development, inclusion of the allocation within the 5 year supply is reasonable.

AP 91 Land adjoining A48 and Bigstone Meadow, Tutshill

95. An application for outline planning permission was under consideration at the time of the hearings. Issues of access, air quality, noise and nature conservation appear capable of resolution. Inclusion of the allocation for 35 dwellings within the 5 year supply is justified.

AP 99 Ash Way, Woolaston, AP 100 Netherend Farm, Woolaston

96. Local concerns about drainage, which are not borne out by the operating company, would have to be resolved in any planning applications, as would access issues. The enlargement of the Netherend Farm allocation should address viability concerns found with the previous permission. This service

village appears capable of accommodating the additional homes. Inclusion of the allocations in the 5 year supply is justified.

97. Objection has also been made to the developability of some sites, which have not been identified as contributing to the 5 year supply:

AP 34 Cinderford Football Club

98. If the Council's view is correct that access could be improved by the addition of adjoining land, and subject to protected species issues, the southern portion of the allocation would offer a suitable location for development. National policy would require an equivalent or better provision for the relocation of the football club, which the land to the north of Causeway Road appears physically able to provide. However, there is a lack of clarity about the mechanisms required to secure the necessary land interests and whether the proposed 80 dwellings would be enough to support a viable proposition. The evidence suggests that the allocation should be added to the list of potentially achievable aspirational proposals rather than included in the developable supply.

AP 72 Ross Road, Newent

99. A housing element of about 30 units as part of the mixed development of the allocation is shown as contributing to the supply in the longer term. Concerns have been raised about multiple ownerships and relationship with industrial neighbours, but I consider it reasonable to treat the allocation as part of the long-term developable supply.
100. The deliverable supply also includes a number of sites with permission, some of which are under construction and which are in consequence not allocated in the AP. Of these, I share the concern raised about the deliverability of St White's Farm, Cinderford³¹ following the termination of operations by a major housebuilder. Although the remaining site may be available, the reasons for the failure to complete the development would need careful appraisal. At best, it is likely to be some time before another builder could be found to work up and deliver an alternative form of development. Without such firm interest, the outstanding 55 units should be omitted from the 5 year supply.
101. The omissions outlined above would by my estimate reduce the projected deliverable 5 year supply by some 312 units, and the developable supply up to year 10 and beyond by some 80 units.
102. At the same time the supply could be increased by the addition of sites that have gained permission since April 2015, mainly through planning appeals. The Council has proposed MMs to alter the settlement boundary for Littledean to include 17 houses permitted on appeal at Beech Way³² and to add 16 affordable homes permitted at The Wend, Longhope³³. Since the hearings, the Council has proposed an additional MM³⁴ to increase the proposed allocation at Church Road, Longhope³⁵ to 28 dwellings, for which an appeal was dismissed, but the principle of an enlarged site was not opposed by the Inspector³⁶.

³¹ Site No.6

³² Document ED027.1, MM059 -Appeal Ref APP/P1615/W/15/3005762

³³ Document ED027.1, MM060

³⁴ Document ED027.1, MM069 -

³⁵ Policy AP 79

³⁶ Appeal Ref APP/P1615/W/15/3139025

103. At the time of writing, the permission granted on appeal for up to 85 dwellings at Ross Road, Newent³⁷ has been quashed by the High Court and is awaiting re-determination. A related challenge to the allowed appeal for up to 126 dwellings at Gloucester Road, Tutshill³⁸ awaits consideration by the High Court. The Secretary of State has decided to accede to a further challenge to his dismissal of the appeal for up to 200 dwellings at Driffield Road/Allaston Road, Lydney³⁹ and will proceed to re-determine the appeal. The Secretary of State's decision is also awaited on the recovered appeal for up to 200 dwellings at Berry Hill, Coleford⁴⁰.
104. All of these cases could have a significant bearing on the housing supply in the short and longer term, when it is re-assessed against the revised housing requirement.
105. Driffield Road/Allaston Road and Lower Lane, Berry Hill are two of the largest of various 'omission' sites put forward in representations on the AP, along with the Ross Road, Newent and Gloucester Road, Tutshill, sites mentioned above⁴¹. In advance of the outcome of outstanding appeals, the case for allocation of these or other less advanced large proposals⁴² depends very much on the re-assessed housing requirement. As things stand, I have found insufficient reason to conclude that any of these larger proposals should be allocated in preference to the sites identified in the AP, in order to ensure soundness of the plan.
106. Similarly, a number of smaller sites have also been put forward for allocation, either within⁴³ or at the edge of settlements⁴⁴ or outside⁴⁵. The Council's reasons for not including these sites appear sound in each case.
107. It has been argued that the allocation of additional land with good prospects of delivery, whether in the form of one or more large sites or several smaller sites, could help to provide additional flexibility in the supply and respond to unplanned delays in the delivery of key sites. I acknowledge that the continued reliance on key sites, particularly the East of Lydney allocation, gives some concern in the event of failure to deliver.
108. In response the Council argue that there is considerable flexibility built in to the AP's identified supply, based on the excess of total provision above the identified requirement (4528 against a requirement of 3590⁴⁶). This surplus is partly contingent on the allowances for large windfalls (with an element of discount in early years) and for small sites. These allowances are based on conservative forward projection of past delivery and therefore have a relatively sound footing. As outlined above, the AP identifies a range of sites with housing

³⁷ Appeal Ref APP/P1615/A/14/2228822

³⁸ Appeal Ref APP/P1615/W/15/3003662

³⁹ Appeal Ref APP/P1615/A/14/2218921

⁴⁰ Appeal Ref APP/P1615/W/15/3005408

⁴¹ Another significant proposal at Newent Lane, Huntley, has since been dismissed at appeal.

⁴² Such as land at Elwood Road, Milkwall (APPV488), Jones' Field, Newent (APPV428), land at Wilderness Quarry, Mitcheldean (APPV390), land to the south and west of Newent (APPV201, 388, 389)

⁴³ Such as land at St White's Road, Cinderford (APPV072)

⁴⁴ Such as land at Aylburton (APPV282)

⁴⁵ Such as land to the south of Newnham (APPV286), land at Awre (APPV251)

⁴⁶ EB006 Table 4

as part of potential mixed use, any of which if realised would count against the large windfall allowance. There would remain some potential for brownfield windfalls within settlements. Despite concerns raised in representations, it appears unlikely that the decision to maintain generally closely defined designated settlement boundaries would prevent the allowances being realised. The latest SHLAA⁴⁷ shows considerable potential within settlements.

109. There is insufficient evidence to conclude that the potential for small sites within settlements has been exhausted over recent years. The Council's submissions on the review of designated settlement boundaries show that the process has been rigorously considered⁴⁸. A large number of representations have been made seeking alterations to the proposed boundaries to include land within settlements. All of these are matters of detailed judgement. I have found no reason to conclude that the soundness of the AP would be compromised by the non-inclusion of any of the sites proposed.
110. However, the above calculations are based on the current requirement. Following re-assessment of the requirement and the balance of overall potential supply, the case for further allocations should be re-appraised.

Conclusion on housing supply

111. To conclude on this issue, the Council should, following re-assessment of the housing requirement, address the overall adequacy of the housing supply and in particular the deliverable 5 year supply. The Council should consider the need for further MMs to propose allocation of additional sites to ensure the requirement would be met and that sufficient flexibility would be allowed to provide an ongoing deliverable supply. The anticipated delivery of development should be set out in a clear trajectory covering the years of the remaining plan period.

Employment

112. The background to the identification of land for employment-generating uses is set out in the Employment Keynote Update 2015 (EB018). The adopted CS strategy⁴⁹ is to encourage new and more diverse types of employment and supporting infrastructure to be established by making land and premises available.
113. Some concern has been raised in representations and at the hearings about the extent of engagement with stakeholders and the suitability and availability of some allocated sites. However, as outlined above, there is evidence of liaison with the local economic partnership, and little doubt that the AP, as a means of implementing the CS, is in accord with the partnership's priorities for the Forest of Dean. The consultation stages of the plan have not revealed any serious dissent from the approach set out.
114. The CS strategy requires a range of sites in sustainable locations. There can be little dispute that the AP provides these, ranging from large greenfield sites to traditional previously developed areas, such as Forest Vale, Cinderford. The flexible approach to the range of uses likely to be permitted, which can include

⁴⁷ EB004

⁴⁸ EB027.27 and maps

⁴⁹ Policy CSP.7

B8 storage and distribution on certain sites, would help to implement the CS objectives. I find no lack of soundness in the allocations proposed.

Heritage

115. The Council proposes to insert a new Policy AP 5: Historic character and local distinctiveness⁵⁰. This policy would reflect the thrust of national policy on the conservation and enhancement of heritage assets, but would place it in the local context. The additional policy would properly complement CS Policy CSP1 and would reinforce the soundness of the AP.
116. Local distinctiveness was already an objective of the former Policy AP 5. The merger of this matter with the more general design objectives of Policy AP 4, as now proposed⁵¹, would result in a more effective policy.
117. The theme of heritage conservation is reflected in many site-specific AP policies, either as an express objective or a constraint to be taken into particular account. Little objection was made during consultation on the built heritage aspects of the AP. The APPV received a positive endorsement by Historic England ('HE' –formerly English Heritage)⁵², with only a small number of detailed concerns, which the Council has largely been able to address⁵³.
118. Since the hearings, a further submission has been made that challenges the AP's treatment of the issue, in the light of the recent High Court judgment that quashed the planning permission granted on appeal at Ross Road, Newent⁵⁴. Although out of time as an objection to the APPV, the submission raises a potentially important issue of policy and legal compliance.
119. The judgment had concluded that the weighing of 'less than substantial harm' to the significance of a heritage asset in accordance with NPPF paragraph 134 was a restrictive policy in the terms of footnote 9 to paragraph 14. The submission argues that this also applies to plan-making, and that the AP should be seen as unsound because of a lack of a full assessment of the potential effects of all allocations against all heritage assets.
120. The judgment clearly related to an instance of decision-taking, and offered no guidance on the application to plan-making. The Council disputes its applicability in this instance. Footnote 29 to NPPF paragraph 126 states that the principles and policies of section 12 apply to heritage-related consent regimes, as well as to plan-making and decision taking. However, in my view that falls somewhat short of saying that every paragraph of section 12 applies equally to both aspects. Some paragraphs specifically reference plan-making (e.g. 126) while others appear to relate solely to decision-taking (e.g. 128, 131). There is a range of policy guidance in the section. Paragraph 134 follows on as a counterpoint to paragraph 133, which is clearly directed to decision-taking ("...should refuse consent unless..."). On a fair reading, I consider that the paragraph relates to decision-taking.

⁵⁰ MM006

⁵¹ MM005

⁵² APPV029

⁵³ ED004

⁵⁴ Forest of Dean District Council v Secretary of State for Communities and Local Government & Anor [2016] EWHC 421 (Admin)

121. But even if that is not correct, it does not follow that the application of paragraph 134 guidance would necessarily render the AP unsound. The Heritage Keynote AP08 (EB012) includes a table summarising the heritage implications of each allocation, and explains that the SA process also took account of heritage implications. An expanded version of the table highlights the large number of allocations that are based on current planning permissions, which would have involved an appraisal of heritage issues, and the small number of new sites. I accept that effects on the significance of heritage assets have been assessed to an appropriate degree, having regard to the lack of detailed knowledge at this stage of the eventual form of some potential developments. The Council has provided a proportionate evidence base on this issue in accordance with NPPF policy guidance. I conclude that the AP meets the tests of soundness in this respect.

Biodiversity

122. The Forest of Dean has a rich natural heritage, with a range of sites identified for their value at international, national and local level. Formally designated sites include 5 classed as SAC/SPA/Ramsar. The significance of the area as a habitat for bats, particularly the Lesser and Greater Horseshoe species, is set out in Keynote AP17 (LP046). Keynote AP18 (LP047) and its Appendices ((EB030) discuss the implications of the AP for the Severn Estuary SAC/SPA/Ramsar site.
123. Following conclusion of a Statement of Common Ground with Natural England ('NE') as the statutory adviser on matters of natural heritage, the Council now proposes amended wording to AP Policy AP 7 on Biodiversity⁵⁵, which NE finds sound in respect of conformity with national policy and guidance.
124. The Council has carried out a Habitats Regulations Assessment ('HRA')⁵⁶. This included Appropriate Assessment of three sites that were 'screened in' under the HRA. I give substantial weight to the endorsement of the process by NE. I have no reason to conclude that a number of sites were incorrectly 'screened out', as claimed in some representations, or that 'in combination' effects have not been adequately taken into account. Similarly, I find no fundamental objection to the reliance on a HRA appropriate to examine plan-level impacts at this stage, to be followed by more detailed assessment at the time of any later site-specific planning applications. Several examples have been provided where this process has worked effectively.
125. I find no lack of soundness in the AP's approach to biodiversity.

Herefordshire and Gloucestershire Canal

126. Policy AP 9 supports the reinstatement of the canal and protects land from other development in order to achieve that objective. Suggested changes to the Publication Version were published in Keynote AP22 (LP035) and are now put forward as MMs⁵⁷.
127. The first of these would address the primary objection to the policy raised by the Canal Trust, by recognising the heritage significance of the canal, for the most part as a non-designated heritage asset. I agree that this change would

⁵⁵ MM007

⁵⁶ LP018, 019, 020, 021, 022, 023

⁵⁷ MM013, 014, 015

enhance the justification for the policy, but I do not see that it should trigger any special policy requirement to allow for financial contributions towards the reinstatement of the canal from development on or adjoining its line, as sought by the Canal Trust. The heritage significance of the canal for much of its length appears to be largely archaeological. The effect of development on this significance and the need for mitigation, whether by supporting restoration or otherwise, would be a matter for judgement under national and local heritage policy, as would the potential benefit of development with an enabling role.

128. The policy as now drafted and the amendment to the supporting text seek to strike an appropriate balance between the objective of reinstatement and the interests of affected landowners. I agree that it achieves this to a greater extent than the Pre-Publication draft, which appeared to devolve a considerable degree of control to the Canal Trust. The principle that diversions should be secured by agreement is not disputed, and an example was provided at the Hearings by the allocation at Ross Road, Newent (Policy AP 72), where identification of an agreed route was expected shortly to be concluded.
129. However, I share the Canal Trust's concern that the policy does not secure an unbroken continuous alignment for the full length of the canal route. With a linear feature of this type, I agree that the social, economic and environmental benefits of reinstatement would be very much dependent on the eventual completion of the entire route.
130. The policy as drafted protects the historic route of the canal, except where it has been obstructed over time, and also the route of any agreed diversions. This is what is illustrated on the submission policies map. But it is not clear how the objective of reinstatement would be secured in the gaps between those areas without some policy presumption in favour. The policy would not appear able to resist development proposals in those areas that did not make appropriate provision for potential reinstatement. The policy as drafted would not be effective in securing the objective of reinstatement. Without some protection of a continuous route, the justification for the safeguarding offered by the policy as drafted can be called into question.
131. Therefore, I consider that the Council should bring forward a further MM based on the approach outlined by the HLPCS policy, whereby areas other than those already protected by the policy would be identified and safeguarded to ensure scope for securing necessary links. For clarity, such areas should be separately identified on the policies map from the remaining historic alignment and any previously agreed diversions.
132. I acknowledge that this outcome would involve a constraint on the development of land, and that a somewhat similar approach drew considerable objection at earlier stages of plan preparation. But the essence of safeguarding is to avoid other development that would preclude reinstatement of the canal for the foreseeable future. Failure to prevent this would be directly contrary to the policy objective. However, the policy would allow development that did not prejudice canal construction at some future date and need not be framed to require development to deliver such construction. Regular review of the policy would allow monitoring of progress by the Canal Trust in deliverable planning for the reinstatement and in agreeing alignments with landowners.

Policies map

133. Changes to the policies map are technically not modifications to the plan, and therefore should be removed from the list of MMs. However, any change to the text of a policy to explain the definition of policy by the map will require a MM.

Conclusion

134. The matters addressed above include all those where I have found significant justified concerns about the soundness of the AP. On other topics and specific allocations, I have concluded that the AP as submitted is likely to be found sound, or that the MMs brought forward by the Council could be capable of making it so.
135. The recommendations outlined above will require further work by the Council, particularly in the area of housing requirement and supply, and in the drafting of MMs and any required SA. Subject to the Council's estimate of the time required for this, it may be that a formal suspension of the examination will not be required. The Council should now provide a draft timetable for the necessary work. Following submission of the updated material, a decision can then be taken on whether to proceed to further consultation.
136. These interim findings are presented to assist in identifying a positive way forward to the adoption of a sound AP. The findings are published for the information of interested parties, but not as an opportunity for any further representations at this stage. I would reiterate that the interim findings are without prejudice to my eventual conclusions on the soundness of the AP.

Brendan Lyons

INSPECTOR
24 June 2016