

NBBC Borough Plan Examination

Matter 6 Hearing Statement on behalf of Richborough

Issue 2 - Whether the non-strategic detailed policies reflect the Plan's vision, strategic objectives and development strategy and accord with national policy and evidence?

Policy HS1 - Ensuring the delivery of infrastructure

112. Is the policy wording sufficiently clear and are all of the policy requirements necessary or would it be more appropriate for some (e.g. part 4 of the policy) to be included in supporting text?

1.1 The Infrastructure Delivery Plan (2023), which formed part of the Regulation 19 consultation, confirms at paragraph 5.22 that 14 highway schemes have been identified in the Strategic Transport Assessment (STA) (EB13) and 11 should be identified as necessary to facilitate the NBBC Plan growth and therefore should be included in the IDP. Paragraph 5.23 confirms that of these 11 schemes, 7 were “*deemed essential and required prior to 2031*”. These include the following two schemes:

- A signalised junction at A47 Old Hinckley Road and Higham Lane; and
- A roundabout improvement at A47 Old Hinckley Road and A4524 Eastboro Way.

1.2 The STA specifically references these two improvements at Paragraph 6.1, and states:

“These schemes do not currently have full funding or consent; however, they are considered essential infrastructure required prior to the addition of any further growth on the network. These schemes should be regarded as a priority for inclusion within the IDP.”

1.3 The detail underpinning the statements in the STA is provided in the Vectos Microsim/SLR Technical Note included as Appendix D to the Warwickshire County Council NBWA Forecast Report of Feb 2023 (Appendix C of the STA). The Technical Note is titled “A47 Scheme Review - Modelling Summary”. The overall report was undertaken by Vectos (WCC’s highway consultant) and provides Reference Case Updates for; 2025, 2038, 2031, & 2039 forecasting.

1.4 The A47 Scheme Review - Modelling Summary (January 2023) provides assessment/updates of the 2025 & 2028 Reference Case forecast scenarios of the NBWA, and the A47 schemes are included within the existing Reference Case. To assess effects of not delivering the proposals, the existing Reference Case scenarios were adjusted such that the network configuration was reverted back to the layout adopted within the Base model (i.e. assumptions pertaining to the delivery of the schemes were removed from the model).

1.5 With the removal of the schemes from the 2025 Reference Case, the NBWA indicates significant delays during peak periods along several routes including the; A47, Eastboro Way, and Higham Lane. The summary of this analysis is provided in Tables 3 and 4 of the Technical Note.

1.6 The analysis also indicates the following at paragraph 32:

As well as a significant impact on the localised road network, further analysis of the model performance shows that the wider network is severely affected by the increase in congestion at the 2 locations. This results from queues extending back beyond upstream junctions, such as into the town centre or on the A5, or as a result of re-routing leading to queues on alternate routes, affecting the operation of the network as a whole.

- 1.7 At paragraph 38 it is also stated that;

As a result significant congestion is present at the end of the simulation period, particularly in the PM. This means a very large number of assigned vehicles in the network are unreleased and the trips cannot be completed within the simulation basis. Therefore, based on this analysis it is reasonable to conclude that the 2025 DN scenario shows that the removal of both schemes is not a viable option, and some additional capacity must be delivered in the area to prevent these impacts from occurring [STET]. Given the issues manifest in 2025, there is not need [STET] to assess the situation with the additional growth levels assumed in the 2028 model.

- 1.8 It is clear therefore, that the 'no more growth' commentary is referring to the need for these junction improvements prior to even Committed growth coming forward, let alone Local Plan growth coming forward.
- 1.9 Furthermore, Chapter 6 of the STA is titled 'Existing Conditions and Concerns'. Paragraph 6.5 is clear that when the 2031 Borough Plan demands were input into the Reference Case model network to create a 2031 'Do Nothing' scenario, it became apparent that the Borough Plan demands could not be accommodated without causing 'grid-lock' and that further mitigation intervention would be necessary.
- 1.10 The schemes identified as necessary for the Reference Case network to accommodate the NBBC Borough Plan demands, and function sufficiently have emerged from an assessment of the 2031 Reference Case and are referred to as the 'Do Minimum' scenario. This scenario includes delivery of seven schemes¹, which includes the two A47 improvements highlighted above.
- 1.11 There is an evidenced need for these junction improvements, prior to the adoption of the emerging Local Plan, and there is no method of securing the required funding.
- 1.12 As noted in our Matter 3 Statement, viability is a major factor in whether a site is achievable and developable. The PPG requires a plan-making body to assess the economic viability of a site, and the capacity of the developer to complete and let or sell the development over a certain period².
- 1.13 Richborough is therefore concerned that the retained allocations from the Adopted Borough Plan have not been subject to a sufficiently robust assessment, in regard to being developable. In light of the failure of the Borough Plan to deliver the sufficient number of dwellings, Richborough is of the view that a more thorough review of the viability of the selected allocations should be undertaken to ensure that they are developable, and that the necessary infrastructure required to mitigate the impacts of development, referred to in Policy HS1, can be provided. Without this, the Plan cannot be considered to justified or effective and therefore not sound.

¹ Table 39, STA (2023)

² Paragraph ID: 3-020-20190722, PPG

Policy NE1 - Green and blue infrastructure

132. Part 5 of the policy refers to various set-backs. What justification is there for these?

- 1.14 Policy NE1 outlines expectations for new developments to protect, maintain and enhance ecological networks. The Policy refers to specific ecology corridors to be protected, including rivers and canals and expands on the required easements to ecological features. The adopted Borough Plan includes the requirement for an 8m easement to main rivers. Paragraph 5 of the draft Policy states:

"Where development proposals have a watercourse classified as a main river within their boundary, as a minimum, developers should set back development 8m from the top of the bank or landward toe of any flood defence. The same easement will also be required on smaller watercourses to maintain water elements, ecology and wildlife corridors. Greater widths are appropriate where forming green infrastructure, open space or ecological corridors such as 50m buffers for ancient woodland, 30m buffers around all semi-natural woodland and broad-leaved plantation woodland and 5m buffers either side of intact hedgerows."

- 1.15 The additional easements listed in this paragraph are not justified or effective. There is no evidence to suggest these easements have been recommended by statutory authorities such as Natural England and Richborough considers them to be too stringent.
- 1.16 Developers prepare masterplans based on the advice of professionals as a result of ecological, drainage and arboricultural assessment work undertaken on a site by site basis. The requirement for an easement to a main river or sewer as part of a Local Plan is reasonable and can be justified, although there is no evidence to suggest a need for this degree of protection to other ecological features. The vehicle for agreeing an adequate offsetting distance between ecological features and built development should remain as through negotiations with statutory consultees, such as Natural England, during the determination of an application.
- 1.17 The wording of adopted Policy NE1 should be retained and reference to additional easements removed from the draft Policy. As currently drafted, Policy NE1 is not sound as it not justified or consistent with national policy.

Policy NE4 - Managing flood risk and water quality

148. Is the policy requirement for above ground SuDS techniques justified and does it provide sufficient flexibility?

- 1.18 Policy NE4 includes a section on Sustainable Urban Drainage strategies. NBBC have a requirement for new development to *"implement appropriate, above-ground, sustainable drainage systems"*. The requirement for SUD's features to be above ground is a new element of the Policy that is not included within the adopted Borough Plan.
- 1.19 The emerging Policy further states:

"Above ground SuDS features must be included within all development in order to bring wider sustainability benefits including improved water quality, enhanced biodiversity and amenity/leisure value..."

- 1.20 Richborough supports the principle of promoting the use of above ground SUDs features in new developments but does not consider it an effective Policy to require above ground SUDs features in all developments. This requirement may restrict the development potential of housing and employment sites, particularly brownfield sites, when below ground SUDs features may be necessary and appropriate.
- 1.21 Richborough consider it necessary to modify the wording of the Policy to support above ground sustainable drainage features where possible. As currently drafted, Policy NE4 is not sound as it is not effective or justified.

Policy BE3 Sustainable Design and Construction

164.Is it necessary and justified for the policy to require compliance with the NDSS?

165.Is it necessary and justified for major development proposals to meet all of the 12 considerations in Building for a Healthy Life (part 17 of the policy)? Is it clear what would be required to meet this policy requirement?

- 1.22 Policy BE3 seeks to secure additional design and building standards as part of any development proposals. The following points of compliance have been added to the parallel policy of the adopted Plan:
- Nationally Described Space Standards (NDSS)
 - Building for a Healthy Life
 - Future Homes and Buildings Standard
 - National Design Guide
- 1.23 The draft Policy also now includes reference to achieving net zero carbon emissions and providing homes that are adaptable/resilient to climate change.
- 1.24 Footnote 49 of the NPPF confirms:
- “Policies may also make use of the nationally described space standard, where the need for an internal space standard can be justified.”*
- 1.25 The inclusion of NDSS requirements in local policy therefore needs to be justified. The PPG states that in justifying the use of NDSS, local planning authorities should take account of local need, viability and the potential impacts on affordable housing, and the timing of the adoption of the policy - to ensure a there is a transitional period to enable developers to factor the cost of space standards into future land acquisitions³. It is not clear that this justification has been provided and the reference should otherwise be removed.
- 1.26 Richborough consider a modification to the Policy is also needed to remove the requirement to comply with Building for a Healthy Life and instead state that its use as a guide for developers should be encouraged.

³ Paragraph ID: 56-020-20150327, PPG

- 1.27 Richborough is of the view that rigorous viability work needs to be provided that tests all modified development management policies, including changes to Building Regulations and likely changes to the NPPF, so as to clearly evidence that they do not result in onerous requirements that would prohibit much needed sustainable development being brought forward. Local planning policies should not restrict the growth aspirations and the evidenced demand for new sustainable development including the delivery of market and affordable housing.
- 1.28 As currently drafted, Policy BE3 is not sound as it is not justified, effective or consistent with national policy.

Policy BE4 - Valuing and Conserving our Historic Environment

170. Is the approach to dealing with harm to other important archaeological remains justified and consistent with national policy?

- 1.29 This Policy has been expanded from that within the adopted Borough Plan. A number of points have been added to strengthen the adopted Policy, including the following sentence: *“Where there are likely to be valuable archaeological remains, trench surveys are likely to be required prior to the determination of any planning application.”*
- 1.30 The requirement for trench surveys prior to the determination of any application is not justified. It would be unsuitable and premature for the submission of trench surveys before the determination of an outline planning application. Trench surveys can take a number of months to complete, be disruptive to the existing use and are relatively expensive. Outline planning applications typically aren't submitted by the end developer of a site and therefore will not usually undertake these works. Land promoters and private individuals will instruct a technical professional to undertake a site assessment and prepare a Heritage Statement to inform an outline planning application and subsequent sale of the site to a developer. Once in ownership of a developer, the trench surveys will be undertaken to inform the final site layout which will be approved as part of a reserved matters application. The requirement for further site investigation can be secured by condition at outline stage and the approach would not prejudice the integrity of any preserved remains.
- 1.31 Richborough recommends an alteration to this sentence to refer to the determination of any “detailed” planning application permission, rather than “any” planning application. This amendment is required to ensure that the policy is sound and positively prepared.

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