



# **Telford & Wrekin Local Plan 2022-2040**

Examination Matters Statement

Matter 6 – Development Management Policies

Richborough



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## Professional memberships and accreditations

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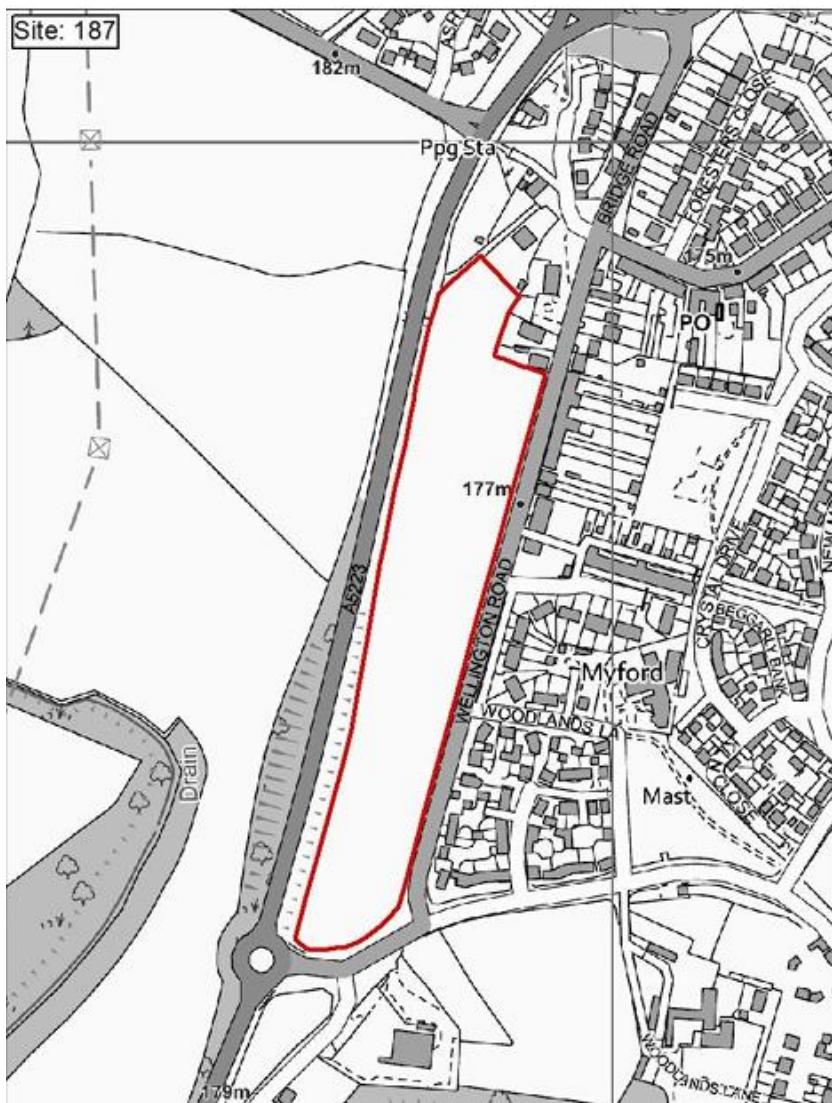


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## 1. Introduction

- 1.1. These representations are prepared by Fisher German on behalf of our client Richborough, in respect of their land interests west of Wellington Road, Horsehay, Telford. This land, as identified on Figure 1 below, is a proposed allocation for circa 70 dwellings in the Regulation 19 document (Local Plan Policy HO1 – Site Reference HO12). The identification of the site as a residential allocation is fully supported.



**Figure 1: Site Boundary of residential allocation – West of Wellington Road, Telford.**

- 1.2. Richborough submitted an outline planning application for 80 dwellings on the 17 December 2025 (App ref: TWC/2026/0005), and it was validated on the 7 January 2026. Updates can be provided if useful at the examination hearing sessions.

## 2. Representations

**Issue 1: Whether the other housing policies are justified, effective, and consistent with national policy.**

*Policy HO3 – Housing mix and quality*

**Q59 - Are the requirements of Policy HO3 including requirements for internal space standard (Criterion 2) and M4 (2)/M4 (3) housing justified by the evidence? Can all developments provide a mix of house types and sizes?**

- 2.1. Policy HO3 contains no quantified requirement for M4(2) or M4(3) dwellings, simply referring to the Council's requirements, which is a clearly vague terminology as the Council's requirements could change at any time, and it does not seem fair and reasonable for a policy to rely on the whim of the Council. The Reasoned Justification points to EHDNA, but this should be clear in the policy wording that the anticipated level of M4(2) and M4(3) dwellings should be derived from the EHDNA.
- 2.2. The PPG is clear at Paragraph 007 (Reference ID: 56-006-20150327) of the Housing Optional Standards Chapter that "*based on their housing needs assessment and other available datasets it will be for local planning authorities to set out how they intend to approach demonstrating the need for Requirement M4(2) (accessible and adaptable dwellings), and/or M4(3) (wheelchair user dwellings), of the Building Regulations*". We therefore accept it is within the gift of the Local Authority to set such standards, subject to broader compliance with the PPG.
- 2.3. The PPG continues at Paragraph 008 (Reference ID: 56-008-20160519) that "They should clearly state in their Local Plan what proportion of new dwellings should comply with the requirements. There may be rare instances where an individual's needs are not met by the wheelchair accessible optional requirement.... Local Plan policies should also take into account site specific factors such as vulnerability to flooding, site topography, and other circumstances which may make a specific site less suitable for M4(2) and M4(3) compliant dwellings" [our emphasis].
- 2.4. The Local Plan does not clearly state what proportion of new dwellings should be delivered as M4(2) and M4(3) as required by the PPG, instead there is a reference to the Council's requirements which as discussed above is overtly vague and subject to change. This is incorrect, as the PPG is clear any set standards should be within the Local Plan document itself, ideally within a Policy but at the very least within a table within the Reasoned Justification.
- 2.5. Given the Local Plan has not undertaken Regulation 19 Consultation with clear requirements for development, we are not clear that they can be introduced at this stage and the more logical conclusion would be to delete the requirement entirely, particularly given the evidence relied upon, as is clear at Paragraph 9.18, is 5 years old.
- 2.6. If the level of M4(2) and M4(3) development is to be retained, then it should be explicitly quantified within the Policy in accordance with the PPG.
- 2.7. Turning to the evidence, we do not consider the EHDNA clearly justifies any requirement for M4 dwellings, so again this criterion should be deleted due to not being justified.
- 2.8. The Council refers to its Homes for All Supplementary Planning Document, which at Table 2 provides standards for M4 provision. However, it is clear from the PPG that such standards cannot be introduced by means of an SPD and should be quantified within Local Plan policy.

2.9. In *William Davis Ltd & Others v Charnwood Borough Council (2017)* the matter of the remit of the PPG was explored. Judge Gilbart J quashed Charnwood Borough Council's new housing mix policy contained within an SPD on the basis that it should have been adopted as part of a Local Plan document, requiring independent examination by the Secretary of State. Judge Gilbart J noted that the SPD "contained "development management and site allocation policies, which are intended to guide the determination of applications for planning permission" and therefore also engaged Reg 5(1)(a)(iv). On that basis it could only be promoted by way of a local plan as defined" (Paragraph 44 of the decision).

**Q65 - Is Policy HO11 justified and supported by the evidence in its approach to self-build and custom housebuilding?**

2.10. As set out within our Regulation 19 representations, Richborough objects to the blanket imposition of self-build plots on residential schemes above specific thresholds. For brevity, we will not repeat those arguments here, but is summarised as being inappropriate due to a lack of evidence self-builders want such plots, housebuilders certainly do not appreciate the added complexity and it substitutes the delivery of market and affordable housing for self-build plots for which there is no added justification. Whilst we appreciate it is done to comply with the requirements of the Self-build and Custom Housebuilding Act 2015, our preference is to have policies which enable the delivery of suitable self-build plots independently, rather than delaying and frustrating the delivery of much needed market and affordable housing through such impositions.

2.11. This requirement may reduce appetite for housebuilders to take sites over a hundred dwellings. Whilst the Council sets out that after 6-months there will be an ability to flip self-build plots back to market housing, however depending on timings this may require a separate planning application which will come with delays, particularly wherein parties apply for Full permission on allocated sites in the first instance.

2.12. It adds additional complexity in site build out and management, as housebuilders do not want third parties on active construction sites. If plots are left to the end of development, it will cause frustration for neighbouring residents as build out of the self-build units will likely be slower than housebuilder units. It will also be difficult for housebuilders to complete post development actions such as finalising roads and areas of public open space if there is still active construction.

2.13. This is disproportionate policy solution and whilst the Council's self-build register will point to an element of need, there are more nuanced solutions to meet this need which will not delay the vital delivery of larger strategic sites.

**Issue 3: Climate change (CC) policies**

**Q90 - Are the requirements in Policy CC1 intended to exceed standards in current and/or future Building Regulations? If yes, is this clear, and are the requirements justified and consistent with national policy? What effect will they have on development viability?**

**Policy CC1 – Sustainable construction and carbon reduction**

2.14. Yes – in our view there are requirements of policy which extend beyond the requirements of the building regulations, for example criterion 3 of the Policy, albeit it is acknowledged this relates only that development should aim for net zero, not achieve. Other parts of the policy are not so flexibly worded and include terminology such as 'include' or 'incorporate', which does not offer scope for flexibility. To be sound all requirements should be listed as aims rather than requirements. There is a lack of localised justification for the policy requirements, thus not justified. There is further lacking of consideration in the Council's viability study as to the implication of this on site viability. As such the simple solution would be to remove terminology which could be seen to enforce requirements and the consistent use of terminology like "should aim to achieve" for example.

**Policy CC2 – Renewable energy in development**

**91 – Is part 1 justified and realistic for all development? Is there any unnecessary duplication with Policy CC1?**

2.15. No, as set out in Richborough's Regulation 19 response at Paragraph 2.6 to 2.9, there are a range of overly onerous requirements of development which should not be reasonably enforced. For example at criterion 1 the policy states that "*all new development should incorporate renewable energy production and storage onsite*" [our emphasis]. This should state where appropriate or for development of a certain scale. This clearly exceeds building regulations without local justification or adequate consideration of viability as required by the PPG. Whilst the Council may point to the emerging Future Homes Standard, that is a separate process and the NPPF is clear Plans should not simply repeat existing requirements of Development (NPPF 16F). Where there is an attempt to encourage provision above building regulations this should be clearly optional. Where required the PPG is clear there needs to be local justification and to be assessed in the viability study which as published does not reference CC1 or CC2 so has clearly not been fully considered.

**Issue 4: natural environment policies**

**Policy NE2 – Trees, hedgerows and woodlands**

**101 - (a) Is part 3 consistent with national policy? (b) Are the circumstances in which tree loss would be supported sufficiently clear, including in relation to commercially managed woodland/plantations?**

2.16. No, for the reasons set out in Richborough's Regulation 19 response at 2.10-2.12 we do not believe part 3 as drafted is consistent with national policy, for the simple reason it tries to extend protections – namely the wholly exception test of NPPF Paragraph 193 – for ancient specimens to all mature specimens. Paragraph 193 of the Framework is clear that examples of irreplaceable habitats include ancient woodland and veteran trees. Veteran trees are explicitly described in the Framework glossary as being designated "*because of its age, size and condition, is of exceptional biodiversity, cultural or heritage value. All ancient trees are veteran trees. Not all veteran trees are old enough to be ancient, but are old relative to other trees of the same species. Very few trees of any species reach the ancient life-stage*". The NPPF does not describe mature trees, but the Woodland Trust which is clearly knowledgeable on the subject describes any tree which produces fruits or flowers as mature.

2.17. It is clearly inappropriate to group veteran trees with mature trees as trees can become mature whilst young and can be classified as mature whilst in poor condition. This clearly conflicts with national policy as had national policy wanted to afford that protection to mature trees it would have done so. Furthermore, the Council has no evidence to say mature trees are equitable and should be afforded the same protection of veteran trees.

2.18. At Regulation 19 we proposed draft wording which in our opinion provides commensurate protection to mature trees, but clearly separates them out into a different policy mechanism commensurate with their relative level of protection

Development that would lead to the removal of mature trees and ancient woodland, or, that impacts on any irreplaceable habitats [which the framework confirms includes ancient and veteran trees] will only be supported where wholly exceptional reasons and compensation strategy are provided. Mature specimens of reasonable condition should only be removed where this is necessary to facilitate the effective development of a site and/or the loss is satisfactorily compensated through planting as part of a wider landscaping strategy. In all instances where trees and hedgerow are potentially impacted, applications should be supported by robust arboricultural evidence.

**Policy NE3 – Biodiversity net gain (BNG)**

**Q102 -Is the aspiration for qualifying development to achieve 20% BNG, subject to viability, justified and consistent with national policy and guidance? Is it clear, so as to be effective, what is expected from development proposals? What effect will the policy have on housing delivery and other Plan requirements, including affordable housing and infrastructure?**

- 2.19. The PPG is quite clear that "*Plan-makers should not seek a higher percentage than the statutory objective of 10% biodiversity net gain, either on an area-wide basis or for specific allocations for development unless justified. To justify such policies they will need to be evidenced including as to local need for a higher percentage, local opportunities for a higher percentage and any impacts on viability for development*" (Paragraph: 006 Reference ID: 74-006-20240214).
- 2.20. Significant concern was raised through Richborough's Regulation 19 representation at Paragraph 2.13-2.15, notably that the policy appeared to suggest that schemes should not deliver 20% if this was supported by site specific viability. This is incorrect and contrary to the PPG which is clear that where an increase from 10% (as secured by legislation) is sought it needs to be both assessed for impacts on site viability and specifically and locally justified.
- 2.21. Turning to viability, the Council assume that it is effectively 50% cheaper to deliver the additional 10% than the initial 10%, but only where this can be delivered on site. The assessment does not consider the implication if credits are required, which we assume will deliver a comparable cost for both the first 10% and second 10%. Moreover, additional BNG provision on site will likely increase the site area required for BNG so whilst it may be effectively 50% in cost, if there is a loss of units or developable area the costs again is not fairly and adequately considered in the Council's assessment. This matter particularly compounds for those sites for which there needs to be some interaction with a watercourse or other expensive credit, doubling already significant costs for what may only be a small area of a site (watercourse crossing or drainage outfall for example).
- 2.22. Even if the view was to be taken that the viability was correct, that would only pass half the necessary tests. Again, as set out at Regulation 19 the Council has not adequately demonstrated a specific local need. The Plan does state at Paragraph 7.16 that "*this is based on research, which will be further set out in a Natural Environment Technical Paper, which has demonstrated that the impact on viability of delivering in excess of 20% BNG is limited as it is the initial statutory 10% which has the biggest impact*". The Regulation 19 document states this evidence was forthcoming (thus was not available for consideration at Regulation 19 as required for any evidence underpinning a policy) and was not on the Council's evidence base at the time of writing the Regulation 19 response, nor does not have seem to be available on the Council's examination evidence base list. Regardless, if it was not available for Regulation 19 it should not be accepted at this stage to justify a policy subsequently following Regulation 19.
- 2.23. When submitting a Local Plan, the PPG (Plan Making – Paragraph 034) states "*Local planning authorities must make available each of the proposed submission documents that they intend to submit to the Planning Inspectorate for examination to enable representations to come forward that can be considered at examination, under regulation 19 of the Local Plan Regulations*".
- 2.24. The Town and Country Planning (Local Planning) (England) Regulations 2012 Part 6 Section 17 sets out that proposed submission documents encompasses the following documents "*e) such supporting documents as in the opinion of the local planning authority are relevant to the preparation of the local plan*".
- 2.25. Regulation 19 (Publication of a Local Plan) of the aforementioned legislation states that "*before submitting a Local Plan to the Secretary of State under section 20 of the Act, the local planning authority must—*

- *make a copy of each of the proposed submission documents and a statement of the representations procedure available in accordance with regulation 35, and*
- *ensure that a statement of the representations procedure and a statement of the fact that the proposed submission documents are available for inspection and of the places and times at which they can be inspected, is sent to each of the general consultation bodies and each of the specific consultation bodies invited to make representations under regulation 18(1)".*

2.26. In this context it is unclear how the Council can demonstrate it can satisfy the tests as set out in the PPG, and in any event it was clear that the Government assumed advancement above 10% should be rare.

2.27. Furthermore, as set out in Regulation 19, the reference to a Forest Community ethos does not justify this requirement.

2.28. We assert the full viability implications have not been adequately explored, nor has the issue of site delivery and yield. An overly simplistic and opportunistic view has been adopted in respect to potential cost, excluding cost of land yield and implications for site delivery. Furthermore, the policy has not been adequately justified in evidence at Regulation 19 thus this policy requirement should be removed, and the Plan stay silent in respect of BNG in accordance with NPPF Paragraph 16F.

#### **Issue 9: Minerals and Land**

##### **Policy ML1 - Mineral safeguarding**

**145 - Are allocated sites and land allocated as SCs included within the MSA and therefore subject to the requirements of part 1 of the policy? Is this clear in the wording of the policy (and on the Policies Map)?**

2.29. Richborough refer back to comments made at Regulation 19. Namely that we proposed an additional criterion to part 1 of this policy because it does not reference the proposed site allocations that would be located within the Mineral Safeguarding area. We proposed an additional criterion with the wording:

"Mineral resources within the Mineral Safeguarded Areas and buffer zone areas (displayed on the Policies Map) will be protected from unnecessary sterilisation by other development unless:

a. The site is allocated for development in this Plan.