

Telford & Wrekin Local Plan Examination

Response to Matter 6 - Development Management Policies

**Land South of Holyhead Road, Wellington (Site
Reference: HO6)**

St Philips Land Limited

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1.0 Introduction

- 1.1 This statement to Matter 6 (Development Management Policies) of the examination of Telford & Wrekin Local Plan Review (“the LPR”) is submitted by Lichfields on behalf of St Philips Land Ltd (“St Philips”), in respect of their at land interests at Land South of Holyhead Road, Wellington (Site Reference: HO6).
- 1.2 Please refer to the full introduction included within St Philips’ Matter 1 (Compliance with statutory procedures and legal matters) in respect of their land interests. Separate representations have been submitted in respect of the following Matters:
- Matter 1 (Compliance with statutory procedures and legal matters);
 - Matter 2 (Vision, Priorities and Development Strategy);
 - Matter 3 (Strategic Policies (Housing)); and
 - Matter 5 (Allocations).
- 1.3 This Statement has been prepared in line with the Guidance Note (IDO3) for the Examination.

2.0 **Response to Inspectors' Matters**

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

2.1 **Policy HO3 – Housing mix and quality**

2.2 **59. 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?**

2.3 It is important to note that St Philips is supportive in principle of draft Policy HO3. Indeed, as a part of the preparation of their emerging planning application for Land South of Holyhead Road, Wellington (Site Reference: HO6), St Philips has ensured that their development proposals would accord with draft Policy HO3, and in particular criteria 2 and 6.

2.4 In general, St Philips considers that the policy, as drafted, accords with the principles of paragraph 63 of the NPPF. However, St Philips would note that, in respect of criterion 2 and the Nationally Described Space Standards [NDSS] requirements, Footnote 51 of NPPF paragraph 135(f) is clear that such policies must be 'justified'. Moreover, the Planning Practice Guidance [PPG] reiterates the need for Councils to provide justification for requiring them.¹

2.5 At present, despite raising this matter as a part of their Regulation 19 representations, and the Council producing a series of pieces of evidence to support the submission of the LPR, St Philips cannot see any evidence submitted with the LPR which evidences the need for NDSS. Again, St Philips does not object to the principle of the policy, and is seeking to fully comply with it in bringing forward their draft allocation (Site Ref: HO6). However, the NPPF is clear that in order for a plan to be found 'sound', it must be underpinned by relevant and up-to-date evidence (Para 32), be 'justified' (Para 36b) and be consistent with national policy (Para 36d). In this context, St Philips recommends that the Council produce a supplementary Topic Paper that sets out the justification for the introduction of space standards as per Policy HO3 (2). This will ensure that the policy complies with the NPPF and PPG, ensuring the soundness of the policy.

Policy HO11 Self and custom housebuilding

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

2.6 It is noted that as a part of the Submission version of the LPR (CDO8), the Council has proposed a modification to draft Policy HO11, which reduces the self and custom housebuilding ("SCB") requirement for sites over 100 dwellings from 5% to 3%. On the face of it, this proposed modification is welcomed, and again, St Philips is supportive in principle of the policy, as it accords with the NPPF's requirements to "*seek opportunities, through policies and decisions, to support small sites to come forward for community-led*

¹ PPG ID: 56-020

development for housing and self-build and custom build housing” (Para 73b). However, it remains unclear as to how the Council has arrived at even this reduced ‘threshold’ for SCB, nor how it relates to the ‘needs’ identified in the ‘Telford and Wrekin Economic and Housing Development Need Assessment’ (EH01) (“EHDNA”). Indeed, despite raising this matter as a part of their Regulation 19 representations, and the Council producing a series of pieces of evidence to support the submission of the LPR, St Philips cannot see any evidence submitted with the LPR which evidences the proposed threshold for SCB, nor its proposed change from 5% to 3%.

- 2.7 Again, similar to St Philips’ response to Question 59 above, St Philips supports the policy in principle. However, the NPPF is clear that in order for a plan to be found ‘sound’, it must be underpinned by relevant and up-to-date evidence (Para 32), be ‘justified’ (Para 36b) and be consistent with national policy (Para 36d). In this context, St Philips recommends that the Council produce a supplementary Topic Paper that sets out the justification for the SCB threshold as per Policy HO3 (2). This will ensure that the policy complies with the NPPF and PPG, ensuring the soundness of the policy.

Issue 4: Whether the natural environment (NE) policies are justified, effective and consistent with national policy

Policy NE3 – Biodiversity net gain (BNG)

102. 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?

- 2.8 It is noted that as a part of the Submission version of the LPR (CDO8), the Council has proposed a modification to criterion 1 of draft Policy NE3:

*“All new development should deliver biodiversity net gains. Major developments should deliver in excess of **the statutory requirement** ~~a minimum~~ of 10% biodiversity net gain, with an aspiration for 20%, subject to viability”*

- 2.9 In addition, paragraph 7.16 of the supporting text has been modified to state:

*“The council is aspiring to achieve 20% BNG for all developments not exempt from statutory BNG where viable. This is based on research, which will be further set out in a Natural Environment ~~Topic~~**Technical** Paper, which has demonstrated that the impact on viability of delivering in excess of ~~210%~~ **210%** BNG is limited as it is the initial statutory 10% which has the biggest **design and financial undertaking** ~~impact~~. Given not only the climate but the ecological crisis we are facing, the Council consider it reasonable and appropriate within its Forest Community ethos to **aspire to a higher level of BNG provision** ~~seek 20% BNG where viable on all developments that are not legally exempt.~~”*

- 2.10 Further ‘justification’ for the Council’s proposed approach is set out in the ‘Green and Natural Environment - Topic Paper’ (TPO4) (“the GNE Topic Paper”), which was published after the Regulation 19 Consultation, and submitted in support of the Examination. In short, the Council is seeking to strengthen its existing approach to delivering biodiversity net gain [BNG] within draft Policy NE3, in excess of the statutory 10% requirement set out in the Environment Act 2021, and still considers that its approach is ‘viable’.
- 2.11 In respect of exceeding the 10% BNG minimum, the PPG is 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. Consideration will also need to be given to how the policy will be implemented.” (PPG ID: 74-006-20240214) (Emphasis Added)*
- 2.12 However, crucially, there is no evidence within the GNE Topic Paper, other than it stating that it *“will support objectives in the Local Plan for enhancing the natural environment, achieving good urban design and supporting climate change adaptation”* (Para 9.13). Whilst St Philips is supportive of BNG, and is seeking to deliver 10% BNG as a minimum on its Site, St Philips is concerned that the Council is seeking to make provision for a policy that deviates from the requirement of a 10% BNG (as set out within the Environment Act 2021) without providing sufficient local justification.
- 2.13 The need for sufficient local evidence has been a key issue for authorities who have sought to exceed the national 10% BNG requirement. By way of example, in the Rossendale Borough Council Examination in Public, Rossendale proposed a 20% BNG requirement in their emerging policies. However, subsequently, the Inspector highlighted that authority had provided ‘insufficient justification’ for this target, and requested the plan be modified to show that net gains would be sought *“where needed to ensure consistency with current national policy”*. This plan’s BNG-related policy was subsequently modified accordingly.
- 2.14 In the absence of this information, as draft Policy NE3 is not underpinned by relevant and up-to-date evidence (Para 32), or is ‘justified’ (Para 36b), or is ‘consistent with national policy’ (Para 36d).
- 2.15 Furthermore, the GNE Topic Paper states that:
- “Research by a range of bodies has indicated that the impact to viability of delivering more than the statutory 10% uplift is limited, as the main cost to a development is to reach the statutory 10%. BNG costs are low when compared to other policy costs, and, if considered and designed early into a project, have a negligible impact on viability especially if delivered onsite.” (Emphasis Added)*
- 2.16 However, the Council’s supporting ‘Telford & Wrekin Council Regulation 19 Viability Note – December 2024’ (VSO2) (“the Viability Note”) has tested the proposed 20% requirement and notes that – contrary to the above – the costs associated with a 20% BNG requirement are based on a cost of 150% of implementing 10% BNG, which St Philips would argue is not ‘negligible’.

- 2.17 Moreover, the Council's 'clause' allowing for applications to provide viability assessments to demonstrate that a 20% BNG is not viable is also inconsistent with the national policy and guidance. Namely, NPPF, and related PPG, point towards the 'frontloading' of viability assessment to the plan-making (rather than the decision-taking) stage. The NPPF is clear that Local Plans should set out the contributions expected from development, and policies should not undermine the deliverability of the plan (Para 35). Paragraph 59 of the NPPF infers that:

"Where up-to-date policies have set out the contributions expected from development, planning applications that comply with them should be assumed to be viable. It is up to the applicant to demonstrate whether particular circumstances justify the need for a viability assessment at the application stage. The weight to be given to a viability assessment is a matter for the decision maker, having regard to all the circumstances in the case, including whether the plan and the viability evidence underpinning it is up to date, and any change in site circumstances since the plan was brought into force"

- 2.18 Therefore, the 'starting position' from a decision-takers view is that Policy NE3 is 'viable', and irrespective of the Council's proposed viability 'clause', any developments seeking to depart from this would not be viewed favourably.
- 2.19 When taken together, St Philips considers that the Council has not prepared nor published any evidence of the local need for a higher percentage to substantiate its proposed approach. This is clearly at odds with the NPPF and PPG. As such, as drafted, draft Policy NE3 is not underpinned by relevant and up-to-date evidence (Para 32), justified (Para 36b), nor consistent with the NPPF (Para 36d) or PPG (PPG ID: 74-006-20240214). To this end, St Philips considers that further modifications are required to draft Policy NE3 beyond those published by the Council, which amends the policy to require developments to deliver a "10% BNG as a minimum", and omit any references to a higher percentage.

Policy NE4 – Development Greening Factor (DGF)

104. What is the justification for the DGF in addition to BNG? Is there evidence to show the Greening Factors of 0.4 for major residential-led, and 0.3 for major non-residential-led development, are deliverable, taking account of other Plan requirements?

- 2.20 St Philips notes that the justification for the Development Greening Factor [DGF] is set out within the Council's 'Telford and Wrekin Green Space Factor Study, 2023' (NC01), which recommended the introduction of a Green Space Factor Scheme. Whilst supportive of the draft Policy in principle, and indeed St Philips' emerging proposals are seeking to address this requirement, it does not appear that the Council's Viability Note (VSo2) has had regard to this proposed policy requirement. To demonstrate that the policy is sound and would not undermine the deliverability of the LPR (Para 35), St Philips suggests that the Council produce an update to the Viability Note to reflect the requirements of draft Policy NE4.

105. How is delivery of the DGF expected to work alongside policies NE1 to NE3, CI3 and CC5.2? Is this clear enough for the Plan to be effective?

- 2.21 Again, it is important to note that St Philips is generally supportive of the Council's environmental objectives and associated policies proposed in the LPR. However, St Philips consider that it is currently unclear as to how – by way of example – draft Policies NE3, NE4 and CC5 operate together. In some instances, many Councils will not accept the provision of Sustainable Urban Drainage Systems [SuDS] within overall public open space [POS] quantum's, even if the SuDS would not hold open water (i.e. be 'green' a majority of the time). Equally, some Councils seek to delineate some areas of BNG from POS.
- 2.22 If the requirements of Policy NE4 were, in essence, separate and non-transferable from wider environmental requirements – such as POS or BNG, theoretically, this would have the effect of markedly increasing on-site public open space requirements, which would in turn reduce the amount of developable land available within housing land allocations. St Philips assumes that this is not the intention of draft Policy NE4; however, to ensure that the policy is 'clearly written and unambiguous' (Para 16d), and it is evident how a decision maker should react to development proposals that overlap BNG/SuDS areas and DGF, the policy should provide further clarity within the policy that such an approach is acceptable.



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