

Report to Guildford Borough Council

by David Reed BSc DipTP DMS MRTPI

an Inspector appointed by the Secretary of State

Date: 27 February 2023

Planning and Compulsory Purchase Act 2004 (as amended)

Section 20

Report on the Examination of the Guildford Borough Local Plan: Development Management Policies

The Plan was submitted for examination on 17 June 2022

The examination hearings were held between 15 and 17 November 2022

File Ref: PINS/Y3615/429/12

Contents

Abbreviations used in this report.....	3
Non-Technical Summary.....	4
Introduction.....	5
Context of the Plan.....	6
Public Sector Equality Duty.....	6
Assessment of Duty to Co-operate.....	6
Assessment of Other Aspects of Legal Compliance.....	7
Assessment of Soundness: Whether the policies in the plan are positively prepared, justified, effective and consistent with both national policy and the LPSS:	
Policy H7: Review Mechanisms	8
Policy H8: First Homes	9
Policy P6/P7: Biodiversity in New Development	10
Policy D14: Carbon Emissions from Buildings	11
Policy ID10: Achieving a Comprehensive Borough Cycle Network	12
Policy ID11: Parking Standards	13
Conclusion in relation to Soundness	13
Overall Conclusion and Recommendation	14
Schedule of Main Modifications.....	Appendix

Abbreviations used in this report

AONB	Area of Outstanding Natural Beauty
BNG	Biodiversity Net Gain
DMP or the plan	Guildford Borough Local Plan: Development Management Policies
DtC	Duty to Co-operate
HRA	Habitats Regulations Assessment
NPPF	National Planning Policy Framework
LPSS	Guildford Borough Local Plan: Strategy and Sites
PPG	Planning Practice Guidance
SA	Sustainability Appraisal
SPD	Supplementary Planning Document

Non-Technical Summary

This report concludes that the Guildford Borough Local Plan: Development Management Policies provides an appropriate basis for the planning of the Borough, provided that a number of main modifications (MMs) are made to it. Guildford Borough Council has specifically requested that I recommend any MMs necessary to enable the Plan to be adopted.

Following the hearings, the Council prepared a schedule of the proposed modifications. These MMs were subject to public consultation over a seven-week period. In the light of the comments received in a few cases I have made minor amendments to their detailed wording to improve clarity. I have recommended the inclusion of the MMs in the Plan after considering all the representations made.

The Main Modifications can be summarised as follows:

- To clarify the scope and process for a review mechanism for the delivery of affordable housing;
- To introduce flexibility in the provision of First Homes;
- To clarify the principles and date for implementation of the biodiversity net gain policy;
- To align the standards for carbon emissions from buildings with the building regulations;
- To amend the cycle network plan, clarify its status and introduce more flexibility for solutions in rural areas;
- To amend and clarify parking standards.

Introduction

1. This report contains my assessment of the Guildford Borough Local Plan: Development Management Policies (hereafter the DMP or the plan) in terms of Section 20(5) of the Planning and Compulsory Purchase Act 2004 (as amended). It considers first whether the plan's preparation has complied with the duty to co-operate. It then considers whether the plan is compliant with the legal requirements and whether it is sound. Paragraph 35 of the National Planning Policy Framework 2021 (NPPF) makes it clear that in order to be sound, a local plan should be positively prepared, justified, effective and consistent with national policy.
2. The starting point for the examination is the assumption that the local planning authority has submitted what it considers to be a sound plan. The Guildford Borough Local Plan: Development Management Policies, submitted in June 2022, is the basis for my examination. It is the same document as was published for consultation in January 2022.

Main Modifications

3. In accordance with section 20(7C) of the 2004 Act the Council requested that I should recommend any main modifications (MMs) necessary to rectify matters that make the Plan unsound and/or not legally compliant and thus incapable of being adopted. My report explains why the recommended MMs are necessary. The MMs are referenced in bold in the report in the form **MM1**, **MM2** etc, and are set out in full in the Appendix.
4. Following the examination hearings, the Council prepared a schedule of proposed MMs. No further sustainability appraisal (SA) or habitats regulations assessment (HRA) was necessary due to the nature of the MMs. The MM schedule was subject to public consultation from 15 December 2022 to 2 February 2023 (seven weeks). I have taken account of the comments received in coming to my conclusions in this report and in response I have made a few minor amendments to the detailed wording of the MMs where these are necessary to improve clarity. None of the amendments significantly alters the content of the modifications as published for consultation or undermines the participatory processes or SA/HRA that has been undertaken. Where necessary I have highlighted these amendments in the report.

Policies Map

5. The Council must maintain an adopted policies map which illustrates geographically the application of the policies in the adopted development plan. When submitting a local plan for examination, the Council is required to provide a submission policies map showing the changes to the adopted policies map that would result from the proposals in the submitted local plan. In this case, the

only change to the policies map is the inclusion of the 'Comprehensive Guildford Borough Cycle Network' set out in DMP Appendix A: Figures A1 and A2. These show a proposed cycle route network across the Borough. As explained in paragraph 41 below, Figure A1 should be amended to include an additional route along Long Reach and an existing public right of way.

6. When the plan is adopted, in order to comply with the legislation and give effect to the plan's policies, the Council will need to update the adopted policies map to include the cycle network as set out in Appendix A: Figures A1 and A2 including the amendment published as **MM6**.

Context of the Plan

7. Guildford Borough in south west Surrey comprises the historic county town together with several villages set within the surrounding countryside which is designated as part of the Metropolitan Green Belt. The southern part of the Borough also forms part of the Surrey Hills Area of Outstanding Natural Beauty. The area is an attractive place to live, relatively prosperous with a wide range of businesses, and provides a wide range of services and facilities, particularly in Guildford town centre.
8. The overall planning strategy for the Borough over the period to 2034 is set out in the Guildford Borough Local Plan: Strategy and Sites (the LPSS) adopted following examination in April 2019. The role of the DMP is to provide a complementary suite of development management policies providing further detail for use in the determination of planning applications. The two documents should be read together.
9. On adoption of the DMP the remaining saved policies of the Guildford Local Plan 2003 will be superseded or revoked as listed in Appendix D.

Public Sector Equality Duty

10. Throughout the examination I have had due regard to the aims expressed in S149(1) of the Equality Act 2010 and the need to avoid any negative impacts on protected groups. This has included my consideration of several matters during the examination including the policies relating to housing, design and infrastructure.

Assessment of Duty to Co-operate

11. Section 20(5)(c) of the 2004 Act requires that I consider whether the Council complied with the duty to co-operate (DtC) imposed on it by section 33A in respect of the plan's preparation. The Council is obliged to co-operate with

relevant local authorities and other prescribed bodies in relation to cross boundary strategic matters in order to maximise the effectiveness of the DMP.

12. The Council satisfied the DtC during the preparation of the LPSS which sets the overall planning strategy for the Borough and allocates strategic sites. The complementary DMP does not allocate any sites and comprises more detailed policies which are either of a non-strategic nature or do not raise significant cross boundary issues. The various policies provide additional detail or clarity to existing requirements in the LPSS or NPPF or set out a local approach with minimal impact on neighbouring areas, none of which raise DtC concerns.
13. Nevertheless, the Council has consulted both informally and formally with relevant local authorities and other prescribed bodies in drawing up the DMP, for example Historic England in relation to heritage policies and the Environment Agency in relation to water resources. Whilst some amendments to the DMP have been sought for reasons of soundness, no representations have been made that there has been a lack of co-operation by the Council.
14. Having taken all of the above into account I am satisfied that where necessary the Council has engaged constructively, actively and on an on-going basis in the preparation of the Plan and that the duty to co-operate has therefore been met.

Assessment of Other Aspects of Legal Compliance

15. The Plan has been prepared in accordance with the Council's Local Development Scheme published in December 2021.
16. The DMP has been prepared over a lengthy period with a consultation on Issues, Options and Preferred Options (Regulation 18) in June/July 2020 and the Proposed Submission Local Plan (Regulation 19) in Jan/Feb 2022. The Council's Regulation 22(1) statement provides full details of the consultation carried out, an assessment of responses and how these have influenced the plan. I am satisfied that adequate consultation on the DMP and MMs has been carried out in compliance with the Council's Statement of Community Involvement published in May 2020.
17. SA has been carried out throughout each stage of plan preparation. A detailed report was published alongside the plan and other submission documents under Regulation 19. It was unnecessary to update the appraisal to assess the MMs. The SA process has adequately assessed the DMP to establish, when judged against reasonable alternatives, that the plan will help to achieve relevant environmental, economic and social objectives.
18. The HRA dated November 2021 notes that the DMP does not allocate sites or determine a quantum of growth (the role of the LPSS) but rather sets out

policies to manage that growth. The HRA concludes that, in combination with other plans and projects, the DMP is not likely to have significant effects on the potentially affected sites, the Thames Basin Heaths Special Protection Area and Thursley, Ash, Pirbright & Chobham Special Area of Conservation.

19. The Development Plan taken as a whole, primarily the LPSS, includes policies to address the strategic priorities for the development and use of land in the local planning authority's area. The strategic policies in the DMP are listed in Appendix C.
20. The Development Plan, taken as a whole, both the LPSS and DMP, includes policies designed to secure that the development and use of land in the local planning authority's area contributes to the mitigation of, and adaptation to, climate change. In particular, DMP Policy P13 seeks sustainable surface water management, Policy D12 promotes low impact development, Policy D13 requires adaptation to climate change, Policy D14 seeks to reduce carbon emissions and Policy D15 promotes renewable energy. Overall, the plan meets the statutory objective in Section 19 (1A) of the 2004 Act.
21. The Plan complies with all other relevant legal requirements, including those in the 2004 Act (as amended) and the 2012 Regulations. In particular, the policies in the DMP as modified are consistent with those of the LPSS in compliance with Regulations 8(4) & (5).

Assessment of Soundness

Main issue

22. Taking account of all the representations, the written evidence and the discussions that took place at the examination hearings, the main issue upon which the soundness of this plan depends is **whether the policies in the plan are positively prepared, justified, effective and consistent with both national policy and the LPSS**. This report deals with this issue in relation to a number of policies. It does not respond to every point or issue raised by representors, nor does it cover every policy in the plan, only those that raise soundness issues. The policies that are not specifically mentioned in this report do not raise soundness issues.

Policy H7: Review Mechanisms

23. Policy H7 proposes that a review mechanism is secured in the case of residential schemes where viability constraints identified at the outset have resulted in the provision of less than policy compliant levels of affordable housing. These circumstances have arisen in the Borough from time to time. The principle of such a policy is supported by Planning Policy Guidance (PPG)

with the aim of securing policy compliant development over the lifetime of a scheme when viability considerations may change.

24. As submitted, the application of the policy by the Council to cases 'where it is considered appropriate' would be ambiguous and for effectiveness greater clarity is necessary. Accordingly, **MM1** modifies the policy to state that a review mechanism will normally be required in these cases and paragraph 2.33 to set out the circumstances when a departure may be justified, essentially when the scope for additional contributions is limited for example in the case of smaller scale development. In the interests of effectiveness, **MM1** also modifies paragraph 2.39 to include further necessary detail as to the process involved in a review and the need for dispute resolution clauses to ensure the final completion of the development is not unreasonably delayed.

Policy H8: First Homes

25. In May 2021 the First Homes policy was introduced, the requirement that at least 25% of all affordable housing on residential developments should be in the form of First Homes. First Homes are a form of affordable home ownership for first time buyers when the market value of a property is discounted by a minimum of 30% and the sale is for no more than £250,000.
26. This was after the adoption in April 2019 of LPSS Policy H2. Policy H2 sets the requirement for at least 40% of the dwellings on eligible housing sites in the Borough to be affordable homes, with at least 70% of these being for affordable rent and at least 10% for affordable home ownership. The First Homes policy does not conflict with Policy H2 as it still allows the 70% affordable rent figure to be met with the 25% First Homes requirement being provided within the 30% allowance for other tenures.
27. However, due to exceptionally high house prices in the Borough, the application of the maximum sale price of £250,000 is likely to limit the provision of First Homes to predominantly one-bedroom properties, probably flats. In some locations this may be undesirable as it would require a sub-optimal affordable housing tenure/mix in relation to need or for design reasons. To ensure the effectiveness of the policy this may justify some flexibility in such circumstances.
28. **MM2** thus modifies Policy H8 to expect rather than require 25% First Homes and to include a new paragraph after 2.53 to explain the rationale and scope for flexibility where necessary to avoid an adverse planning outcome. Any agreed substitution of First Homes would be with other forms of affordable housing to maintain compliance with Policy H2. The MM has been amended slightly since consultation to improve clarity.

Policy P6/P7: Biodiversity in New Development

29. The Environment Act 2021 introduces a requirement for most new development to deliver a minimum 10% net gain in biodiversity either on or off site as measured by a standard biodiversity metric. The requirement is due to commence from November 2023 with planning authorities having the ability to set higher percentage targets subject to the feasibility and achievability of a higher target given the potential impact on development costs.

30. As submitted Policy P6/P7 proposes a minimum 20% target for biodiversity net gain (BNG) in the Borough. In recent years Surrey has seen a steady attrition of natural habitats, a decline in the population of priority species and a greater proportion of species becoming extinct locally compared to the national average. A BNG study of three very different permitted schemes, albeit a small sample, demonstrates the potential for some to deliver more than 20% BNG on site whilst others would require off-site provision to deliver either a 10% or 20% BNG. However, these schemes were not specifically designed with BNG as an objective, which would be the case in future. An analysis of emerging schemes in the Borough shows many are able to deliver 20% BNG on-site. However, whilst on-site provision will be possible in some cases, in others off-site biodiversity units will need to be delivered or alternatively purchased from an accredited habitat provider. This is already a potential implication of the 10% BNG requirement, with the additional costs of achieving 20% BNG thereby more likely to potentially undermine the viability of development or alternatively increase the possibility that sufficient off-site units may not be available in the necessary timescale, delaying scheme delivery.

31. The cost of delivering off-site biodiversity units will not become fully clear until the BNG policy is implemented later this year. A national market analysis study concluded £20 to £25k per unit may be necessary if farmland is used, but the feasibility study into the enhancement of the existing Council owned 46 ha Tyting Farm site suggests units could be delivered for about £7.5 to £11k. With large areas in the Borough already managed as recreational greenspace or for nature conservation, landowners are likely to bring forward enhancement schemes reducing the cost of units locally. In any event, the viability evidence before the examination uses a generous £20k per unit for sensitivity testing purposes which amounts to an average cost of no more than £2k per dwelling for 20% BNG for the three schemes that were included in the BNG study. Having regard to this evidence, in relation to build and other development costs, I am satisfied that the impact of a 20% BNG policy on viability in Guildford Borough would be marginal and as such would not undermine the deliverability of the LPSS.

32. Turning to the availability of off-site biodiversity units, it is estimated that for 20% BNG about 266 units will be required to facilitate all the housing proposed in the LPSS to 2034. Even if this figure is an underestimate, the Tyting Farm case

study suggests 141 units could be created from that site alone. With numerous other potential sites in the Borough and the financial incentive involved, the availability of off-site units should not be a problem following the lead-in time needed to establish accredited sites.

33. In the light of the evidence, the minimum 20% BNG target in Policy P6/P7 is justified, being aspirational but deliverable in the case of Guildford Borough. Whilst 10% BNG strikes the right balance nationally between the ambition for development and the pressing need to reverse environmental decline, 20% BNG strikes the right balance between those objectives in the Borough.
34. However, as submitted, paragraph (1) of Policy P6/P7 requires development to maximise biodiversity gain without qualification whereas this overall aim on each site should be balanced with delivering other planning priorities. **MM3** makes the necessary change to ensure the policy is justified, amended slightly since consultation to improve clarity. In the interests of clarity and thus effectiveness, **MM3** also amends paragraph 4.44 of the plan to explain the rationale behind the 20% BNG target.
35. Most importantly, to be justified the policy should come into effect at the same time as the national 10% BNG requirement, not on adoption of the plan. Further secondary legislation and guidance is required to clarify the scheme and define exempt development. In addition, adequate lead-in time is necessary to bring forward accredited off-site habitat enhancement schemes. The Council's commitment to use their Tyting Farm site should also be included in the DMP to provide assurance that at least one site will be able to deliver off-site units from the outset, thus avoiding any delay to scheme delivery. To ensure it is justified, **MM3** makes these necessary changes to Policy P6/P7 and paragraph 4.47, amended slightly since consultation to improve certainty. In the interests of effectiveness, **MM3** also clarifies the policy in relation to the requirements for previously developed land.
36. Finally, for Policy P6/P7 to be justified **MM3** introduces new supporting text in paragraph 4.16 to indicate that there may be flexibility over the 20% BNG requirement in cases where a viability assessment demonstrates the overall scale of obligations threatens scheme viability. If necessary, the need for 20% BNG in the location concerned will be balanced against other competing obligations to determine the way forward.

Policy D14: Carbon Emissions from Buildings

37. The purpose of Policy D14 is to amend LPSS Policy D2 to extend support for Combined (Cooling) Heating and Power distribution networks and to update the carbon reduction standards to be achieved in new buildings. The policy as submitted reflects the reduced emission rates which were published for consultation in January 2021 for inclusion in Part L of the Building Regulations.

As these were subsequently introduced in June 2022, **MM4** is necessary to refer to the new regulations in the policy and to require compliance with any changes to the standards in future. **MM4** also removes outdated reasoned justification in paragraphs 5.240-5.243, includes a reference to the guidance in the Council's Climate Change, Sustainable Design, Construction and Energy Supplementary Planning Document (SPD) and corrects the policy to refer to new buildings rather than new dwellings.

Policy ID10: Achieving a Comprehensive Borough Cycle Network

38. In order to encourage cycling as a sustainable means of transport, Policy ID10 seeks to facilitate the development of a high-quality network of cycle routes across the Borough. The policy cross refers to the mapped routes in Appendix A (Figures A1 and A2 covering the whole Borough and urban area respectively) as the network which the plan seeks to deliver over time.
39. As submitted, the DMP describes the network shown in the appendix as the 'basis and starting point' for the identification of cycle route improvements to be provided or funded by new development. However, the majority of routes shown have only been established at a concept level with detailed design and feasibility work still to be undertaken. For the identified route network to be justified and effective, this concept status needs to be clarified with the routes described as only the 'starting point' for the identification of improvements rather than being definitive. In addition, the network shown is not exhaustive, with other improvements potentially being identified through the planning application process. However, new development can only be required to deliver such improvements where these meet the tests for a planning obligation. To ensure it is justified **MM5** makes the necessary changes to Policy ID10 and paragraph 6.85, the former amended slightly since consultation to improve clarity.
40. Policy ID10 as submitted emphasises the delivery of dedicated cycle routes within urban areas. To be effective in the more rural areas of the Borough and to take account of emerging national guidance, the policy should also include the potential for other solutions including the designation of quiet lanes, the use of greenways, speed limits and traffic calming measures. Consequently, in the interests of effectiveness **MM5** also adds these alternative approaches into paragraphs 6.80, 6.91 and 6.93. The change to paragraph 6.91 has been amended slightly since consultation to avoid street clutter and ensure any lighting in rural areas is appropriate.
41. Turning to the mapped network itself, following detailed consideration of route options in connection with residential development at the former Wisley airfield, an additional route to and from the facilities at East Horsley has been identified along the lightly trafficked Long Reach and an existing public right-of-way. To ensure the effectiveness of Policy ID10 this route should be added to Figure A1. **MM6** makes the necessary change.

42. The proposed routes along Old Lane to and from Effingham Junction and Ockham Road North to and from East Horsley should be retained in the proposed route network. Whilst challenging to deliver as dedicated cycle routes, traffic calming measures to improve the routes for all users including cyclists would be deliverable. The routes should also be included in the DMP to be consistent with LPSS Policy A35 (Former Wisley Airfield) requirement 6.

Policy ID11: Parking Standards

43. LPSS Policy ID3 includes general principles in relation to car parking provision but no actual standards. Subsequently, several neighbourhood plans have set minimum vehicle parking standards in the areas concerned, and others may do so in future. The purpose of DMP Policy ID11 is to set maximum vehicle parking standards for the strategic sites allocated in the LPSS, such standards to take precedence over those in neighbourhood plans, whilst neighbourhood plan standards would apply to non-strategic sites. The standards, arrived at by analysing census data, and intended to manage car use, are in Appendix B.
44. In addition to Policy ID11, the Council is preparing a Parking SPD to include detailed guidance and a range of standards for non-strategic sites. This was consulted upon in parallel with the DMP and can be updated as necessary from time to time. As submitted, Policy ID11 requires compliance with the standards in the SPD. This erroneously raises the status of the SPD to that of a statutory development plan and requires compliance with future versions of the document which would be drawn up without independent scrutiny. To ensure it is justified **MM7** is therefore necessary to amend Policy ID10 to require development proposals outside strategic sites to have regard to the SPD, a less stringent test than compliance. It also amends paragraph 6.134 to clarify the level of justification required when the level of parking proposed is slightly below maximum standards.
45. Policy ID11 as submitted also requires compliance with the standards in the SPD for electric vehicle charging points in new developments. However, in June 2022 national standards were introduced through Part S of the Building Regulations. To be consistent with national policy and to require compliance with any increased standards in future, **MM7** also revises the policy to require compliance with the regulations rather than the Parking SPD.

Conclusion in relation to Soundness

46. Having regard to the above, subject to **MMs 1-7**, the policies in the plan are sound, i.e. they are positively prepared, justified, effective and consistent with both national policy and the LPSS.

Overall Conclusion and Recommendation

47. The plan as submitted has a number of deficiencies in respect of soundness which would preclude it being adopted. However, the Council has requested that I recommend MMs to make the plan sound and/or legally compliant and capable of adoption. I conclude that the duty to cooperate has been met and that with the recommended MMs set out in the Appendix the Guildford Borough Local Plan: Development Management Policies satisfies the requirements referred to in Section 20(5)(a) of the 2004 Act and is sound.

David Reed

INSPECTOR

This report is accompanied by an Appendix containing the Main Modifications.