
Reading Borough Local Plan Public Examination

Response to Inspector's Matters and Issues
On behalf of University of Reading (UoR)

Issue 4
Cross Cutting Policies

September 2018

**Reading Borough Local Plan
Public Examination**

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Issue 4:**

Cross Cutting Policies

Barton Willmore LLP on behalf of the University of Reading

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0.0 INTRODUCTION

- 0.1 Barton Willmore LLP is instructed by the University of Reading (UoR) to submit this written Hearing Statement ("HS") in response to the Inspector's Matters and Issues for Examination. These representations expand upon the representations submitted on behalf of the UoR in response to the relevant Regulation 18 and Regulation 19 consultations on the emerging Reading Borough Local Plan.
- 0.2 This statement does not respond to all questions raised under Issue 4, but focuses on those of particular relevance to the interests of the UoR. Whilst efforts are made not to duplicate the content of previous representations, this HS draws on previous responses where necessary.

RESPONSE TO INSPECTOR'S QUESTIONS – Issue 4

Issue 1: Are the Cross Cutting Policies justified, deliverable and consistent with national policy?

1.0 Q1. In assessing the viability of the LP has the effect of the requirements of policies seeking contributions and standards (for example in Policy H5) been taken into account, and if so is this robustly demonstrated?

1.1 No. There are a number of policies within the emerging Local Plan which do not appear to be appropriately evidenced and have not taken sufficient account of viability. These have been referenced within the University's responses to the Council's consultation on the pre-submission of the Local Plan.

1.2 In relation to draft Policy H5 the University holds concerns that viability considerations have not been given full regard to the implications of the proposed standards within that draft policy. This is covered in greater detail within the University's previous representations to the Council's Regulation 19 consultation on the proposed submission version of the Local Plan.

1.3 There are a number of other draft policies, particularly the cross cutting policies, which have the potential to significantly impact the viability of developments, without any allowance for viability considerations being evident within the policy wording.

1.4 This was raised in relation to Policy CC3 (adaptation to climate change). The University recommended the wording of Draft Policy CC3 be altered to account for the fact that it would not be reasonable, proportionate or appropriate (as required by NPPF paragraph 182) for the policy to require all developments to incorporate the standards mentioned within the policy. The suggested wording would have required "new" development to accommodate such climate change adaptation measures where "achievable, viable, appropriate and reasonable" thereby reflecting the aforementioned NPPF requirements. The Council, in their response to these comments, have disagreed that there is need to accommodate such wording, claiming that draft Policy CC3 allows such flexibility. The University disagrees and considers that to unambiguously account for the potential viability implications of the policy requirements, the suggested wording should be inserted.

1.5 Draft policy CC9 (securing infrastructure) requires that developers contribute towards ongoing local authority costs of monitoring implementation and payment of planning contributions. The University has submitted representations that such an open requirement would be overly onerous and without basis in national policy to support its inclusion and would therefore be unjustified. The inclusion of such text, with such open-ended wording does not appear to have had any regard to the potential impacts it may have on the viability of developments.

2.0 Q2. Whether Policy CC1 is justified and effective having regard to national policy? Does the submitted plan properly reflect the presumption in favour of sustainable development in the NPPF?

2.1 Yes.

3.0 Q3. Is there sufficient justification supported by the evidence for applying Policy CC2 to all development within the Borough? Is the approach to BREEAM consistent with national policy?

3.1 No comment.

4.0 Q4. Is the plan positively prepared in relation to climate change? Having regard to the Policy CC3, CC4 and other policies within the LP, would the LP be effective and consistent with national policy and legal requirements in relation to climate change?

4.1 No. The University has expressed support for draft Policy CC4 (decentralised energy) but holds concern with regard to draft Policy CC3 as expressed in response to Q1 above.

4.2 Draft Policy CC3 would accord with the NPPF (paragraph 94) requirement to adopt proactive strategies to mitigate and adapt to climate change. However, in order to be effective, such strategies should be "achievable, viable, appropriate and reasonable." The University has recommended the Council include such wording.

5.0 Q5. Is Policy CC7 justified, effective and consistent with national policy? Is the policy internally consistent and does it avoid undue repetition?

5.1 The University has previously commented that support is offered for the inclusion of draft Policy CC7 and its requirements for good design, however, considered that to make it clear and sound, it should clearly state it relates to all "new development proposals." Such clarity would ensure the policy is effective and consistent with national policy.

5.2 With regard to avoidance of undue repetition, the University has no comment.

6.0 Q6. Is the third bullet in Policy CC8 consistent with the requirements in relation to tall buildings? Is the application of the back-to-back distances sufficiently flexible in relation to town centre residential development?

6.1 No comment in relation to consistency with tall building policy CR10.

6.2 The University has however commented on the contents of Policy CC8 to enhance its clarity and therefore ensure it is effective and recommended that the second paragraph of the policy be moved into the supporting text given the imprecise and advisory nature of its wording. Whilst the Council claim it is not unclear because it "has been applied without confusion for some time through the development management process", the emerging Local Plan presents an opportunity to look at policy wording afresh to ensure clarity and therefore effectiveness.

6.3 The Council also cite the need to retain the second paragraph of this policy (which contains reference to back-to-back distances). The University does not agree on the basis of the imprecise wording of that paragraph and consider that the policy would carry the same level of effectiveness (the bullet points for example already consider impacts on privacy and overlooking) without its inclusion.

7.0 Q7. Is the requirement for financial contributions in CC9 including monitoring justified and consistent with the Community Infrastructure (CIL) Regulations and paragraph 204 of the NPPF?

7.1 No in respect of monitoring.

- 7.2 The Community Infrastructure Levy Regulations 2010 (as amended), Part 11, paragraph 122 (2) requires that planning obligations are only used if the obligation is;
- (a) Necessary to make the development acceptable in planning terms;
 - (b) Directly related to the development; and
 - (c) Fairly and reasonably related in scale and kind to the development.
- 7.3 The NPPF at paragraph 204 reiterates the same requirements as contained within the CIL Regulations (2010) concerning planning obligations. It is considered that requiring a developer to pay for ongoing local authority costs of monitoring the implementation and payment of planning contributions would be far too open ended and would fail the abovementioned necessary tests for planning obligations.
- 7.4 In *Oxfordshire County Council v Secretary of State for Communities and Local Government and others* (2015) the High Court considered whether monitoring costs included as a planning obligation in a Section 106 Agreement were "necessary to make the development acceptable in planning terms" in accordance with the CIL Regulations. It was decided that there was nothing in statute or national planning policy which entitled the Council, or any Council, to levy monitoring and administration charges as a general rule.
- 7.5 Therefore, in light of the above case, monitoring post development cannot comply with part (a), necessary to make the development acceptable in planning terms, as it should be demonstrated that development complies with relevant planning policy at determination. In terms of part (b), directly related to the development, the final paragraph of this policy is very open ended to the extent it could be interpreted to relate to matters not directly related to the development. Finally, in relation to part (c), fairly and reasonably related in scale and kind to the development, it is not considered proportionate for the implementation of planning obligations to be monitored, at developer cost, for an indefinite time period.
- 7.6 In summary, as the University has previously stated in representations, the final paragraph of this policy would be overly onerous without a grounding in national policy and as such should be removed.

Q7a. Has there been sufficient regard for safe access and egress in relation to Flood Risk and site allocations within the LP?

- 7.7 Yes: with regard to site allocation CA1a (Reading University Boat Club, Thames Promenade), the policy wording includes a requirement to take account of the risk of flooding. This would include the need to consider safe access and egress and has been addressed within the Council's Level 2 Strategic Flood Risk Assessment at paragraph 3.4.6.