

Chapter 1 – Local Plan Format and Introduction

In this chapter I deal first with general objections to policy wording and the approach to plan-making as these underlie the whole plan and the recommendations made on individual policies. All but one of the objections in this category have been made by the Government Office (GOSW). The second group of objections relates to the Proposals Map. Finally, there are just four objections to the Introductory Chapter 1 of the Plan itself.

1.1 Approach to plan-making and policy wording

1.1.1 Objections

<i>RD/7652/0001/386/LPF/*</i>	<i>- Government Office for the South West</i>
<i>RD/7652/0001/152/LPS/*</i>	<i>- Government Office for the South West</i>
<i>D/2825/4434/8722/LF/0</i>	<i>- The Cockington Valley Society</i>
<i>D/7652/4048/9377/LF/0</i>	<i>- Government Office for the South West</i>
<i>D/7652/4048/9372/LS/0</i>	<i>- Government Office for the South West</i>
<i>D/7652/4048/9374/LS/0</i>	<i>- Government Office for the South West</i>
<i>D/7652/4048/9350/LS/0</i>	<i>- Government Office for the South West</i>
<i>D/7652/4048/9375/LS/0</i>	<i>- Government Office for the South West</i>
<i>D/7652/4048/9348/LS/0</i>	<i>- Government Office for the South West</i>
<i>D/7652/4048/9371/LS/0</i>	<i>- Government Office for the South West</i>
<i>D/7652/4048/9370/LS/0</i>	<i>- Government Office for the South West</i>

1.1.2 Issues

- a. The approach to policy formulation and wording;
- b. The need to include all matters in the Plan which are to be used as a basis for decisions on planning applications.

1.1.3 Conclusions

Issue a.

1. GOSW have made a series of objections to both the DV and RDV plans under the general heading 'Policy Formulation'. The Council respond to these in TP/1, paragraph 1.6. The Government Office have made references to PPGs 1 and 12 in seeking to steer the Council to produce a high quality plan. I think that the outstanding objections from GOSW ought properly to be put in the context of the covering letter of 11 December 2000 which acknowledges the progress made between the DV and RDV and states 'The Plan is well presented, easy to use and clearly shows the changes which have been (made) *sic* to the policies, proposals and supporting text.'

2. Nevertheless, it falls to me to consider the extent to which each individual objection has been met in the RDV. Where these objections are general in nature and apply to the whole Plan I have kept them in mind in framing my recommendations on objections to the wording of individual policies.

3. At the deposit plan stage GOSW made a general point under the heading 'brevity' about the advantages of the Plan being as clear and concise as possible and suggesting that policies should be deleted wherever possible. At the revised deposit stage GOSW acknowledged that progress had been made but that there remained scope for further improvement. I agree with this comment. There remains some over-lap and duplication between policies in different chapters of

the Plan, especially between the multifarious environmental policies which impose constraints on development. Each may have separate justification as an individual policy but on the ground they often overlap in area of application. For example, countryside, landscape and coastal protection policies could be rationalised with only the 'higher order' policy applying. I also consider that there would be merit in bringing together, and rationalising, the various policies for town centres, including mixed-use sites. However, I do not regard it as within my remit to make formal recommendation for further simplification of the Plan unless there is a specific objection to the policy. Consequently, I do not recommend any modifications to the Plan directly as a result of this general objection.

4. In general the RDV policies have been re-worded to avoid personal phrasing to meet the GOSW objection on this matter. This is important because a final decision on a particular development proposal may be taken by the Secretary of State or an Inspector on appeal, not by the Council. Nearly all of the references to the Council have been removed and I have found only two which remain unaltered. I recommend that these be altered similarly.

5. A number of separate points are made by GOSW under the sub-heading 'Flexibility and Clarity'. There are no longer any policies where the 'interest of acknowledged importance' which the Council seeks to protect through the policy is not identified in the supporting text or in the policy itself. Only in exceptional circumstances, where supported by PPGs, should a policy attempt to place the burden of proof on the applicant for planning permission.

6. There remain in the RDV a large number of policies which indicate that a particular form of development 'will be supported in principle' (or similar). This is a vague wording which does not make it clear what the means to implementation is intended to be. I am especially concerned where this may be construed as a reference to corporate action by the Council rather than specific action by the LPA acting within the statutory land-use planning framework. It is, perhaps, unfortunate that the Plan has to be limited in this way but it is the nature of the present Development Plan system. Where the objections to a policy which contains this wording cause me to recommend an amended wording I have recommended an alternative. I make an exception for the 'strategy' policies which I consider should be interpreted more in the way of guidelines for the policies which follow rather than for direct application in development control. In the recommendation below I list those policies which are either not subject to any specific objection or where my consideration of objections does not otherwise warrant a modification to the policy wording.

Issue b.

7. In their somewhat broadly phrased letter of objection the Cockington Valley Society (2825) make the important observation that not all matters have been included in the Plan which ought to be. I recognise that the context for this comment is one of reference to the inclusion of details on the proposals map (Ten Acre Brake and Scadson Woods) which is dealt with elsewhere but it is a matter which was touched upon on a number of separate occasions during the Inquiry and in writing. In this regard, CPRE refer to a comment by GOSW on the point although I cannot find this.

8. I do not give any weight to the general, unsubstantiated, comments that the Council have a 'hidden agenda'. Should there be a development proposal contrary to the Plan then the Council will be duty-bound to apply s54A of the 1990 Act and may need to invoke the departure procedure. However, I am concerned that some of the site-specific proposals in the Plan are so generally worded that they do not give a clear indication to the general public as to the precise nature of the development proposed. Of course, it is inappropriate to include excessive detail in the local plan especially as the Government discourages over-elaborate plan making, but there are

certain instances where critical matters which would be determinative of a future planning application are not included in the RDV. The Council need to be wary of this, particularly in the light of the *Great Portland Estates* legal ruling which is the basis for the advice on the matter in paragraph 3.17 of PPG 12. Time was taken at the Inquiry pursuing objections which related to details of proposals contained in documents outside of the local plan process, I have in mind Beacon Quay and the Brixham Northern Arm Breakwater in particular. Where it is the Council's intention to prepare development briefs then this should be clearly stated in the Plan (not confused with details to be required of developers in planning applications) and treated as Supplementary Planning Guidance (SPG). I recommend accordingly.

1.1.4 Recommendations

1.01 Modify the wording of policies E4 and CF7 to omit reference to the Council.

1.02 Modify the following policies to avoid the wording indicated below:-

- a. '... will be resisted', policies TU7, CFS, BE9;
- b. '... will be opposed', policy S1
- c. '... will be supported', policies E4, S4 & 14, CFS & 12, R7, 8, 9, 10 & 13, IN3.3, EP2, 6 & 12;
- d. '... will be encouraged', policy IN3.1(c), BE9
- e. '... may be acceptable', policy TU7.

1.03 Where it is the intention that a development brief or other Supplementary Planning Guidance is to be prepared to support the policy/proposal in the Plan, modify the Plan to clarify the status of this document and its relationship to the Plan policy or proposal.

1.2 Amendments to the proposals map

1.2.1 Objections

D/2837/4130/7442/LF/0	- English Nature
D/2823/4053/6924/LF/0	- Mr WJ Bagwell
D/7652/4048/9534/LF/0	- Government Office for the South West
D/7652/4048/9515/LF/0	- Government Office for the South West
D/2828/4128/7013/LF/0	- RSPB
D/2158/4261/8096/LF/0	- Ms J Williams
D/2158/4261/8093/LF/0	- Ms J Williams
D/2158/4257/8059/LF/0	- Ms J Williams

1.2.2 Issue

Whether any additional policy notations should be shown on the proposals map.

1.2.3 Conclusions

1. This group of objections suggest various aspects of plan policy which should be shown on the proposals map. The guidance in paragraph 26 of Annex A to PPG 12 is that the proposals map 'should illustrate each of the detailed policies and proposals in the written statement'. The Council, on the other hand, respond that if each and every policy and proposal was to be illustrated in this way the proposals map would become unduly cluttered and difficult to read. Instead, the plan text refers the reader to supplementary plans, including the local wildlife sites shown in the Environmental Guide.

2. It seems to me that by sub-dividing the proposals map into a number of large-scale sheets the Council have largely solved the problem of readability of the map. It should be possible to look at the map and be appraised immediately of all of the site-specific policies and proposals which apply to any piece of land. Otherwise, the plan user is expected to have some other knowledge of the nature of the area and to know where to look to find the supplementary plans and registers produced by outside agencies. Such a situation is generally unsatisfactory.
3. Having said that, Mr Bagwell (2823) and Ms Williams (2158) request the inclusion of information such as the extent of sites with planning permission, Council land ownership, agricultural land and woodlands. The first two categories do not clearly relate to policies or proposals of the Plan and are not necessary. Grades 1-3a agricultural land could be shown to illustrate policy L8 and to do so would be of benefit but I am not aware of a development plan which shows this information originates from DEFRA. There has also been some misunderstanding about the omission of woodlands which were shown on earlier versions of the Plan. I deal with this under policy L9.
4. The GOSW objection concerning PHAAs and the Countryside zone has been met in the RDV although I think the two were highly unlikely to be confused. This leaves the sites of Ancient Monuments (*GOSW, Obj. 9515*); an indication of protected local nature/wildlife sites (*2837 and 2828/7013*) and Historic Parks and Gardens (*2823/6924*). The Council have agreed to include the first category in PFC 14/7, presumably because they are few in number, but it seems to me that the four Historic Parks and Gardens listed under policy BE10 could easily be shown and I recommend accordingly.
5. This leaves the matter of the local wildlife sites subject to policy NC3. This policy relates to Local Nature Reserves, which are shown on the proposals map, County and Local Wildlife Sites. The table under paragraph 19.32 of the Environmental Guide lists 83 sites in total including SSSIs and the candidate SAC with the attached Ordnance based map providing a comprehensive indication of boundaries and categories, although at small scale.
6. From this I can see the difficulty of transferring this information to the proposals map, especially as some of the sites are small or represent roadside verges and railway embankments. However, as I indicate above I consider it is highly unsatisfactory that a plan-user should have to refer to another document and plan to properly assess the application of the policy to a particular site. It means that the local plan is not self-contained. One of the difficulties is that many of the larger sites such as the Cockington Valley are subject to the green colour wash for the Countryside Zone and AGLV as well as other notations. On balance, I consider that a means should be found to depict the boundaries of the various sites on the proposals map, not using any colour wash, but also to include the site number on the map set into the boundary line. There is also a need to include the numbered table of sites for information within the plan itself, to follow policy NC3. As the policy also applies to the County Geological Sites listed in paragraph 12.23 these will need to be added.

1.2.4 Recommendations

- 1.04 Modify the proposals map to show the boundaries for the sites of Scheduled Ancient Monuments, in accordance with PFC 14/7.**
- 1.05 Modify the proposals map to show the boundaries of Historic Parks and Gardens, as listed under policy BE10.**
- 1.06 Modify the proposals map to show the boundaries for County and Local Wildlife Sites and County Geological Sites and modify the Plan to include a full numbered list of such sites taken from the Environmental Guide and the Plan text, paragraph 12.23.**

1.3 Chapter 1 - Introduction

1.3.1 Objections

RD/7511/0300/11/LPS/* - Mrs M S Bartlett
D/2828/4128/7029/LS/0 - RSPB
D/2830/4135/7398/LF/0 - National Playing Fields Association
D/2851/4165/7637/LS/0 - Torbay Primary Care Group
RD/7652/0001/384/EG* - Government Office for the South West

1.3.2 Issue

- a. Reference to Plan status;
- b. the wording of paragraph 1.12;
- c. clarification of the status of the Environmental Guide;
- d. the content of figure 1.

1.3.3 Conclusions

Issue a.

1. The NPFA (2830) want a statement in the Plan as to why Torbay Council are not producing a Unitary Development Plan, rather than a Local Plan. The fact is that the Government have not felt it appropriate for any UDPs to be prepared by local authorities in the South West of England. It is not necessary for this to be stated in the Plan. The opening paragraph, 1.1, is a correct factual statement of the position. NPFA are also concerned about the definition of 'brownfield' in the glossary but all this does is to equate the term with 'previously-developed land' which is defined in Annex C of PPG 3.

Issue b.

2. Mrs Bartlett (7511) questions the wording of paragraph 1.12 and suggests that the word 'may' should be 'must' in reference to the departure procedure. The procedures are laid down by Article 8 of the Town and Country Planning (General Development Procedure) Order 1995 which requires both a site notice and local advertisement for any application which does not accord with the provisions of the development plan, irrespective of whether the application is 'major' or what decision the LPA are minded to take on it. Paragraph 1.12 is, therefore, incorrectly worded and requires modification.

Issue c.

3. The Environmental Guide was published at the same time as the Local Plan. It was made available within the same folder of documents as the Plan but its status was not made absolutely clear. Indeed, paragraph 1.13 of the RDV is misleading in that it suggests that the Guide is 'part of the Plan'. It is not, and I have not considered any objections to it (although some were originally registered). GOSW made objection to the RDV on the basis that paragraph 1.13 should be altered but the objection appears to have been 'coded' against the Environmental Guide and removed from the list of objections for me to consider. It is, in fact, an objection to the Plan and the Council have responded to it by proposing PFC 1/1 to clarify the status of the guide as SPG. This is important and, as it is a response to a duly-made objection, I formally recommend it.

Issue d.

4. Figure 1 on page 5 of the Plan has been significantly amended in the RDV from the DV to include additional boxes. These include such matters as Agenda 21, Biodiversity, Crime and Disorder Strategy and Health. To that extent I consider that the points made at the deposit stage by the RSPB and TPCG have been met. However, it is my informal opinion that the diagram ought to distinguish between those documents/strategies which have a formal rôle within the statutory planning process, including the RPG and structure plan, and those which are on the periphery. There is also no mention of SPG, which would flow out of the Plan rather than into it. The Council may wish to consider including these improvements and clarifications in the diagram.

1.3.4 Recommendations

1.07 Modify the text of paragraph 1.12 by the deletion of the last sentence to be replaced as follows:-

When the local planning authority receive a planning application for development which does not accord with the provisions of the development plan they are required to advertise it both by site notice and by notice in the local press.

1.08 Modify paragraph 1.13 in accordance with PFC 1/1 to clarify that the Plan is in two parts and to make the section on the Environmental Guide into a new paragraph. Delete the words 'but gives' in the second line and substitute 'comprises Supplementary Planning Guidance and does not form part of the Local Plan. Its rôle is to complement the Plan by providing ...'