

# **Examination of the Welwyn Hatfield Local Plan**

**Council's Statement for the  
Stage 3 Hearing on  
20<sup>th</sup> to 22<sup>nd</sup> February 2018**

## **Session 11**

**SP10 Sustainable Design and  
Construction and SADM13-14**



## SP10 Sustainable Design and Construction

### 61) Is the policy sufficiently robust to ensure that all new development will be environmentally sustainable?

#### ***Welwyn Hatfield response***

- a) Yes, Policy SP10 sets out a range of principles aimed to improve the environmental performance of the whole life cycle of a development, from construction, through occupation and renovation to eventual demolition. Designing a development on the basis of the principles identified will use resources prudently, be responsive to environmental risks and climate change and will protect and enhance other aspects of the natural environment. This policy, supported by SADM 13 and SADM 14 will improve the environmental sustainability of new development in the borough consistent with the NPPF and National Planning Practice Guidance, which requires Local Plans to reduce the use of natural resources and proactively mitigate and adapt to climate change.
- b) As demonstrated by the technical housing standards review in 2015, the Government has moved away from local targets being enforced via the planning system and has withdrawn the Code for Sustainable Homes, in favour of a more streamlined, national approach. Technical standards have largely been moved into building regulations, although Local Plans can set lower standards for water consumption in water stressed areas. Given that the Environment Agency has identified this area as particularly stressed, the lower target is a requirement in Policy SADM13.
- c) To ensure the sustainable design and construction principles are applied effectively to new development, Policy SP10 and the supporting text set out the following mechanisms for implementing the policy approach.
- The use of pre-application consultation and Design Review to address sustainable design principles at an early stage in the design process.
  - Applicants will be required to submit a Sustainable Design Statement to demonstrate how each of the sustainable design principles and requirements in SADM13 and 14 are being addressed.
  - The Statement should be informed by best practice guidance, including the Council's Supplementary Design Guidance and the Hertfordshire's Building Futures Sustainable Design Toolkit<sup>1</sup>, which includes technical modules on a wide range of environmental design and construction issues.
- d) Given that SP10 requires new development to reflect the energy hierarchy, it is recommended that for clarity, text is added to the supporting text to cross-reference information on the hierarchy in the justification for Policy SADM13 in paragraphs 11.32-11.38. The following text should be included in paragraph 11.26:
- 'Information on how to address the energy hierarchy is set out in paragraphs 11.32-11.38 of the Local Plan.'*

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<sup>1</sup> Building Futures Sustainability toolkit, <https://www.hertfordshire.gov.uk/microsites/building-futures/a-sustainable-design-toolkit/sustainable-design-toolkit.aspx>

**62) Will the Policy ensure that the future development and use of land in the borough will contribute to the mitigation of and adaptation to climate change as required by Section 19(1a) of the Planning & Compulsory Purchase Act 2004?**

***Welwyn Hatfield response***

- a) The duty imposed by Section 19(1A) of the Planning and Compulsory Purchase Act 2004 relates to the Plan “taken as a whole”. The Plan must include 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. It is not therefore necessary in order to accord with the test of soundness that the sole aim of any particular plan policy is directed to compliance with section 19(1A). Some policies may deal with mitigation, others with adaptation, some may deal with both. In some cases the whole policy may be designed to address those issues, in some cases it may be particular elements of a policy. In cases where policies are directed towards this issue, all that section 19(1A) requires is that they make a positive contribution to either mitigation of, or adaptation to, climate change.
- b) Policy SP1 – Delivering Sustainable Development – provides a set of guiding principles to bring about sustainable development in the borough. These principles will be relevant to the application of policy SP10. The third bullet point of Policy SP1 directs development to sustainable locations, seeks to protect areas of highest environmental value and avoid development in areas of high flood risk. The fifth bullet point specifically mentions adaptation and mitigation principles relating to climate change.
- c) Policy SP10 sets out the strategy and criteria which will ensure that new development in the borough is designed to mitigate and adapt to climate change. The policy requires applicants to reduce the use of natural resources, minimise waste and maximise opportunities to reduce carbon emissions using the energy hierarchy and encourage renewable and low carbon technologies, which will all contribute to climate change mitigation.
- d) The requirement for building layout and design that reduces energy use, encourages passive solar design and natural ventilation creating passive heating and cooling will ensure that buildings are adaptable and able to respond to the impacts associated with a changing climate, such as droughts, heatwaves and prolonged precipitation. Equally, landscaping provision addresses climate change adaptation by providing shading and reducing run-off. Paragraphs 11.22 -11.42 of the supporting text help explain the contribution the policy plays in adapting and mitigating to climate change.
- e) Alongside the development management policies SADM13 and SADM14 which will help deliver the strategy, Policy SP 10 is consistent with the national aim to address climate change. However, whilst not a soundness issue, for more clarity on the contribution of the policy towards climate change adaptation, a minor modification is proposed to the justification of Policy SADM13, to add the following text after paragraph 11.33:

'These measures to use less energy help new development adapt to climate change. Expected extreme weather such as heatwaves, drought and flooding means it is important to improve resilience to potential hazards. Using passive solar design, natural ventilation and the use of materials to address overheating is essential.'

- f) On this basis, the criteria identified in the policy will assist in delivering a range of measures that help address climate mitigation and adaptation.

**63. Should the BREEAM and Sustainable Homes ratings be quoted in this policy or its supporting text and should development be required to meet the higher level targets?**

***Welwyn Hatfield response***

- a) Policy SP10 is a strategic policy, identifying the aspects of design and construction that need to be addressed to ensure future development is as sustainable as possible. Requirements for compliance with targets are more appropriate to include in development management policies. Paragraph 11.21 of the Plan sets out that the strategic approach in SP10 needs to be applied in combination with more detailed criteria in policies SADM13 and SADM14.
- b) Following the technical housing standards review in 2015, the government has withdrawn the Code for Sustainable Homes. Technical standards for housing have been incorporated into building regulations to create a more consistent, streamlined approach nationally but there are no national standards for commercial buildings.
- c) To meet the plan's objective to address climate change and minimise the impact on the environment, it is important that both residential and non-residential developments address environmental sustainability.
- d) Therefore, SADM13 sets requirements for *major non-residential development* to meet BREEAM '*Excellent*' standards, unless the applicant can provide robust evidence to demonstrate it is not technical or feasible, in which case a 'very good' rating is required. It is not considered achieving a minimum 'very good' rating is too onerous and the approach seeks to balance the delivery of good practice with viability implications. The policy also sets water efficiency requirements above the basic requirements of building control. Given that the Environment Agency has identified this area as being particularly water stressed<sup>2</sup>, it is considered appropriate to apply this standard, wherever possible.
- e) As detailed in the Council's response to Q67, paragraph 11.29 of the Plan makes it clear that viability will be taken into account. In line with national guidance, the viability of this Policy approach was assessed in the Combined Policy Viability Update, 2016 (**VIB/5**). The standards identified are viable in Welwyn Hatfield.
- e) The Council's flexible approach to applying its policy requirements will ensure an appropriate balance between delivering overall plan objectives and ensure that sites are, as far as possible, able to be developed viably and facilitate the growth envisaged in the Plan.

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<sup>2</sup> Water Stressed Area Classification (2013), Environment Agency.

**64) Should this policy seek to encourage the use of renewable energy?**

***Welwyn Hatfield Response***

- a) Policy SP10 encourages the use of renewable energy under the heading 'Energy and climate change'. It requires the design and construction of new development to reflect the energy hierarchy and use renewable and low carbon infrastructure, where appropriate. Criteria in Policy SADM13 supports this strategic approach by requiring major development proposals to demonstrate they have sought to maximise opportunities for renewable and low carbon sources. This approach complies with the statutory requirement in the Planning and Compulsory Purchase Act and is consistent with objectives in national policy and planning practice guidance to address climate change. Given the proposed scale of new residential development within the borough, buildings have a key role to play in carbon reduction. The policy does not prescribe how an applicant should meet building regulations. However, the Council considers that, in line with the energy hierarchy, it is appropriate that applicants for major development proposals demonstrate that renewable energy is being considered in the design process and that opportunities have been maximised.
- b) SP10 relates to the provision of renewable energy within new development and one representation criticises that failure of the policy to address renewable and low carbon infrastructure. However, renewable and low carbon energy development is addressed in Chapter 13 of the Local Plan (paragraph 13.28). This references the Hertfordshire Renewable and Low Carbon study, 2010 (INF/4) which identifies energy opportunities in the borough, in line with guidance in the Renewable and Low Carbon Planning Practice Guidance. However as these relate to land in the Green Belt each application would need to demonstrate a case for very special circumstances in line with national policy. Therefore, Paragraph 13.28 of the Plan outlines that proposals will be considered on their merits based on criteria set out in the Local Plan and national policy and guidance.

**65) Should the policy require the production of site waste management plans?**

***Welwyn Hatfield Response***

- a) Policy SP10 sets out the strategy for minimising and managing waste throughout the design and construction process, in line with the waste hierarchy in the Waste Local Plan. Applicants will need to demonstrate compliance in their Sustainable Design Statement.
- b) In response to the submission Local Plan (2016), a representation from Hertfordshire County Council argues that the policy should require the production of site waste management plans (SWMPs). The Council does not consider it necessary to the soundness of the Plan to include this specific requirement within the policy.
- c) However, to ensure consistency with the Waste Core Strategy and Development Management Policies Document 2012, a minor modification has been proposed to insert a new paragraph after paragraph 11.30 to indicate that SWMPs may be used

as a good practice tool for addressing the need to reduce construction and demolition waste consistent with the aims of Policy SP10, as follows:

'Site Waste Management Plans may be used as a good practice tool to help manage and reduce construction and demolition waste, consistent with the objectives of the development plan.'

**66) Will the Policy ensure that the future development and use of land in the Borough will contribute to the mitigation of and adaptation to climate change as required by Section 19(1a) of the P&CPA 2004?**

***Welwyn Hatfield Response***

- a) The duty imposed by Section 19(1A) of the Planning and Compulsory Purchase Act 2004 relates to the Plan "taken as a whole". The Plan must include 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. It is not therefore necessary in order to accord with the test of soundness that the sole aim of any particular plan policy is directed to compliance with section 19(1A). Some policies may deal with mitigation, others with adaptation, some may deal with both. In some cases the whole policy may be designed to address those issues, in some cases it may be particular elements of a policy. In cases where policies are directed towards this issue, all that section 19(1A) requires is that they make a positive contribution to either mitigation of, or adaptation to, climate change.
- b) Policy SP1 – Delivering Sustainable Development – provides a set of guiding principles to bring about sustainable development in the borough. These principles will be relevant to the application of policy SADM13. The third bullet point of Policy SP1 directs development to sustainable locations, seeks to protect areas of highest environmental value and avoid development in areas of high flood risk. The fifth bullet point specifically mentions adaptation and mitigation principles relating to climate change.
- c) Following on from the strategy outlined in SP10, Policy SADM13 sets out sustainability criteria that require new development in the borough to mitigate and adapt to climate change. The requirement for major development to demonstrate they have maximised opportunities for renewable and low carbon sources of energy will reduce energy use and contribute to climate change mitigation. Compliance with BREEAM standards (non-residential) requires a holistic approach, where the life-cycle of the building is designed to minimise the use of resources, reduce carbon emissions and adapt to the impact of climate change. The lower water consumption targets will reduce the amount of energy used in the water supply system and help minimise the impact and extent of droughts caused by climate change.
- d) Whilst not a soundness issue, for more clarity on the contribution of the policy towards climate change adaptation, a minor modification is proposed to the justification of Policy SADM13, to add the following text after paragraph 11.33:  
'These measures to use less energy help new development adapt to climate change. Expected extreme weather such as heatwaves, drought and flooding means it is

important to improve resilience to potential hazards. Using passive solar design, natural ventilation and the use of materials to address overheating is essential.'

- d) On this basis, the criteria identified in the policy will assist in delivering a range of measures that help address climate change mitigation and adaptation.

### **SADM 13 Sustainability Requirements**

#### **67) Are all anticipated developments likely to be able to meet the sustainability requirements without becoming unviable?**

##### ***Welwyn Hatfield Response***

- a) The Council's Combined Policy Viability Study (CPVS) has modelled and reviewed the costs associated with delivering development in the context of the whole plan. The Study uses the residual land value method to calculate the value of completed schemes (by typologies) and deducting development costs (including sustainability requirements).
- b) The CPVS Update 2016 (VIB/6) is the most recent version<sup>3</sup>. Paragraph 2.43 lists the policies identified as having cost implications for developments:
- Policy SP1 – Delivering Sustainable Development (this provides the basis for seeking energy and water efficiency measures, SUDs and green infrastructure);
  - Policy SP 7 – Type and Mix of Housing (affordable housing requirements, 20% accessible and adaptable dwellings, housing mix);
  - Policy SP 10 – Sustainable Design and Construction (sets the basis for sustainable construction;
  - *Policy SADM 13 Sustainability Requirements*; and
  - Policy SADM 14 Flood Risk and Surface Water Management (specifies requirements for SUDs and source control on development sites).
- c) Table 5.5.1 (VIB/6) sets out the range of costs tested for base costs, S106 contributions, lifetime homes, 20% Accessible units, sustainability and SUDs.
- d) The Study concludes (page 5) that when the cumulative effect of affordable housing and lifetime homes, accessibility, sustainability and SUDs is tested, in certain development scenarios, some schemes would be able to accommodate less affordable housing. However, the Council will take into consideration robust cases for feasibility and viability in the delivery of sustainability measures, ensuring that schemes are delivered to the highest reasonable levels of sustainability achievable, whilst contributing towards other policy requirements. The Study also notes that the delivery of sustainability measures continues to be researched and developed and as widely acknowledged by the industry, associated costs are likely to reduce from

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<sup>3</sup> Initial CPVS published in 2014 (VIB/2)

current day costs in the future as new technology and methods of attaining sustainable development are discovered.

- e) The Local Plan makes it clear in various policy and implementation contexts that viability will be taken into account. In relation to Policy SADM 13, paragraph 11.29 of the Plan states that applicants are strongly advised to integrate the solutions required to satisfy SADM13 at the earliest appropriate stage so that they inform feasibility, viability and design appraisals alongside other policy requirements. Where an applicant considers certain measures to be unfeasible or unviable, this will need to be supported by a robust viability appraisal.
- f) The Council's flexible approach to applying its policy requirements will ensure an appropriate balance between delivering affordable housing, sustainability objectives, necessary infrastructure and the need for landowners and developers to achieve competitive returns, as required by the NPPF. This will ensure that sites are, as far as possible, able to be developed viably and facilitate the growth envisaged without jeopardising the delivery.

**68) Should this policy require the achievement of the higher level Sustainable Homes targets?**

***Welwyn Hatfield Response***

- a) No, a requirement for compliance with any level of the Sustainable Homes targets is inconsistent with national policy. As explained in response to Q61 and Q63, the government has withdrawn the code for sustainable homes. Technical standards for housing have been incorporated into building regulations to create a more consistent, streamlined approach nationally. Local Plans can set lower standards for water consumption. Building Regulations require that water consumption in new dwellings should not exceed 125 litres per person per day. However, the Regulations allow for a lower standard of 110 litres per person per day to be implemented in water stressed areas. Given that the Environment Agency has identified Welwyn Hatfield as being particularly water stressed<sup>4</sup>, it is considered appropriate to apply this standard.

**69) Should the BREEAM Excellent rating be required at all new developments?**

***Welwyn Hatfield Response***

- a) The policy approach is to apply the BREEAM requirement, i.e. to meet the 'excellent' rating wherever feasible and viable, to major non-residential developments only. Where this is not possible, then proposals will be required to demonstrate a 'Very Good' rating.
- b) This is a proportionate approach, balancing the need improve environmental sustainability against the need to ensure that development remains viable and not place onerous requirements on smaller developments.

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<sup>4</sup> Water Stressed Area Classification (2013), Environment Agency.

- c) In line with national guidance, the Council's Combined Policy Viability Update, 2016 (VIB/5) has modelled and reviewed the costs associated with delivering development in the context of the whole plan.
- d) The standards identified in Policy SADM13 are considered to be viable in Welwyn Hatfield. The Council's flexible approach to applying its policy requirements will ensure an appropriate balance between delivering the overall objectives of the Plan, together with the necessary infrastructure and the need for landowners and developers to achieve competitive returns, as required by the NPPF, thereby facilitating growth without jeopardising delivery.
- e) To meet the plan's objective to address climate change and minimise the impact on the environment, it is important that both residential and non-residential developments address environmental sustainability. No modification is considered necessary to the Policy in order to make the plan sound.

### **SADM 14 Sustainability Requirements**

#### **70) Should the plan require all proposed development to provide sustainable drainage systems?**

##### ***Welwyn Hatfield Response***

- a) Section iii of SADM 14 requires all major development proposals, and all proposals in areas identified as being at risk of surface water flooding, will to manage surface water runoff and surface water flood risk via the use of Sustainable Drainage Systems".
- b) This approach is considered appropriate in light of national policy and guidance.
- b) It is a legislative requirement for all 'Major' developments, as set out in Section 2.2.3 of the Strategic Flood Risk Assessment Level 1 and 2 Report, amended May 2016, (ENV/10) to manage surface water flood risk to and from the site, using the principles of SuDS.
- c) In practice, this can be described in a Surface Water Drainage Strategy, either as part of a Flood Risk Assessment, or a standalone document. Hertfordshire County Council as Lead Local Flood Authority (LLFA) and a statutory consultee for major development, has set out policies in the *Lead Local Flood Authority SuDS Policy Statement* (HCC, March 2015)<sup>5</sup>. This reinforces the requirements with respect to major developments, but it also make provisions 'for all new development in areas at risk of flooding to prioritise the use of SuDS' to meet the requirement set out in the Planning Practice Guidance (PPG)<sup>6</sup>.
- d) The PPG further suggests that SuDS may not be practical for some forms of development. It states that new development should only be considered appropriate in areas at risk of flooding if priority has been given to the use of SuDS, reflecting the

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<sup>5</sup> The Lead Local Flood Authority SuDs Policy Statement was revised in March 2017 and the Policy will be approved as part of the 2017/2018 Local Flood Risk Management Strategy review.

<sup>6</sup> Flood Risk and coastal change, Paragraph: 051 Ref. ID: 7-051-20150323

policy in para 103 of the NPPF, which states that when determining applications in flood risk areas it must be demonstrated that priority is given to SuDS. As such, it would be expected that surface water drainage would be dealt with using SuDS, where deemed practicable.

- e) For other minor development, drainage systems will be addressed in light of controls provided in Building Regulations.
- f) It is not considered necessary to extend the reach of the Policy beyond that already stated in order to make the plan sound.

**71. Should this policy make specific reference to the sequential approach to flood risk management?**

***Welwyn Hatfield Response***

- a) The policy states that '*Development proposals in areas at risk of flooding from any sources should be informed and be consistent with relevant national policy and guidance...*'.
- b) Consistent with the National Planning Policy Framework (NPPF) (paragraph 100) and national Planning Practice Guidance (PPG), 'Local Plans should apply a sequential, risk-based approach to the location of development to avoid where possible flood risk to people and property and manage any residual risk, taking account of the impacts of climate change...'. In practice, this approach is applied through the performance of the Sequential and Exception Tests, as described in the PPG *Flood Risk and Coastal Change*.
- c) Accordingly, the policy is implicitly aligned with the guidance, although this is not explicitly stated. If, following the application of the Sequential Test it is not possible for a development to be located in an area with a lower probability of flooding, the Exception Test must then be applied if deemed appropriate. The Exception Test is applied as set out in Table 3 of the PPG (Paragraph: 027 Reference ID: 7-027-20140306), which considers the relevant Flood Zone classification and the development-type vulnerability classification.
- d) In terms of a sequential 'approach' to flood risk management, this is defined in paragraph 101 of the NPPF, which states '*A sequential approach should be used in areas known to be at risk from any form of flooding*'. The policy is consistent with the requirement, without containing an explicit statement to that effect. The approach can be applied at the site level, with the aim of directing development to areas with little or no risk of flooding (from any source) in preference to areas at higher risk. The underlying objective being to avoid development in medium and high flood risk areas (Flood Zones 2 and 3) and other sources of flooding, where possible.
- e) The Council has completed a flood risk sequential and exception test of its site allocations (**ENV/13, ENV/ 13a**). Chapter 5 of the 'Strategic Flood Risk Assessment Level 1 and 2 Report (amended May 2016) (**ENV/10**) recommends that developers apply a risk-based approach when designing site layouts, if necessary, following the application of the Sequential and Exception Tests.

- f) The Council has taken full account of the sequential approach to flood risk management and is consistent with national policy. Paragraph 11.43 of the Plan sets out how the Council has worked with other key stakeholders to develop the SFRA and has directed development to the areas with the lowest probability and risk of flooding.
- g) A significant amount of guidance on this matter is provided in PPG and a specific reference to the sequential test in the Policy is not necessary in order to make the plan sound. However, to clarify the approach taken, specific reference to the sequential approach has been added to the supporting text:

*“To this end, the Council has worked with the Environment Agency, Hertfordshire County Council as Lead Local Flood Authority and other stakeholders to develop a Strategic Flood Risk Assessment. **that This assessment has helped to inform a sequential approach to direct development allocations in the borough to areas with the lowest probability and risk of flooding, taking into account of climate change.”***

**72. Should the policy require all proposed development to demonstrate, through a Flood Risk Assessment, that it will not contribute to flooding harm at locations downstream of the development?**

***Welwyn Hatfield Response***

- a) When determining planning applications, local planning authorities should ensure flood risk is not increased elsewhere<sup>7</sup>. Development located in zones with a higher probability of flooding must satisfy the Exception Test which requires ‘a site-specific flood risk assessment must demonstrate that the development will be safe for its lifetime taking account of the vulnerability of its users, without increasing flood risk elsewhere, and, where possible, will reduce flood risk overall’ (paragraph 102, NPPF).
- b) Policy SADM14 states that ‘Development proposals in areas at risk of flooding from any source should be informed by and be consistent with relevant national policy and guidance...’.
- c) By requiring compliance with national policy and the Council’s Strategic Flood Risk Assessment (SFRA)<sup>8</sup>, the policy does implicitly require that a FRA must be prepared to demonstrate that development proposals will not contribute to flooding harm at downstream locations.
- d) Section 9.2 of the Strategic Flood Risk Assessment Level 1 and 2 Report (amended May 2016) Document (**ENV/10**) sets out the circumstances when a FRA is usually required. For ‘Major’ developments, a Flood Risk Assessment is required, which will detail how the developer is to deal with flooding so it does not cause any adverse impacts on flood risk and does not impact on third party land. This may include a Surface Water Drainage Strategy; however, if this is not included within the FRA, it can be a conditioned recommendation for the planning application stage. For ‘Minor’ developments, a Flood Risk Assessment may not be required, given the size and scale of the development. It would be expected in these cases, that at the planning application stage, flood management techniques would be detailed so that best

<sup>7</sup> NPPF paragraph 103 and Planning Practice Guidance (PPG) *Flood Risk and Coastal Change*

<sup>8</sup> Criterion ii) of Policy SADM14

practice has been applied and that there is no adverse impact to third party land. The Council's validation checklist provides specific guidance to applicants as to when a FRA is required.

- e) Overall, it is considered that the policy requirement for FRA will require development proposals to demonstrate that it will not contribute to flooding harm at locations downstream of a development and no modification is proposed.