

Horsham District Local Plan 2023-2040 Examination

Our ref 61647/02/MS/HBe
Date 21 November 2024
From Lichfields obo Berkeley Strategic Land Limited

Subject Matter 4: Conserving and Enhancing the Natural Environment

This Hearing Statement has been submitted by Berkeley Strategic Land Limited ('Berkeley'); promoting the 'Land North West of Southwater' (HA3) 'Strategic Site' for around 1,000 homes.

Appendix 1 to Berkeley's Matter 1 statement sets out a Table of Modifications as proposed within Berkeley's submitted Hearing Statements (Matters 1 to 10).

1.0 Issue 1 – Whether the approach to environmental protection and air quality is justified, effective, consistent with national policy and positively prepared?

Q1 – Q2.

1.1 No comment.

2.0 Issue 2 – Whether the approach to the natural environment, biodiversity, landscape, coalescence, countryside, green and blue infrastructure and local green space is justified, effective, consistent with national policy and positively prepared?

Q1. Is Strategic Policy 13: The Natural Environment and Landscape Character sound? a) Are the words “inappropriate development” in the opening paragraph effective?

2.1 No and **Berkeley objects** to policy SP13 as the wording “*inappropriate development*” is neither effective nor consistent with national policy (NPPF paragraph 35c & 35d). The phrase ‘inappropriate development’ is a policy test for very special circumstances associated with development in the Green Belt, not the consideration of development in the context of its natural environment or landscape character. Policy SP13 should instead be aligned with NPPF paragraph 174 whereby decisions “*should contribute to and enhance the natural and local environment*”.

2.2 A modification that simply deleted the words “*against inappropriate development*” (from what is currently the third line) would ensure the policy is effective and consistent with national policy: resolving Berkeley's objection.

b) Is “where practicable” in criterion 2 consistent with national policy?

2.3 **Berkeley objects** to policy SP13 as the wording “*where practicable*” is not effective (NPPF Para 35c). The Council has proposed a modification¹ that if implemented would resolve Berkeley’s objection.

Q2 – Q4.

2.4 No comment.

Q5. Is Strategic Policy 17: Green Infrastructure and Biodiversity sound? a) Does “Green Infrastructure” mean “Green and Blue Infrastructure”? Are main modifications needed to address this?

2.5 No and **Berkeley objects** to part 1 of policy SP17 as it is not clear and therefore cannot be effective (NPPF paragraph 35c); the policy should refer to ‘Green and Blue infrastructure’. The Council has proposed a modification² that would if implemented would resolve Berkeley’s objection.

b) Is the requirement for relevant development proposals to deliver at least a 12% biodiversity net gain justified and effective?

2.6 No and **Berkeley objects** to part 5 of policy SP17. It requires a minimum of 12% BNG and this neither justified nor effective (NPPF paragraph 35d). The policy should be amended to refer to delivering a minimum of 10% BNG for qualifying development – akin to the statutory minimum introduced by Schedule 7A of the Town and Country Planning Act 1990 (inserted by the Environment Act 2021).

2.7 Planning Practice Guidance is clear that plan-makers should not seek higher gains than the statutory 10% unless justified (ID: 74-006). It then goes on to state that to justify such policies, there will need to be evidence of local need. Berkeley does not consider there is sufficient justification that demonstrates a local need for a higher percentage to require a minimum of 12% reviewing the plan’s evidence base. For example, document EN06 (Horsham BNG assessment) assesses the likely percentages gains achievable concluding for some sites gains of above 10% may be achievable³. However, achievability is not the same as need; the document does not include any analysis that justifies a local need for sites to deliver a greater than 10% BNG as a minimum. Including a minimum of 10% BNG in policy SP17 will not preclude sites that can deliver greater net gains from doing so.

2.8 Modifications should be made to Policy SP17 to amend the wording to a minimum of 10% BNG. Consequent amendments to paragraph 6.48 of the plan (SD01), policy HA1(2) and policy HA3(4) would also be required. These modifications are necessary to make the policy sound and if implemented would resolve Berkeley’s objection.

¹ HM019, SD14

² HM024, SD14

³ See para 1.5 to 1.10, EN06

c) Are the requirements for off-site biodiversity net gain justified?

- 2.9 No and **Berkeley objects** to part 6 of policy SP17 as it is not justified or effective (NPPF paragraph 35b & 35c).
- 2.10 Firstly, Part 6 of the policy requires the provision of material that will demonstrate how BNG will be achieved; making it clear what will be provided to meet no net loss and what will deliver gains. However, it is not clear as to what this part of the policy requires. The sentence “*submissions must make clear what will be provided to meet no net loss and what will deliver net gains*” should therefore be removed.
- 2.11 For example, the national BNG system does not require detailed material on exactly how BNG will be delivered at either the application or determinations stage. Instead, this detail should be provided via a ‘Biodiversity Gain Plan’ linked to a pre-commencement condition: i.e. post decision. While some information will be provided as part of the application that would indicate how the net gains might be delivered (either on site or via the purchase of credits) this is secured post consent. The PPG⁴ for example states: “*The statutory framework for biodiversity net gain has been designed as a post-permission matter*”. This is a clear instruction on how the process should be conducted and policies in this plan should be consistent with the approach set out in the PPG.
- 2.12 Secondly, this part of the policy also requires that off-site gains should be secured within Horsham district itself. This is not effective nor consistent with national policy as (1) it is unlikely that all habitat types will be available in the district, harming the deliverability of sites; (2) the national BNG system allows for off-site gains to be achieved outside the district via Natural England registered BNG credit sites and statutory credits are available. While there is strong encouragement within the BNG system to deliver off-site gains within the district it is not required; and (3) Part 6 contradicts itself as it refers to the national system of statutory credits that may not be delivered in the district itself.
- 2.13 Finally, the policy does not need to refer to securing BNG for 30-years as this is already a nationally set timeframe. A modification to delete Criterion 6 would overcome Berkeley’s objection.

c) Is criterion 7 effective?

- 2.14 No comment.

d) Is criterion 8 consistent with national policy and legislation?

- 2.15 No comment.

Q6. Is Policy 18: Local Green Space sound? a) Is the first sentence of the policy effective? b) Is it clear how this policy will be applied? Does the policy have any implications for Local Green Space which is close to a development proposal?

- 2.16 No comment.

⁴ <https://www.gov.uk/guidance/biodiversity-net-gain>



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