Runnymede Borough Council Local Plan Examination – Matter 11 Statement

Our ref 04858/36/NT/SH
Date 25 January 2019
From Lichfields on behalf of Thorpe Park, a company forming part of Merlin Attractions Operations Limited


1.0

Q.11.3. Read in the context of the Plan as a whole, do Policies EE1-EE9 provide a sound framework for the protection the Borough’s natural and built environment and the health and well-being of individuals and communities?

1.1

We support the amendments that have been made to draft Policy EE2 to include reference to suitable mitigation being secured at application stage. However, we consider the draft policy requires further amendment to be found sound in accordance with the recently adopted National Planning Policy Framework (July 2018, para. 182) and to align with the National Planning Policy Guidance. Critically, reference must be made to the ‘significant adverse effect level’ rather than simply a ‘statutory nuisance’ (the former is what is assessed under national policy), and EE2 should be clear that no unreasonable restrictions should be placed on existing businesses and facilities as a result of new development. To be found sound, draft Policy EE2 should be amended as follows:

1.2

“Development proposals should be integrated effectively with existing businesses and community facilities and ensure that where an existing business or community facility has an effect that could be deemed a statutory nuisance as a result of the proposed development, or where its operation could have a significant adverse effect on the proposed development (including changes of use), the applicant will be required to demonstrate at application stage that effective mitigation can be secured and implemented prior to completion of that development or a phase of that development. Existing businesses and facilities should not have unreasonable restrictions placed on them as a result of development permitted after they were established.”

2.0

Q.11.4. Are Policies EE14-EE19 for management of development in the Green Belt justified, consistent with national planning policy, and likely to be effective?

2.1

We do not agree with this statement and consider draft Policy EE17 requires amendment (or a separate policy drafted for this purpose) to include specific reference to Major Developed Sites (MDS) in the Green Belt. This is necessary to support a Plan-led approach which guides and supports development at Thorpe Park (and other MDS in the borough) with certainty and efficiency, aligning with para. 16 of the NPPF (2018) i.e. “plans should... contain policies that are clearly written and unambiguous, so it is evident how a decision maker should react to development proposals”.

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2.2 It remains our position that the Plan needs to provide certainty for sites where it is known that
development is going to take place, in order to secure the sustainable future of their operations.
As such, we do not consider it is suitable for MDS such as Thorpe Park to be covered by the
same policy approach as all other previously developed land (PDL) in the Green Belt. Our
representations to the draft Local Plan from February 2018, June 2017 and August 2016
addressed this issue and remain of key relevance to the Examination. They are summarised
below for ease of reference.

**August 2016 Representation**

2.3 In August 2016 we set out the preferred approach we considered the Council should be taking
(referred to as BE7/02): ‘to include a policy setting out the general approach to MDS but
continue to identify the largest of these with more specific guidance’. The Council’s
Sustainability Appraisal also identified a minor positive impact from this approach.

2.4 The Council has not, however, taken forward this ‘preferred approach’ and our representations
of 2017 and 2018 provided detailed comment on the issues arising from the approach taken and
the amendments required to develop a sound and effective policy. These are set out below given
their significance to the Stage 2 Hearings and question 11.4.

**June 2017 Representations**

2.5 Whilst para 89 of the NPPF is a helpful starting point [now superseded by para. 145 of the 2018
NPPF, but based on a similar approach] - and may indeed be sufficient for many small sites,
where development may or may not be promoted - it is not sufficient to manage development at
sites ‘previously designated’ as MDS in the Borough.

2.6 As has been established by the current Local Plan MDS policy, a plan-led approach is necessary
for major and important sites in the Borough’s Green Belt to ensure decisions can be made with
certainty and efficiency. Whilst the NPPF’s approach to general PDL is considered appropriate
in the majority of cases, we maintain our position that a specific local policy approach is
required for the Borough’s MDS and specifically Thorpe Park. The current approach is that each
proposal will need to revert to the test of impact on openness and there will be no established
development principle; this may have significant implications for both the applicant and the
local authority, creating uncertainty for each application.

2.7 To support our position on the need for a specific policy, we carried out a review in 2017 of a
number of local authorities with land in the Metropolitan Green Belt which have adopted (or are
shortly to adopt) a Local Plan post the publication of the 2012 NPPF. This review has focused on
whether these Local Plans have a policy specific to designated major sites - PDL - in the Green
Belt and how this has been drafted.

**Epsom and Ewell: Development Management Policies (September 2015)**

2.8 The Epsom and Ewell Development Management Policies document, adopted in September
2015, specifically deals with Major Developed Sites under policy DM2 with supporting text at
paras 2.6-2.9. The MDS text generally supports our approach, stating:
“Previous national planning policy set out detailed development control advice relating to such sites; specifically in relation to infilling and comprehensive redevelopment (where the original use had ceased). The National Planning Policy Framework lacks sufficient detail on this area of policy and as a consequence we have prepared our own policy to fill the vacuum. This approach was supported through responses to public consultation” (para. 2.6).

2.9 Epsom and Ewell identify two remaining MDS sites in the Borough which require a specific policy. It is noted that the Council considers “…limited appropriate infilling at these two sites may help improve education provision without having a harmful impact on the openness and permanence of the Green Belt” (para. 2.8).

2.10 On this basis Policy DM2 (Infilling within the boundaries of Major Developed Sites) states:

“Proposals for infilling within the boundaries of Major Developed Sites as originally defined in the old Epsom and Ewell Borough-wide Local Plan 2000 and as defined in the successor Site Allocations Development Plan Document will be permitted provided that the development would not:

i) Have a greater impact on the purposes of including land in the Green Belt than the existing development;

ii) Exceed the height of the existing buildings; and

iii) Lead to a major increase in the developed proportion of the site”.

2.11 The above is directly comparable to the approach RBC should be taking in their new Local Plan and is encouraged by the NPPF. All local planning authorities - including RBC and Epsom and Ewell – have the remit, and indeed expectation, to formulate their own policy criteria for assessing new infill and redevelopment proposals at major sites such as Thorpe Park. We consider RBC should be taking a similar approach to Epsom and Ewell, noting their Local Plan has passed detailed Examination.


2.12 The Three Rivers Core Strategy, which retains the MDS status of Maple Lodge Sewage Treatment works under Policy CP11, was adopted prior to the NPPF. However, the Site Allocations document was adopted post the NPPF in 2014 and is clear that whilst the NPPF does not include specific provision for MDS in the Green Belt, the “…Maple Lodge Wastewater Treatment Works is a substantial developed feature in the local landscape…” and “…while redevelopment or limited infilling may not be inappropriate development in the Green Belt, proposals should take into account the provisions of policy SA8, as well as other national and local planning policy” (para. 11.11). The Site Allocations includes a specific policy for the site (SA8) which states:

“Maple Lodge Wastewater Treatment Works is a significant infrastructure site in the Green Belt.

The landscaped setting provided by mature vegetation on the site boundaries and area surrounding the site should be retained in any proposals for infilling or redevelopment.

Any further buildings should be of comparable height to other nearby structures on the site”.

2.13 As with the Epsom and Ewell example, Three Rivers is clear that the NPPF does not include specific guidance on MDS, and a specific policy has therefore been provided in an adopted
Development Plan Document. The basis for this is that redevelopment and limited infilling at this previously developed Green Belt site is not considered inappropriate, and this policy ensures that when development does come forward (which it is accepted it will) it is guided to address the key issues i.e. the landscape setting and building heights. This is of importance to the approach RBC should be taking with its Local Plan, as it provides a policy basis specific to the site’s circumstances, where development has and will take place, rather than reverting to the NPPF’s generic test of impact on openness (that may, as noted above, be adequate for many sites).


2.14 The Welwyn Hatfield Local Plan was submitted for examination on 15 May 2017 (further consultation is currently ongoing in relation to agreeing additional housing sites, but it is understood this does not alter the approach to the MDS policy). The emerging policy approach is relevant to the comments set out above.

2.15 Policy SADM 34 (Development within the Green Belt) states that planning permission will be granted for development in accordance with national policy and other policies in the plan subject to specific criteria, one of which is ‘Major Developed Sites’. Four MDS are listed under the policy, which ‘comprise substantial areas of previously developed land in the Green Belt’. The Policy notes that their boundaries are included on the Policies Map, identifying the area within which limited infill development or replacement buildings could occur. Proposals will need to comply with the criteria of Policy SADM 34, and “…other than minor development, should come forward in the context of a Masterplan which has been agreed by the Council”.

**Summary**

2.16 The above three examples are not an exhaustive list and there are other authorities such as Woking where similar approaches to MDS in the Green Belt have been taken. These examples demonstrate that other authorities have clearly concluded that their Major Developed Sites deserve a more specific local policy, to flesh out the broad brush NPPF policy.

**Curtilage and Zoning**

2.17 The definition of PDL in the NPPF annex states that it should not be assumed the whole curtilage should be developed. Therefore, with a site such as Thorpe Park, the NPPF does not (and cannot) provide certainty on what constitutes PDL and therefore where infilling and redevelopment would be permitted. The substantial amount of work prepared in partnership with RBC to define the ‘zones’ within Thorpe Park’s MDS boundary would fall away and the definition of the ‘curtilage’ would be left open to question.

2.18 In the case of Thorpe Park, the pattern and grain of development is varied across the site and there are extensive developed areas that could accommodate new development without adding to - or harming – the openness of the Green Belt and the purpose of including land within it. This is particularly the case in the Park’s denser inner core (‘pink zone’) that currently includes rides and various other attractions, but also applies to parts of the yellow zone in relation to servicing, accommodation and infrastructure (see Appendix 1 for plan). Without any local policy guidance, and simply relying on the NPPF, certainty and consistency on defining the site’s curtilage is removed.
**Bespoke Policy**

2.19 We therefore consider a bespoke policy should be developed for Thorpe Park. A suggested draft, based on our review of other Local Plans, and the history to development at Thorpe Park is set out in detail within our representations from June 2017.

**February 2018 Representations**

2.20 The introduction of draft Policy EE17 was a positive step forward in providing a plan-led approach to development of PDL in the Green Belt. Notwithstanding the Officer comments, however, it is not comparable to the approach taken by Epsom and Ewell in its Development Management Policies document (adopted in 2015, post NPPF), as its Plan specifically identifies two MDS in the Borough with a corresponding MDS Policy:DM2.

2.21 Draft Policy EE17 does not identify MDS, but relates to all PDL in the Green Belt, whatever the location/scale/nature of use etc. It provides details on the considerations to be applied in determining whether there would be any greater impact on the openness of the Green Belt and the purpose of including land within it than the existing development (such as heights and footprint as existing and proposed). It does not, however, provide the necessary certainty for major and important sites in the Borough’s Green Belt that proposals will be permitted provided they do not have a greater impact on the purposes of including land in the Green Belt than the existing development. There continues to be no established development principle for MDS and this creates uncertainty for the applicant and the local authority.

2.22 In addition, this draft policy provides no clarity on curtilage, as requested in our representations from 2017. Reference is made under draft Policy EE17 to the ‘existing and proposed development envelope and amount of undeveloped areas’. Although helpful with a standard site (for instance a house and its garden), the pattern and grain of development is varied across the Thorpe Park site and there are extensive developed areas including the denser inner core (‘the pink zone’) that currently includes rides and various other attractions, but also parts of the yellow zone which includes servicing, accommodation and infrastructure. Reference to the ‘development envelope’ and ‘undeveloped areas’ lacks application to the curtilage of an existing MDS, which should be based on its specific characteristics which justified its allocation as an MDS in the current Local Plan.

2.23 Therefore, whilst draft Policy EE17 is helpful for the majority of the Borough’s PDL, there is a fundamental flaw in the draft Local Plan: its absence of policy on the current Local Plan’s MDS, including Thorpe Park. These are sites where it is known that development is going to take place and this must be planned for to ensure the sustainable future of that site’s operations.

2.24 This is particularly important in the context of earlier sections of the Plan, which emphasise the role played by the Borough’s high profile attractions such as Thorpe Park in the local economy. In order to support these attractions and Runnymede’s tourism/visitor economy, there must be certainty for businesses such as Thorpe Park and they cannot be covered by the same policy as all other PDL in the green belt, whatever their scale, nature, character etc.

2.25 Where there is extensive PDL and a certainty that development is going to take place i.e. at Thorpe Park and potentially the other MDS allocated in the current Local Plan, it must be accepted that appropriate infilling and/or redevelopment will be acceptable without having a harmful impact on the openness and permanence of the Green Belt. It is on this basis that we suggested the bespoke policy in our June 2017 representations. Draft Policy EE17 must go
further for the Borough’s economically important MDS to positively guide their development via a plan-led approach with the certainty required for ongoing investment.

2.26 We therefore fundamentally disagree with the Officer conclusion that ‘this proposed policy adequately covers the issues raised and should provide the certainty required’. We also disagree with the conclusion that ‘the NPPF refers to previously developed sites, but does not require these to be identified’. This may be the case, but simply because the NPPF does not state a specific requirement, it cannot be concluded that this is not suitable and/or a sound approach.

2.27 Finally, we note that Officers state that “its [the NPPF’s] very essence is that it doesn’t preclude others by identifying some. The representor’s proposed policy does not acknowledge the movement away from MDS to a wider more inclusive identification of relevant sites”. We consider the Council has misinterpreted the intention of the NPPF in its approach to PDL. The NPPF’s approach, as a departure from PPG2, was to broaden the ‘exceptions’ Green Belt policy to encompass the infilling and/or redevelopment of all previously developed sites, rather than limiting this to those identified as MDS. It did not require a move away from MDS. As was demonstrated in the Local Plan examples cited in our 2017 representations, the inclusion of a specific policy on a Borough’s identified MDS is entirely appropriate, sound and justified, and fully accords with the NPPF. This approach would not be ‘precluding others by identifying some’, but would include all PDL as set out in the NPPF, whilst specifically supporting the sustainable future of key major sites where it is known that development is going to take place.

2.28 We therefore consider that draft Policy EE17 is helpful in relation to the general approach to PDL in the Green Belt, but there remains a fundamental absence of reference to Major Developed Sites in the Green Belt and a need to set out more specific guidance to guide and support their development with certainty and efficiency.

2.29 Given the significance of our concerns in relation to draft Policy EE17, we do not consider this is a justified, effective approach and we therefore request to participate in the oral Examination.