

Questions for Dorset Council (6)

1. Could Dorset Council confirm that the categorisation of shopping frontages will be reviewed as part of the Dorset Council Local Plan (LP) preparation and that consideration is likely to be given to the status of the former Cattle Market site (in terms of its retail frontage designation)?

DC answer, 1 June 2020

- The Local Plan is at an early stage of preparation, so it is difficult to give a high degree of certainty over the specifics of its future policies.
- A key part of the supporting evidence base of the LP will be the Joint Retail and Commercial Leisure Study (2018). As this is the same study referred to on page 19 of the draft NP and used to inform the town centre designations in the NP, it seems unlikely that the LP will seek to do something radically different to that set out in the draft NP.
- We note that national policy (NPPF) does not require plans to identify retail/shopping frontages – however neither is there anything that prohibits them. We are currently minded to continue identifying retail/shopping frontages in the LP.
- With regards to the Cattle Market site, the examiner should be made aware that planning permission was granted for a Lidl food store on 18 May 2020 (our ref: 2/2019/0769/FUL).
- We note that the retail/shopping frontages proposed in the 2018 Retail Study and in the draft NP do not include the Post Office and the Tesco superstore on the eastern side of the town centre. The Cattle Market Site lies further to the east beyond Tesco.
- Our understanding from the consultants who undertook the 2018 Retail Study is that they only consider completed developments when determining town centre boundaries and other retail designations. This is understandable for two reasons: (1) there is always a risk that planning permissions are not implemented; (2) they are measuring how town centre environments are used in order to make their recommendations, and that is clearly impossible to do for development that is not complete and not in use.
- In summary, Dorset Council will continue to review the situation while work on the Local Plan progresses.

2. Bearing in mind Dorset Council has recommended the deletion of policy SFHE1, I would nevertheless welcome some clarity.

There is reference in the policy (page 29) to circumstances when the local plan housing supply policies may not be considered to be up to date. Firstly, are there any LP housing supply policies that are out-of-date; secondly how would a decision maker know which policies are out-of-date (if there are any); and thirdly, if there are out-of-date policies, would a planning application for development outside the settlement boundary be supported if the assessments referred to in policy SFHE1 are all satisfactory?

DC answer, 1 June 2020

- Paragraph 11 and footnote 7 of NPPF explain that for applications involving the provision of housing, the policies which are most important for determining the application are ‘out of date’ if a 5-year supply of deliverable housing sites cannot be demonstrated. As we have been unable to demonstrate a 5-year supply in North Dorset since July 2017, the answer to the first part of the question is to confirm that parts of some policies are ‘out-of-date’. For example, the parts of LPP1 policies 2 ‘Core Spatial Strategy’, 6 ‘Housing Distribution’, and in the context of the neighbourhood plan area, 18 ‘Shaftesbury’, relating to housing supply matters.
- In answer to the second part of the question, we would argue that it is up to the decision maker to determine whether development plan (DP) policies are in or out of date on a case-by-case basis having assessed their level of consistency with the NPPF (see paragraph 213). However, we can confirm that advice from policy officers to DM case officers on housing

applications since July 2017 has been that due to the lack of a 5-year supply, parts of certain policies, such as those listed in the bullet point above, should be considered 'out-of-date'.

- In response to the third part of the question, Dorset Council would find it difficult to refuse an application for development outside the settlement boundary if the assessments referred to in policy SFHE1 are all satisfactory. However as outlined in our Regulation 16 response, we believe that 'social, economic and environmental impacts' are already thoroughly assessed when determining planning applications.
- We would like to draw attention to two recent appeal decisions for residential schemes on land outside but adjacent to the Shaftesbury settlement boundary. One was allowed¹ and the other dismissed². In both cases the Council and the PINS inspector will have considered all potential social, economic and environmental impacts. We do not think that had this policy formed part of the development plan at the time that it would have had any significant bearing on the decision making process.
- Finally it could be argued that while draft policy SFHE1 appears to be an attempt to work around NPPF para 11(d), it is also at risk of being classed 'out of date' by virtue of it being a housing supply policy during a time when a 5-year housing land supply cannot be demonstrated for the North Dorset area.

3. There is a suggestion from one respondent that it should be a requirement of policy SFTC3 (page 23) that street lighting is dark night sky compliant. Is this an issue addressed in any other Dorset Council policy documentation and is there any justification for making a reference to it in this policy?

DC answer, 1 June 2020

- LPP1 Policy 25 'Amenity' contains criteria on artificial light intrusion. It states:
Where external lighting is proposed, development will be permitted provided that:
 - a) the scheme is the minimum necessary to achieve its purpose; and
 - b) light scatter, spillage and glare are minimised through the control of light direction and intensity; and
 - c) the quality and intensity of the light and the daytime appearance of any light fittings and cables would not have a detrimental impact on local amenity or the character of the surrounding area.In the case of other development, no light pollution should occur by virtue of lighting schemes incorporated into the development.
- Policy SFG14 in the draft NP is specifically on the topic of protecting the night skies from light pollution. It provides further criteria, some of it of a technical nature.
- Dorset Council's Street Lighting and Illuminated Signs Policy³ includes several references to light pollution
- Dorset council's Street Lighting and Illuminated Signs Specification⁴ requires equipment that minimises light pollution and is compatible with the Street Lighting and Illuminated Signs Policy (top of page 5)
- Given the above, we consider that additional reference to dark skies and light pollution in policy SFTC3 would be unnecessary. In addition, we note that the overarching objective of this policy is to "preserve and enhance the character and design of [the] historic town centre". Hypothetically, a requirement for dark sky compatible lighting in the town centre might not be in keeping with the style of the surrounding street lights. This tension could become more apparent if there is pressure for more town centre street lighting for safety reasons and/or to support the evening economy.

¹ Land at Higher Blandford Road, Our ref: 2/2018/0602/OUT; PINS ref: APP/N1215/W/19/3227559

² Land north of Enmore Court and off New Road, Our ref: 2/2018/0696/OUT; PINS ref: APP/D1265/W/19/3233173

³ <https://www.dorsetcouncil.gov.uk/roads-highways-maintenance/street-lighting/dorset-council-street-lighting-and-illuminated-signs-policy.aspx>

⁴ <https://www.dorsetcouncil.gov.uk/roads-highways-maintenance/documents/policies-requirements-and-specs/street-lighting-illuminated-traffic-signs-specification.pdf>

- Following on from the last point, we feel policy SFTC3 should explicitly state the area of the town that it applies to. We infer it is the Town Centre as defined on the Town Centre Map (Map Ref: SFTC, Page 19), but as worded this could be ambiguous.

4. What is the status of the proposed eastern by-pass for Shaftesbury? Is it deliverable within the plan period? If not, is the inclusion of policy SFHE4 (page 36) reasonable and justified?

DC answer, 1 June 2020

- We outlined Dorset Council’s understanding of the current situation regarding the proposed bypass in our Regulation 16 response. Essentially, we do not currently have any evidence that suggests funding is available for a bypass at this location. In the absence of such evidence, the Council considers that it is currently difficult to argue that the by-pass is deliverable within the plan period. However, we are also aware that there is significant local support for the proposed bypass and it remains an aspiration of many of the town’s residents.
- The phrase ‘reasonable and justified’ has a striking resemblance to one of the criterion set out in the tests of soundness (NPPF paragraph 35). Planning practice guidance (paragraph 55) states that with respect to neighbourhood plans, the examiner’s role is limited to testing whether a plan meets the basic conditions, and is not to test the soundness of a plan.
- We therefore didn’t comment on whether the policy was reasonable and justified in our Regulation 16 response, but instead highlighted other sections of NPPF that we considered applicable. In particular, we referred to NPPF para 16(b) which sets out that plans should be “aspirational but deliverable”.

5. The National Planning Policy Framework (NPPF) states that Local Green Space should be ‘demonstrably special to a local community and holds a particular local significance ...’. The Green Infrastructure Audit sets out, on page 5, an assessment of the areas in Shaftesbury. Is this approach compatible with similar assessments for other settlements in Dorset?

DC answer, 1 June 2020

- We note the assessment provided in the submitted GI audit. Although it does give a reason why each proposed LGS is ‘demonstrably special’ (e.g. ‘Recreational value’), it is not clear how the NPPF criterion of ‘particular local significance’ has been covered.
- Please see the following examples of how other neighbourhood plans in the North Dorset area have addressed the matter.
- Motcombe is a village with a parish boundary adjacent to Shaftesbury. The NP was made in December 2019 and is the most recently made NP in North Dorset. For each proposed LGS, the background paper gives a low/medium/high score against different aspects of local significance (landscape value, historic significance, recreation value, and wildlife value). It also gives a percentage of the responses that agreed that they were locally important.⁵
- Sturminster Newton, another town in North Dorset, has a NP made in March 2019. The Open Space Assessment gives each site a score from 1 to 5 against different criteria (Wildlife value, state of maintenance, views, level of use, and overall quality. This is used to produce an overall score. We also note that the methodology states that it excludes schools and recreational grounds as it would not make sense to apply LGS status to schools where ancillary buildings may be needed in the future.⁶
- Gillingham is a nearby town to Shaftesbury, and is slightly larger. Its NP was made in July 2018. The NP identifies three LGS (a park, a churchyard, and a cemetery). The supporting

⁵ Motcombe NP and supporting evidence available from <https://www.dorsetcouncil.gov.uk/planning-buildings-land/planning-policy/north-dorset/neighbourhood-planning/submitted-plans/motcombe-neighbourhood-plan.aspx>

⁶ Sturminster Newton NP and supporting evidence available from <https://www.dorsetcouncil.gov.uk/planning-buildings-land/planning-policy/north-dorset/neighbourhood-planning/submitted-plans/sturminster-newton-neighbourhood-plan-2016-2031.aspx>

text notes that LGS should have characteristics that cannot be readily relocated or replicated. The NP identifies and seeks to protect other open spaces in the town, but does permit them to be developed unless replaced by equal or better provision. Approximately 60 sites were assessed, and the outcome of only three sites being considered sufficiently important to the community to warrant LGS status seems modest. However it is a pragmatic approach as it does not block development schemes where there is an overriding need while maintaining overall quantity of open space.⁷

- The number of LGS will clearly vary from settlement to settlement depending on the character of the area, so it is not fair to compare absolute numbers. However, given the strength of protection that NPPF suggests LGS should be given (para 101), we think the plan maker is responsible for robustly justifying their selection.

6. It is suggested in representation SY18 that there may have been irregularities regarding the formation of the 'new' Neighbourhood Plan Group. Is Dorset Council satisfied that there are no significant issues in this regard that I should be aware of?

DC answer, 1 June 2020

- We have limited direct experience or knowledge of the daily workings of the NPG. However, from what we have witnessed they have operated professionally and transparently. Two officers from North Dorset District Council were invited and attended a public meeting to help launch the new NPG (following the dissolution of the former joint Shaftesbury, Melbury Abbas & Cann NPG), and have been kept informed of all significant developments since then. Information regarding the NPG and production of the plan has been made available on either the Shaftesbury Town Council web page, or the web page specifically created to inform people of the plan (<https://www.shaftesburyplan.co.uk/>).
- We note the complaint made at the end of representation SY18. We were only made aware of this allegation on receipt of SY18, which arrived after the consultation formally finished (we elected to accept it due to the extraordinary circumstances caused by the start of the Covid-19 outbreak and the subsequent lockdown).
- It is our understanding that Shaftesbury Town Council, as the qualifying body, is ultimately responsible for the submitted NP, and therefore can choose who to appoint to work on its production. On this matter, paragraph 015 of PPG appears relevant:

“The relationship between any group and the formal functions of the town or parish council should be transparent to the wider public. A parish or town council may choose to establish an advisory committee or sub-committee under section 102(4) of the Local Government Act 1972 and appoint local people (who need not be parish councillors) to those bodies. Members of such committees or sub-committees would have voting rights under section 13(3), (4)(e) or (4)(h) of the Local Government and Housing Act 1989. The terms of reference for a steering group or other body should be published and the minutes of meetings made available to the public.”

- The content of SY18 does not appear to allege anything that contradicts this guidance.

⁷ Gillingham NP and supporting evidence available from <https://www.dorsetcouncil.gov.uk/planning-buildings-land/planning-policy/north-dorset/neighbourhood-planning/submitted-plans/gillingham-neighbourhood-plan.aspx>