



Craven Local Plan Examination

Matter 12

Statement by Craven District Council

Matter 12 – Infrastructure Provision (Policies SP12, INF1, INF5 and INF6)

Hearing Day 7 – Friday 19th October 2018 (Week 2)

September 2018

Issue 1 – Infrastructure Provision (policies SP12, INF1 and INF5)

Q1. What is the justification for including the Infrastructure Delivery Plan ('IDP') within the Appendices to the Local Plan? Would this render the Plan out-of-date should the IDP be updated?

Council's Response

1. The inclusion of an IDP as an appendix to the local plan sets out how infrastructure required as part of plan implementation is to be delivered. The IDP is intended to show the deliverability of the plan and to quantify infrastructure requirements arising from plan delivery.
2. The IDP is an appendix which, as stated in the first paragraph of policy SP4 accompanies the plan. It is not local plan policy - it is a 'living' document as set out at paragraph 4.68 of the plan that is anticipated to be updated regularly, without needing to update or amend adopted plan policy. As such the plan will not become outdated as a result. Paragraph 1 of policy SP12 makes it clear that the IDP will be updated regularly.

Q2. What does the phrase “Associated decisions should be taken based upon an assessment of the contribution to social, economic and environmental sustainability and effect upon implementation of the strategy, not solely cost” within Policy SP12 mean? Is it clear to decision-makers, developers and local communities what is required of proposals for new development? Is the policy effective?

Council's Response

1. This phrase was included within Policy SP12 in an earlier draft of the Plan in 2016 before the Council's evidence base had been fully developed on infrastructure requirements, costs and viability likely to arise from the planned growth in the Local Plan, and was intended to express the Council's intentions to make decisions on infrastructure requirements based on what was needed to implement the strategy and plan objectives. However, it is considered that this phrase within Policy SP12 has largely been overtaken by events and the production of up to date evidence on the requirements, costs and viability of the infrastructure which support delivery of the Plan. Additionally Policy INF 1 sets out clearly that the Council will use planning obligations to mitigate the impact of Craven's growth and support the provision of local infrastructure as identified under Policies H2, INF2, INF3, INF5 and INF6. On balance, this phrase in Policy SP12 appears to be redundant and should be deleted. The Council therefore proposes a main modification to delete the phrase from Policy SP12.

Proposed Modification

Page 113 of the Submission Draft Local Plan: Policy SP12 – delete final sentence of second paragraph of Policy SP12

~~“The Council will work to mitigate and minimise adverse impacts that may arise from the delivery of the local plan. Decisions on the timing of infrastructure delivery will be tied to the timing of development over the plan period. Associated decisions should be taken based upon an assessment of the contribution of social, economic and environmental sustainability and effect upon implementation of the strategy, not solely cost.”~~

Q3. Paragraph 8.4 of the Local Plan states that a consideration of cost has been built into the Plan’s policy requirements for infrastructure and other mitigation measures. Where is this set out, and what does it demonstrate?

Council’s Response

1. The consideration of cost, which is referred to in paragraph 8.4 of the Local Plan, is set out in detail within documents Ec004 – ‘Local Plan Viability Assessment (June 2017)’ and Ec005 – ‘Local Plan Viability Assessment Addendum Report (November 2017)’, which demonstrate that the Plan’s proposals and policy requirements are viable and deliverable. In addition, the consideration of cost with respect to affordable housing contributions is set out, in broad terms, within the supporting text of Policy H2, at paragraphs 6.16 – 6.18 of the plan.

Q4. Paragraph 8.2 of the Local Plan states that the Council will consider the introduction of a Community Infrastructure Levy (‘CIL’) charging schedule. How does this relate to evidence in the Local Plan Viability Assessment and Local Plan Viability Assessment Addendum Report?

Council’s Response

1. All developer contributions required in the implementation of Local Plan proposals and policies will be secured through planning obligations or, where appropriate, through agreements under the highways act. Documents Ec004 – ‘Local Plan Viability Assessment (June 2017)’ and Ec005 – ‘Local Plan Viability Assessment Addendum Report (November 2017)’ demonstrate that the Plan’s overall requirements are viable and soundly based. The statement provided within paragraph 8.2 of the Plan is intended to confirm the Council’s position with respect to CIL and to provide reassurance that consideration of its introduction in the future will be in consultation with developers, local communities and infrastructure providers and that the Council will undertake the necessary work (including viability assessment), and procedural requirements to ensure that any

charges do not undermine the delivery of the Local Plan.

Q5. In order to be sound is it necessary to include references to specific types of infrastructure provision in Policy INF1, such as schools?

Council's Response

1. No – Policy INF1 sets out the Council's policy on planning obligations themselves, rather than its policy on specific types of infrastructure provision. Local Plan Policies H2, INF2, INF3, INF5 and INF6 refer to specific types of infrastructure provision, including schools (INF6), as stated in the first sentence of Policy INF1.

Q6. Are Policies SP12 and INF1 consistent with paragraph 204 of the Framework which states that planning obligations should only be sought where they are necessary to make the development acceptable in planning terms, are directly related to the development and are fairly and reasonably related in scale and kind to the development?

Council's Response

1. Yes –The supporting text to Policy INF1, at paragraph 8.1 of the Local Plan, states that planning obligations will be used “Where necessary” and sets out clear parameters for their use in line with paragraph 204 of the Framework. The first sentence of the Policy then reiterates that planning obligations will be used “Where necessary” and the Policy as a whole is worded to be consistent with paragraph 204 of the Framework.
2. Policy SP12, third paragraph states “*Development proposals are expected to either provide, or enable the provision of, infrastructure which **is directly related to, or made necessary by that development.***”, which the Council considers is consistent with paragraph 204 of the Framework.

Q7. What is the definition of sensitive areas for the purposes of Policy INF5? As submitted is this clear to decision-makers, developers and local communities?

Council's Response

1. For the avoidance of doubt, sensitive areas for the purposes of the policy are identified as:
 - Forest of Bowland AONB;
 - Yorkshire Dales National Park (including setting)
 - Conservation Areas
 - Listed buildings
 - Scheduled Ancient Monuments

- Special Protection Areas (SPA)
- Special Areas of Conservation (SAC)

2. It is accepted that this could be more clearly expressed in the plan and as such the following modification to the plan is suggested:

Proposed Modification
<p>Add the following footnote to criterion (c) of policy INF 5:</p> <p>“Sensitive areas are identified as Forest of Boland AONB; Yorkshire Dales National Park (including setting), Conservation Areas, Listed Buildings, Scheduled Ancient Monuments, Special Protection Areas (SPA), and Special Areas of Conservation (SAC)”</p> <p>Renumber all subsequent footnotes.</p>

Q8. Will it be possible for all new development to contribute towards, and be compatible with, next generation broadband, even in rural areas?

1. Yes. The purpose of policy INF 5 is to ensure early consideration of broadband connectivity and requires all new developments to enable a Next Generation Access broadband connection (or its equivalent), where viable.
2. Paragraph d of the policy requires all new proposals to demonstrate the anticipated connectivity requirements of the development, and how it will contribute to, and be compatible with, Next Generation Access broadband (or its equivalent).
3. The identification of information required in paragraph d, as further detailed in in the explanatory guidance (local plan paragraph 8.47) is likely to be a desk based exercise to identify the likely connectivity requirements of the development and to provide a summary of discussions on the viability and options for providing a Next Generation Access Broadband connection. Within this, it may include details of anticipated connectivity requirements of the end users, engagement with communication providers, the findings of connectivity assessments by communication providers and, if not currently viable, details of infrastructure to support future connectivity.
4. In addition to providing a connectivity assessment, the policy requires developments to provide next generation broadband access (or its equivalent), where viable section d of policy INF5 refers. Where it can be demonstrated that Next Generation Access broadband is not viable proposals should provide a minimum download connection of 10Mbps or the requirements of any universal service commitment.
5. This approach supports the requirement of the NPPF (Section 5) and as detailed in a letter from the then DCLG and DCMS on the 19 March 2015 where local planning authorities were reminded of policy in the current NPPF, the crucial role local planning authorities have in supporting the rollout of superfast broadband

through Local Plans and that wherever possible commercial and resident new builds are able to access superfast broadband.¹

6. With regard to existing coverage of premises in Craven, NYnet Ltd., a company wholly owned by North Yorkshire County Council and the managing agent of the Superfast North Yorkshire project (the local broadband project delivering the BDUK funded initiative) has provided historical and current coverage data for the Craven District.²
7. In 2012, prior to commencement of BDUK activity coverage of NGA broadband across Craven was approximately 48% of existing premises.³ This commercially funded infrastructure by Openreach was predominantly limited to the more built up areas of Skipton and South Craven.
8. In procuring the SFNY contract NYnet aimed to maximise coverage of existing premises as defined by an 'Open Market Review' process of existing NGA coverage by North Yorkshire County Council. By the end of 2017, following the second phase of the SFNY project 89% of premises in Craven had access to NGA broadband. This is the current position on coverage and can be seen on the latest Open Market Review (June 2016) which shows Openreach fibre coverage is now present in all the settlements listed as Tier 1, 2, 3, 4a and 4b in the Local Plan. Table 2 of the local plan refers.
9. A third phase of the SFNY rollout is due to commence in late 2018 where it is anticipated that coverage in Craven will increase to 93% by 2021 although precise coverage is yet to be confirmed. Again this will be based on premises included in the June 2016 OMR. New premises completed after this date will not benefit from connectivity through the project and as such will require developers and communication providers to proactively agree how to make NGA coverage available.
10. Many new developments will be able to achieve the requirements of this policy through Openreach fibre to the cabinet technology which, following the SFNY rollout is available in the District's main settlements. For developments of 30 or more plots nationally Openreach have confirmed they will provide 'fibre to the premise', or ultrafast, connectivity free of charge.⁴
11. It is acknowledged that the Craven does not have 100% coverage of Openreach fibre but in demonstrating how the development can provide NGA coverage applicants will be expected to investigate alternative solutions that may be available to meet the requirement of the policy.
12. Within the more rural parts of the plan area this may include communication

¹ "Provision of high speed broadband connections for commercial and residential new builds." Letter dated 19 March 2015 from DCLG and DCMS

² NYnet Ltd.

³ NYnet Ltd.

⁴ <https://www.ournetwork.openreach.co.uk/property-development.aspx>

providers that are not reliant on the Openreach network such as Broadband for the Rural North (B4RN); a fibre to the premise network operating across the north of the plan area and Boundless Networks; a fixed wireless broadband communication provider who offer coverage across large areas of the Plan area.

13. Where it can be evidenced that provision of NGA broadband is not viable developments can still contribute to connectivity through ensuring appropriate infrastructure is included in the development such as fibre ducting is in place for future infrastructure rollout.
14. In terms of meeting the lower threshold of 10Mbit this could be achieved through the existing Openreach copper network, fibre to the cabinet where the radius from the cabinet to the development is in excess of 1.2km and as a last resort delivered through satellite connectivity.
15. In 2018 'The Electronic Communications (Universal Service) (Broadband) Order 2018' was made which requires the communications regulator OFCOM to establish by 2020 a scheme to ensure everyone in the UK will have a legal right to an affordable broadband connection of at least 10 Mbps.⁵ As detailed in INF5 the requirement to provide a minimum of download connection of 10Mbit will be replaced by this Universal Service Obligation once this scheme is in place.
16. The rollout of fibre broadband by SFNY and Openreach has similarity in coverage with the proposed settlement locations for housing and employment growth in the Local Plan area. As such it is not anticipated this policy will place additional burdens on developers it is to demonstrate they have engaged with communication providers prior to submitting a planning application, submit details of this to the District Council and take advantage of opportunities to ensure the best possible coverage for new developments in the District.

Proposed Modification

Amend criterion e to read:

“All new development will be required to enable a Next Generation Access broadband connection (or its equivalent) where viable. Where it can be demonstrated that the provision of a Next Generation Access_broadband connection (or its equivalent) is not viable, proposals should provide a minimum download connection of 10Mbps or the requirements of any universal service commitment <u>obligation</u> , whichever is greater, and incorporate suitable infrastructure to support delivery of Next Generation Access broadband (or its equivalent) at a future date.”
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Amend paragraph 8.47 to read:

“Occupiers of new residential or commercial premises now often expect a high quality broadband connection as a utility similar to the provision of electricity or water. Applicants are required to actively demonstrate that they have considered
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⁵ <https://www.gov.uk/government/news/countdown-to-high-speed-broadband-for-all-begins--2>

broadband within their proposals and the digital requirements of the development and the resulting level of connectivity. The Council will provide future guidance on how this information should be presented. This could be delivered through a 'Connectivity Statement' that would:

- Detail engagement with broadband and network providers, including names of providers contacted, dates of contact and summary of feedback received;
- Detail current connectivity options for the site and achievable internet speeds;
- The findings of free connectivity assessments from communication providers, including details of any cost contributions that would be required from the developer in cases where they cannot offer a free service
- The proposed method of ensuring superfast broadband connectivity for the site, including measures to ensure that the development is 'high speed ready' in cases where it is unfeasible or disproportionately costly to provide superfast connectivity at the time of the development."

Issue 2 – Education Provision – Policy INF6

Q1. What is the justification for the thresholds in Policy INF6? What are they based on and how have they been determined?

Council's Response

1. *Preamble: In response to the representations received on this policy at Publication Draft Plan stage, the Council has been working with the local education authority, (LEA), North Yorkshire County Council and the Government's Education and Skills Funding Agency (ESFA) to clarify the evidence base used to justify the policy. This and the acceptance by the Council that the Draft Policy required rewording, has resulted in the Council putting forward two proposed modifications (PM's) to the plan. These are a reworked Policy INF6 and a revised Appendix B to the plan. They are contained in Appendix 1 and 2 to this hearing statement. Appendix 3 contains a recently received letter from the ESFA providing their position on the Council's proposed modifications set out in Appendix 1 and 2.*
2. Policy INF6 seeks developer contributions, when necessary to mitigate educational impacts, on residential developments as follows:
 - In Skipton, above 25 dwellings for primary school provision

- In the rest of the plan area, 15 or more dwellings for primary school provision, and
 - In all parts of the plan area, above 100 dwellings for secondary school provision.
- 3 Clearly, developer contributions for mitigation impacts can be sought for residential developments of much smaller sizes if they are viable and meet the CIL regulations (2010) (as amended) tests. This Council, with the support of North Yorkshire County Council as LEA, have adopted a pragmatic approach to determining these thresholds. Below these thresholds, the number of pupils generated from the new residential development may be accommodated in a school without the need for additional structural changes to the school infrastructure such as new classrooms. Above these thresholds the LEA considers that new education infrastructure will be needed to accommodate the likely level of new pupils. With rural primary schools often being much smaller than urban centres and less able to accommodate new pupils, Craven District Council supports a smaller threshold for the rural areas of the plan. This is explained in the proposed modification (PM) set out in Appendix 2.

Q2. How does the Local Plan ensure that contributions made by developers are sufficient to deliver the additional school places required to meet the increase in demand generated by new developments, where necessary? Is Policy INF6 effective?

Council's Response

1. The evidence and procedures identified in Appendix 2 to this hearing statement indicates that developer contributions will provide sufficient funds to meet increase in demand generated by new developments. It is accepted that these contributions will need to be reviewed soon to take into account the outcome of a current Department for Education (DfE) consultation on LEA's approach to financial contributions from developers. This will take place through the preparation and adoption of a supplementary planning document (SPD). The PM for the policy and explanatory text provides for this to take place.

Q3. Is it clear to decision-makers, developers and local communities what funding mechanisms will be used to provide additional school places?

Council's Response

- 1 The use of developer contributions through the mechanism of Section 106 legal agreements will be used to provide additional school places in implementing this policy. This is made clear in the PM to the plan set out in the appendices to this hearing statement.

Q4. How will a decision-maker determine whether or not a one-bedroom dwelling is “*clearly incapable of being enlarged*”? Is the policy effective?

Council’s Response

- 1 The Council has decided that there would be difficulties for the decision-maker to make this judgement and therefore the policy is not effective with the inclusion of this phrase. The PM for the policy wording set out in Appendix 1 deletes this phrase.

Craven District Council

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If you would like to have this information in a way that's better for you, please telephone **01756 700600**.