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# Inspector's Matters Issues and Questions

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Examination of the Darlington Local Plan

Part 1 Hearings (Matter 10 – Other Strategic and  
Other Development Management Policies)



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## Introduction

We have been instructed on behalf of our clients, Hellens Land Limited and Homes England, to submit a response to the Examination of the Darlington Local Plan: Inspector's Matters, Issues and Questions. Hellens Group have over 40 years' experience of delivering a range of housing, leisure and infrastructure developments across the North of England. Homes England is a non-departmental public body which works to accelerate housing delivery, working with developers across the country to improve neighbourhoods and grow communities.

Our client's joint interest is in respect of the Burtree Village which is located north west of Darlington and is located within the jurisdiction of Darlington Borough Council. These representations have been submitted to support the proposed strategic allocation for 2,000 residential dwellings, 200,000 sqm of employment space, community facilities, link road and associated infrastructure at Greater Faverdale (Burtree Garden Village).

This Statement should be read in conjunction with all previous representations made on behalf of our clients in relation to Burtree Garden Village.

Our clients are committed to ensuring the strategic allocation (and the Publication Draft Local Plan) is sound and robust. Our comments will therefore focus on the following Matters:

- Matter 1: - Legal and Procedural Requirements and other General Matters
- Matter 2: Amount of development needed in the Borough
- Matter 3: Vision, aims, objectives and spatial strategy
- Matter 4: Housing development
- Matter 5: Meeting particular housing needs
- Matter 7: Economic Development
- Matter 8 – Town Centres and Retail Development
- Matter 9- – Transport and other infrastructure
- Matter 10 - Other strategic and development management policies
- Matter 11 - Other Issues

# Inspector's Matters Issues and Questions

Hellens Land Limited and Homes England

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This statement addresses a number of questions raised by the Inspector under Matter 10: Other strategic and development management policies.

## Matter 10 – Other strategic and development management policies

### *Sustainable design principles and climate change (policy DC1)*

#### **Q10.1. Subject to the Council's proposed modification, is policy DC1 consistent with national policy and will it be effective in helping to ensure that development in the Borough is of good design?**

As raised in Matter 1 (Q1.8), we welcome the amended policy wording for DC1 in relation to the requirement to "consider" rather than "follow" the Design of New Development SPD. However, the content of this SPD should not include requirements beyond the scope of the DC1 policy requirements.

Mindful that the current SPD reflects outdated standards and requirements which already conflict with the objectives of DC1, it is noted that a revised SPD will be prepared prior to the adoption of the Local Plan in due course. The Town and Country Planning (Local Planning) (England) Regulations 2012 outlines that SPDs are allowed to contain policy, but it must be justified and must not conflict with the adopted development plan (Reg 8(3)). SPDs cannot contain policies identifying site allocations or setting development management policies to guide application decisions. By the same token, despite this established legal requirement to avoid conflict, SPDs are not subject to the same scrutiny as the development plan and as such some SPDs inadvertently establish additional policy like requirements beyond the scope of the adopted plan.

The SPD should provide further detail within the parameters set by the various policy criteria, which as policy DC1 suggests only requires "consideration" rather than full accordance, where it is not possible or appropriate to do so. However, should the content of this document introduce design requirements beyond the parameters of DC1 and national standards which have not yet been considered by developers and indeed as part plan wide viability, this could lead to delays in due course in determining planning applications and establishing whether the design of a proposed development accords with policy DC1.

As noted in the Inspector's preliminary questions note to the Council (DBC) (PQ9) it is already established within this Examination that an "SPD can build upon and provide detailed advice or guidance on policies in the Plan, but cannot introduce new policies". Whilst the modification broadly reflects the instruction at PQ9, to "have regard to" the SPD rather than require compliance with it, in our view the modification should reflect the exact wording as per PQ9. Alternatively, the formal reference to the document in the policy wording could be removed on the basis that it would be unsound as it has not been shaped by early engagement.

As raised in Matter 4, this also applies to the Design Code referenced in H11, as this document should not go beyond the scope of Policy H11 through introducing additional requirements. Policy H11 should also be amended to reflect and remain consistent with this modification to DC1 ensuring that "*the masterplan should be delivered in general accordance with/have regard to the strategic design requirements established in the Greater Faverdale Design Code.*"

In addition to the above, viability is a key consideration for design matters which is not currently reflected in the policy or supporting text. With specific regard to criterion c) regarding energy efficiency. As stated within our Regulation 19 representations, we would respectfully request that this be modified as follows:

“Energy efficiency measures and low carbon technologies will be encouraged, **where this is feasible and viable** and does not result in harm to the significance of a heritage asset;”

## ***Flood risk and water management (policy DC2)***

### **Q10.2. Subject to the Council's proposed modifications, does policy DC2 set out a sound approach to flood risk and water management?**

As raised within representations at Regulation 19 stage, our clients concern regarding the wording of the policy and the mitigation requirements remains. Currently DC2 as modified still requires that “*New developments should make an assessment of and address via mitigation measures where required, any risks from the construction and proposed use of the site to underlying groundwater, watercourses and other surface waters, in order to protect these resources and prevent contamination*”.

In our view this wording could lead to disproportionate amounts of mitigation which may not be necessary. This policy is not sufficiently flexible as required by Policy 11 of the NPPF and remains unsound. An amendment to this policy could comprise:

“*New developments should make an assessment of and address via mitigation measures where required, any **reasonable** risks from the construction and proposed use of the site to underlying groundwater, watercourses and other surface waters, in order to protect these resources and prevent contamination*”

Or

“*New developments should make an assessment of and address via **proportionate** mitigation measures where required, any risks from the construction and proposed use of the site to underlying groundwater, watercourses and other surface waters, in order to protect these resources and prevent contamination*”.

This policy wording would still ensure that flood risk is managed, whilst ensuring the necessary flexibility throughout the plan period.

## ***Health and wellbeing (policy DC3)***

### **Q10.3. Subject to the Council's proposed modification, is policy DC3 justified and consistent with national planning policy relating to health and wellbeing?**

Our clients consider that the requirement for a Health Impact Assessment (HIA) as currently referenced in policy DC3 at criterion g) is unsound. The nature of the assessment is not justified nor is it in line with guidance on HIA.

At present, the policy requires a full HIA for any development over 100 dwellings. However, government guidance<sup>1</sup> on establishing whether a HIA is required suggests that first a screening process should take place to establish whether it is necessary. It is not intended to apply a one size fits all approach. Key matters comprise the following amongst others:

- Policy compliance - consider whether an HIA can help meet local policy
- Proportionality - consider whether undertaking an HIA would be fair and reasonable
- Alternatives- has it already been considered via EIA or is the HIA information already present in other documents.

If deemed necessary the scope of the HIA should then be agreed on a proportionate basis. As drafted, the policy does not take this process into account and is unsound.

The impacts of a proposed development on human health and the population is already a consideration for development projects subject to the Environmental Impact Assessment (EIA) Screening process established via Schedule 3 of the EIA Regulations. Indeed, for any urban development project over 150 dwellings, the local authority are already required to consider and whether the proposed development would likely result in significant effects on a range of factors including human health and the wider population (either positively or negatively). If required, this would then be assessed and reported as part of a subsequent Environmental Statement. This process would be required to take place irrespective of Policy D3 criterion g) but the policy could potentially duplicate, conflict with and complicate this processes. For an example, if an applicant requested a EIA screening and/or scoping opinion of the local authority and demonstrated that the impact upon population and human health was not significant, this could be scoped out of the Environmental Statement or the development may not require EIA at all. Despite this, the requirements of DC3 would require the preparation of a full HIA alongside this in any case.

To ensure a sound policy we would in the first instance suggest criterion g) is deleted in its entirety and the matter be left to consideration as part of the EIA screening process as required. Alternatively if reference is considered necessary we would suggest the threshold for assessment be increased to 150 dwellings (the same trigger for EIA screening for an urban development project under Schedule 2 of the EIA regulations) and the policy simply require the applicant to screen development with the local authority in relation to HIA in the first instance. If a proposed development was deemed to require HIA the scope could then be agreed with DBC. The supporting text should also make it clear that this screening and scoping exercise could take place as part of the wider consideration of a proposed development under the EIA regulations.

This revised approach would ensure a sound policy which ensures the local authority still receive the information they require, but also ensures that the level of information and the associated process is proportionate and in accordance with wider guidance and the EIA regulations.

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<sup>1</sup> Health Impact Assessment in spatial planning - A guide for local authority public health and planning teams (2020)