

Local Plan Committee 26 May 2021

Update

Item 5 – Local Plan Review: Policy Options for EC2(2), Start-up Workspace and Local Employment

1. Cllr Bigby, on behalf of Labour Members, has emailed officers concerning the report’s content in respect of Policy EC2(2). Cllr Bigby’s email is appended in full in Appendix 1 to this update.
2. Labour Members’ principal concern is about the use of the term ‘demand’ in the policy. There is a strong preference that this should be excluded so that the policy includes the term ‘need’ only. In response, officers propose that a further option be added to the options shown in the table at paragraph 2.11 of the report. The additional option is in the shaded box below.

ADVANTAGES	DISADVANTAGES
<i>Option 1 - delete Policy Ec2(2)</i>	
<ul style="list-style-type: none"> • overcomes the concern that Policy EC2(2) in its current form encourages unwarranted applications 	<ul style="list-style-type: none"> • It is less clear for all users of the plan which considerations will apply to proposal for additional employment floorspace on an unallocated site • uncertain whether or not the approach would be sufficiently flexibility to accord with the NPPF
<i>Option 2 – retain Ec2(2) in its current form (business as usual)</i>	
<ul style="list-style-type: none"> • provides clarity for all users of the plan about the criteria which will apply • demonstrates how the plan deals with the NPPF requirement for flexibility 	<ul style="list-style-type: none"> • does not overcome the concern that the existence of the policy encourages unwarranted applications • does not deal with the concern that the current policy is too permissive • the Stantec report suggests there is a risk of piecemeal development which would not provide the quality and scale of industrial space that high-value occupiers are looking for
<i>Option 3 – amend Policy Ec2(2) to make it more specific/restrictive (a) - include a requirement that the premises should be for a named end user</i>	
<ul style="list-style-type: none"> • enables the actual business requirements to be more easily explained and assessed through the planning application process 	<ul style="list-style-type: none"> • would exclude situations where there is a genuine market demand but no named end user and so may not be sufficiently flexible • firms can have genuine reasons for not wanting to publicise relocation plans before they are confirmed e.g. staff retention issues
<i>Option 4 – amend Policy Ec2(2) to make it more specific/restrictive (b) – amend the alternative sites test to include sites with planning permission</i>	

<ul style="list-style-type: none"> ensures that other suitable sites are explored with reasons given if they are discounted before an unidentified site could be deemed acceptable 	<ul style="list-style-type: none"> could be onerous for applicants (although a similar exercise is usually part of the Environmental Impact Assessment process)
<p>Option 5 – amend Policy Ec2(2) to make it more specific/restrictive (c) – amend the alternative sites test to potentially include sites outside the district</p>	
<ul style="list-style-type: none"> may better reflect the ‘real life’ site search a business would undertake for strategic warehousing, this would better reflect the sub-regional nature of the market 	<ul style="list-style-type: none"> could be onerous for applicants (although a similar exercise is usually part of the Environmental Impact Assessment process) it will be difficult to justify the extent of the site search area the district council does not have planning control over sites outside the district
<p>Option 6 – amend Policy Ec2(2) to make it more specific/restrictive (d) - demonstrate that the need/demand is exceptional</p>	
<ul style="list-style-type: none"> captures a business-specific justification provides a policy framework for ‘needs not anticipated in the plan’ (NPPF paragraph 81d) to be addressed 	<ul style="list-style-type: none"> approach effectively invites applicants to challenge/undermine the council’s employment needs evidence base
<p>Option 7 – amend Policy Ec2(2) to make it more specific/restrictive (e) – omit the reference to ‘demand’ and refer to ‘need’ only</p>	
<ul style="list-style-type: none"> NPPF uses the single term ‘need’ and does not draw a distinction between ‘need’ and ‘demand’ 	<ul style="list-style-type: none"> excluding the term ‘demand’ could in effect exclude proposals that would meet a business-specific requirement and/or address a market gap. This is out of step with the NPPF direction for policies to be “flexible enough to accommodate needs not anticipated in the plan” (paragraph 81).
<p>Option 7 8 – amend Policy Ec2(2) to make it more specific/restrictive – combination of Options 3-67.</p>	
<ul style="list-style-type: none"> overall, a more restrictive approach helps to address the concern that the current policy is insufficient to resist inappropriate development 	<ul style="list-style-type: none"> overall, a more restrictive approach could dissuade genuine investment opportunities which would have benefitted the local economy

3. As mentioned in the report, for all these options (except Option 1) the Plan’s supporting text will provide important information about how the terms in the policy should be interpreted. The detailed wording of the supporting text for Policy EC2(2) will be written once the preferred policy option has been selected and it would include explanations of what is meant by ‘need’ and ‘demand’ as appropriate. An explanation of ‘demand’ could encompass, for example, where there is a demonstrable gap in the portfolio of employment sites in the district or where there is a business-specific justification for new premises. Importantly the supporting text can also specify the information applicants will need to supply to meet the ‘need’ or ‘demand’ requirements of the policy

4. With this addition to the table, officers consider that Options a – c in Cllr Bigby’s email are covered. With respect to Option d - Replacing “need or demand” with “need and demand”, officers’ advice is that there can be a demonstrable need for a development without there being a market demand (start-up premises is an example) and vice versa. This being the case, requiring need and demand to be demonstrated is not considered to be a reasonable policy alternative for further exploration at this stage.
5. Amended recommendation:
 - 1) **THAT THE LOCAL PLAN COMMITTEE AGREES FOR INCLUSION IN THE NEXT CONSULTATION STAGE OF THE LOCAL PLAN REVIEW THE POTENTIAL POLICY OPTIONS SET OUT IN THE REPORT FOR A) FOR A REVIEW OF POLICY EC2(2) (AS AMENDED BY THE UPDATE REPORT); B) START-UP WORKSPACE; AND C) LOCAL EMPLOYMENT.**
6. Cllr Bigby’s email also mentions the Stantec study and what the consultants have said in respect of a Policy EC2(2) type approach. Officers do not necessarily agree with Stantec’s position on this specific matter and also note that it is written in the context of whether or not there should be an additional ‘buffer’ on the employment land need figures to deal with uncertainty and flexibility. Officers are undertaking further work on this subject (the report to the Local Plan Committee of 27 January 2021 in respect of Local Plan Review: Economic Evidence considers this issue) and the Committee will be updated on this in due course.

Appendix 1 – Email from Cllr Bigby

This email is written on behalf of the Labour members in response to your request for members of the LPC to provide you with pre-warning of issues which we may raise at Wednesday's meeting.

We have particular concerns regarding the part of Item 5 deals with policy EC2(2) and we hope you will consider these concerns prior to the meeting with a view to modifying your recommendations.

We very much welcome the fact that we are now being given the opportunity to address this policy and that you are proposing a number of potential alternatives regarding its future, ranging through retention, amendment and deletion. We fully support the proposal to include these alternatives in the next round of public consultation.

However, our concerns centre around the proposal to retain the use of the words "or demand" in all the proposed alternative versions of the policy. You will be aware that the use of "need or demand" was our most fundamental criticism in the paper we submitted to you on 20th April, especially when combined with the interpretation and advice to Planning Committee by officers that the very act of submitting a planning application has demonstrated an "immediate need or demand". I won't reiterate all the arguments here, but the definition of "Demand" that you have provided in the report perfectly demonstrates the problem, in that it includes, "'Demand' could be in the form of a request from potential future users".

We have no doubt that, if policy EC2(2) is retained in some form in the new Local Plan, then the retention of "need or demand" alongside the definition you provide will continue to lead developers and officers to argue that the mere submission of a planning application demonstrates an "immediate need or demand" as has been the case to date.

Furthermore, we would point out that, nowhere does the NPPF use the term "demand" when referring to the allocation of employment land. It only refers to "need" and we believe that the same terminology should be reflected in the Local Plan should the criteria approach be retained to provide flexibility.

We would therefore request that you consider adding the use of "need or demand" to the proposed consultation, with the options of:

- a. Keeping it as is, or
- b. Keeping it as is but publishing a definition of demand which excludes, "'Demand' could be in the form of a request from potential future users" (i.e. Definition of Demand - to address a gap in the supply of premises in the district. In other words it relates to 'market demand', and proof of demand would require a report specifically addressing the current market supply/demand), or
- c. Removing "or demand", or
- d. Replacing "need or demand" with "need and demand".

Alternatively, the report or the minutes of Wednesday's meeting could make it clear that the issue of "need or demand" will be considered separately by the Committee at a future date with a view to including it in a future public consultation.

Also, we are concerned that, despite there being powerful arguments why a policy like EC2 (2) is not the best way of providing the flexibility called for in NPPF para 81, the narrative provided in the

report and, by implication, that which will be provided as part of the public consultation, does not do adequate justice to these arguments.

As an example, we would cite the Council's own consultancy report, recently produced by Stantec, which concludes, "One way of providing this flexibility would be to allow development on unallocated sites subject to criteria. But this is not the best approach in our view, because, as discussed earlier, piecemeal development would not provide the quality and scale of industrial space that high-value occupiers are looking for. Alternatively, the Council could consider identifying reserve sites, which would be released in certain circumstances".

The Stantec report also provides the powerful argument that, "Under the old system, the margin would come into its own in the later years of a 15-year or 20-year plan, when the development land identified would begin to run out. But under the new system those later years will never come, as the relevant policies and allocations will be reviewed after five years, and then again after 10 years. In short, if the new Local Plan provides employment land to meet the assessed need for the next 15 to 20 years this should be enough or more than enough to allow for friction, variety, competition and uncertainty, without a safety margin or buffer".

We would therefore request assurance that these arguments concerning this type of criteria-based policy are fairly presented in the consultation.

Could I suggest that I give you time to absorb this email on Monday morning and that we discuss these issues further, by telephone or Teams, sometime on Monday afternoon or Tuesday morning. I will make myself available whenever is convenient with you. We have a group meeting on Tuesday afternoon at which I would like to be able to present your response.

Best regards

Cllr. Dave Bigby