

Examination of the Bristol Local Plan Review 2020–2040

Matter 6: Infrastructure and Community Facilities

On behalf of Watkin Jones (Consult ID: 437)

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Contents.

1. Introduction.....	1
2. Response to the Inspector's Matter 6 Issues and Questions	2



1. Introduction

- 1.1. This Hearing Statement has been produced by Pegasus Group on behalf of our client, Watkin Jones. It focuses upon the Inspectors Matters, Issues and Questions which relate our client's previous representations.
- 1.2. It is understood, due to the transitional arrangements set out within paragraphs 234 and 235 of the December 2024 NPPF, that the plan will be examined against the September 2023 version of the NPPF. All following references made to the NPPF are to the September 2023 version, unless otherwise stated.
- 1.3. Our client wishes to ensure that the emerging Bristol Local Plan is prepared in a robust manner that passes the tests of soundness contained in paragraph 35 of the 2023 NPPF, namely that the plan is:
 - Positively Prepared;
 - Justified;
 - Effective; and
 - Consistent with national policy.
- 1.4. Our client submitted representations to the various stages of plan production including the 'Submission (Regulation 19)' version.
- 1.5. Watkin Jones has a number of interests in Bristol across several key regeneration areas. Our client considers that the plan requires significant modifications to ensure it is found to be sound.
- 1.6. Our client is a national residential and mixed-use developer with an excellent track record of delivering high-quality sustainable developments within this area. Watkin Jones develop a range of housing including traditional housing, as well as Purpose Built Student Accommodation (PBSA), Build to Rent (BtR) and Co-Living accommodation.

2. Response to the Inspector's Matter 6 Issues and Questions

2.1. We welcome the opportunity to comment on the Inspector's Matters, Issues and Questions (MIQs) and provide the following responses to selected questions. Our client reserves the right to respond to specific issues raised by the Council and other parties within the hearing session in so far as they relate to our previous representations.

Issue 6.2: Whether policies CF1 and CF2 relating to community facilities are justified, consistent with national policy and effective?

Policy CF1: Provision of community facilities

The policy states that 'where possible' future community facilities listed in Paragraph 11.1 of the reasoned justification should be in existing centres.

Q6.6: Is Policy CF1 justified, consistent with national policy and effective? In particular:

a) are the circumstances clear where the provision of community facilities outside of existing centres might be acceptable, bearing in mind that the uses listed in Paragraph 11.1 are often located in centres?

2.2. There is no reference in the policy or supporting text to provide clarity as to when the provision of community facilities outside of existing centres will be acceptable and whether or not specific community uses that are located outside of designated centres would need to pass a sequential test or impact assessment to demonstrate that they would not have an adverse impact on the vitality and viability of existing designated centres.

2.3. Indeed, the draft wording of Policy CF1 states community facilities should be located where there is a choice of travel options and should be accessible to all members of the community and where possible community facilities should be located within existing centres.

2.4. Clearly, if the Council are seeking to introduce a requirement for all major developments that generate a need for new or extended community facilities to provide a minimum of 10% of ground floor space for community use this is going to create a requirement for new developments which are outside of centres and indeed at the edge of the urban area to include such uses.

2.5. No account is taken of existing provision, both in terms of whether this would address any new demand generated from development, or indeed if further provision may undermine the viable operation of existing provision such that community needs would be better facilitated by enhancements to existing provision.

2.6. Therefore, there is no clarity on the circumstances as to when community facilities which are outside of centres would be acceptable and this could clearly cause a conflict with other policies and guidance which seek to direct such uses to designated centres and the policy is therefore not consistent with national policy in this regard.

b) does the phrase 'where major development would generate a need for new, or extended, community facilities' provide sufficient certainty for decision-makers?

- 2.7. It is not considered that the policy or supporting text provides sufficient clarity as to how the need for new, or extended, community facilities is determined or how this would relate to Community Infrastructure Levy Regulation 123 list.
- 2.8. No metric or supporting guidance (such as a Supplementary Planning Document) is provided to set out whether a major development would generate a need for community facilities, what type of community facility, or how this would be determined. The threshold of 'major' is considered overly broad in this regard. The scale of mitigation also needs to be proportionate with the 10% metric overly crude and likely to give rise to 'dead frontage' due to unviable units.
- 2.9. Experience has shown that the Council's Community Buildings officer has sought to define unmet demand for community use as any request to the Council for community use that could not be fulfilled and as also evidencing a need city-wide. This is considered an overly low bar given that further interrogation has shown that in many cases these requests are seeking dedicated facilities for organisations with limited use needs and/or access to facilities at free / peppercorn or well below market rates that can sustain such uses, than the utilisation of existing facilities with spare capacity. Such a policy could therefore serve to undermine the viability of existing established facilities that serve their communities despite the best of intentions.
- 2.10. Given the broad and ambiguous wording of the policy, it could also incorporate a wide range of developments including developments for community facilities, leisure and retail facilities themselves (as these would still constitute major applications if the floor area exceeding 1,000sqm). There will clearly also be locations which are well served by existing facilities.
- 2.11. Furthermore, there is no commentary on how the requirement relates to the CIL 123 List which sets out a list of infrastructure projects that CIL funding may be spent on. This List includes projects such as a new Youth Zone at Hartcliffe Way, a new Community Hub in Lawrence Weston, a new Library and Health Hub in Southmead, parks and green space improvements across Bristol.
- 2.12. Therefore, it appears that funding that is captured through CIL charges on developments already go towards community facilities across Bristol and it is therefore unclear why a further policy requiring on-site provision of community facilities is justified given the existing mechanism for securing funding towards such facilities. The existing CIL mechanism seems a much more appropriate and effective way of supporting the provision of such facilities.
- 2.13. On this basis, it is considered that the policy is unjustified as it is not an appropriate strategy, taking into account the reasonable alternatives, to best deliver community facilities across the Plan period.
- 2.14. It is considered that failing changes to instead rely on CIL as recommended above that the interpretation of 'need' requires clarification. This should be based on the following factors:
- i. The nature of the development proposed, that we consider should be limited to residential accommodation forms – e.g. a warehouse would not generate need;

- ii. The nature of existing provision – this should be assessed as provision readily accessible by active or public transport; and
- iii. The need should also be proportionate to the additional demand generated from a development in its own right.

2.15. Where need is evidenced, mitigation should be flexible, ranging from new floorspace to contributions to expand facilities within the locality in order to prevent unviable and poor quality provision being provided.

2.16. Such changes would ensure compliance with the conditions and planning obligations tests set out at Paragraph 58 of the NPPF and *Regulation 122 of The Community Infrastructure Levy Regulations 2010 (as amended)*.

c) is the definition of community facilities consistent with Paragraph 97 of the NPPF?

2.17. Paragraph 97 of the NPPF (December 2023 version) sets out that to provide the social, recreational and cultural facilities and services the community needs, planning policies and decisions should:

a) plan positively for the provision and use of shared spaces, community facilities (such as local shops, meeting places, sports venues, open space, cultural buildings, public houses and places of worship) and other local services to enhance the sustainability of communities and residential environments.

2.18. Draft paragraph 11.1 of the Local Plan Publication Version states that:

“The term community facilities is wide-ranging and can include community centres and childcare facilities, cultural centres and venues, places of worship, education establishments and training centres, health and social care facilities, sport and recreation facilities and civic and administrative facilities. It may also include other uses whose primary function is commercial but perform a social or community role i.e. sport, recreational and leisure facilities.”

2.19. Therefore, the definition of community facilities is not entirely consistent with the NPPF as it does not refer to shops or public houses which are also community facilities given the important role they can provide to the community. The policy text should be amended to ensure consistency with the NPPF or at the very least make clear that the list above is not closed.

d) does the policy clearly explain how the 10% figure is to be derived?

2.20. There is no real guidance on this matter, but it is presumed the requirement is that 10% of the internal floorspace at ground level is simply given over to use by community facilities (although it is not clear if this is based on the gross internal area).

2.21. However, this clearly would not be practical for many proposals when taking into account the need to balance requirements for the incorporation additional use’s requirement for independent plant space, cycle storage, waste and recycling facilities which require suitable access at ground floor level and often require access directly off the highway.

- 2.22. For a number of developments, it would not be possible to simply leave 10% of the ground floorspace unused and given over to community space as there would not be sufficient space overall to incorporate the other elements mentioned above, a number of which are needed to accord with other policies within the emerging Plan.
- 2.23. Furthermore, this may make sense when referring to large blocks of development such as a large apartment building complexes which may have a larger ground floor area overall that could be apportioned to create a useable unit. However, for smaller schemes this may give rise to unusable spaces resulting in 'dead' frontage. Pegasus Group are aware of scenarios within the city where active frontages have been sought despite being commercially unviable and community use has been provided in lieu to address but without occupation.
- 2.24. It is also unclear how it is envisaged that this would be calculated and incorporated into other scenarios such as a suburban housing scheme comprising terraced, semi-detached and detached family properties i.e. would the whole ground floor of the entire development be added up and then 10% of that floorspace be required to be provided as community floorspace? This would appear to be inherently excessive in scope.
- 2.25. Overall, there is no clear guidance on how the 10% is to be derived and how this would be applied to different types of proposals in different locations within the Local Authority area.
- e) is the 10% requirement for affordable rent justified and is it sufficiently clear in what circumstances it would be required and on what basis the need for such facilities be assessed?***
- 2.26. The requirement of 10% of ground floorspace in major developments that generate a need for new or extended community facilities to be provided for community and/or cultural organisations and made available at an affordable rent is not justified.
- 2.27. The Council's response to the Inspectors question PQ144 refers to a similar approach being taken in the City Centre Development and Delivery Plan Part A which the Council state was informed by soft marketing on live planning applications and refer to the fact the DDP underwent a consultation process.
- 2.28. Firstly, clearly the area covered by the DDP will have different characteristics than other parts of the Local Authority area and therefore to base a city wide policy on an approach that has been taken for the area covered by this DDP is inappropriate. Secondly, the DPP did not face the same level of scrutiny as the local plan examination process.
- 2.29. As evidenced above, there is no guidance on when this would in fact be required in terms of how the need for this would be determined, whether it would relate to specific types of development only.
- f) if the Council's proposed modification is to be adopted, the figure of 10% would be expressed as an aim. Is this modification necessary to make the plan sound, for it would be included in the reasoned justification, rather than policy?***
- 2.30. It is not felt that the suggested modification to the figure of 10% being expressed as an aim would make the policy sound.

- 2.31. The policy wording would now set out that the council will seek a proportion of ground floorspace with the supporting text confirming the aim will be for this to be 10% depending on the scheme, location and identified needs.
- 2.32. Whilst this does allow some flexibility, it still offers no clarity on which specific schemes and which locations would need to provide floorspace for community use at an affordable rent. Therefore, it would do nothing to address the uncertainty over whether or not the Council would indeed insist on this during applications.
- g) is the policy clear how 'affordable rent' would be defined, calculated and what mechanism would be utilised to ensure that the rent would be in place throughout the life of the development?***
- 2.33. No, there is no clarity on how this would be defined, calculated and secured throughout the lifetime of developments.
- 2.34. There is no reference within the policy as to what constitutes affordable rent i.e. whether this is a certain percentage of the open market rent etc, what the relevant catchment for comparable rents, and how this is monitored, reported and reviewed over time, including between tenancies. Therefore, this is very open ended and provides a great deal of uncertainty.
- 2.35. Furthermore, the requirement to deliver 10% of ground floorspace for use as community facilities and at an affordable rent could impact upon the viability of developments which need to deliver other critical elements at ground floor level such as plant, cycle and refuse storage etc. This could also impact upon the ability of developments to deliver much needed affordable housing.
- 2.36. As presently drafted, this policy requirement is not justified having regard to the test of soundness outlined by paragraph 35 of the NPPF.
- 2.37. At the very least, there should be an inclusion in the policy to allow for an assessment on the viability of delivering such space and an allowance for instances where proposals would not need to deliver such space i.e. if it was not viable.

2,254 words

Town & Country Planning Act 1990 (as amended)
Planning and Compulsory Purchase Act 2004

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