

KENDAL TOWN COUNCIL



SUSTAINABLE DEVELOPMENT IN KENDAL

Submission to the Planning Inspector

SLDC Land Allocations DPD - Submission Edition March 2012 - conformity with the NPPF

Authorised by Council: 2nd July 2012

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Summary

During 2011, Kendal Town Council provided written submissions to the two formal consultation exercises held by South Lakeland District Council (SLDC) during the preparation of its Land Allocations DPD. Council members had discussions with SLDC members and officers, and SLDC representatives made presentations to and answered questions from meetings of the Town Council.

The Council reviewed the published DPD in so far as it affects development sites within and around the Council boundary. In a submission to the Inspector, the Council identified issues which the Council believed demonstrated that the DPD contained fundamental flaws, sufficient to lead it to fail the “soundness” test from Section 20(5)(b) of the Act, at least in its impact on Kendal.

This further submission to the Inspector evaluates the conformity of the DPD with the National Planning Policy Framework (NPPF) published in March 2012. In it, the Council argues that the DPD needs serious revision to make it capable of being the foundation for sustainable development in Kendal, as required by the NPPF:

- the DPD uses a development model based on an outmoded and discredited approach to delivering sustainable development in rural market towns. This model would demand major investment in order to meet the environmental and social sustainability objectives of the NPPF
- loading the cost of this work onto developers would make development commercially unsustainable, against the economic objectives of the NPPF
- as a result, the DPD will not deliver the new residential and commercial development as required by the NPPF

The evidence why the Council believes this is the case is given in the body of this paper, along with supporting extracts from the NPPF.

The Council calls on the Inspector to instruct SLDC to undertake “meaningful engagement” (as required by the NPPF) with bodies such as the Council to remedy the shortcomings in the submitted DPD, and bring it into full conformity with the NPPF.

The Council asks the Inspector to record its right to appear and be heard in any hearings which the Inspector may call.

Introduction

Background

South Lakeland District Council (SLDC) is the Local Planning Authority (LPA) for Kendal Town Council. The LPA published a first “Land Allocations DPD - Emerging Options Consultation Edition”¹ in January 2011 and the Council’s formal response to this was published on 4th April². At the end of July, the LPA announced a further round of consultation³, and the Council’s formal response to this was published on 5th September⁴.

Following discussions with the LPA, the Council also commissioned a Local Level Landscape Character Assessment⁵ to contribute to the evidence base for evaluating possible development sites. This evidence was used in its response to the LPA to rate proposed sites as to their ‘desirability’.

Following the publication of the submission edition of the Land Allocations DPD⁶, the Council published a further response⁷ to draw to the Inspector’s attention issues which the Council believed demonstrates that the DPD contains fundamental flaws which leads it to fail the “soundness” test from Section 20(5)(b) of the Act.

The Council also commissioned independent expert advice⁸, which highlighted weakness in the LDF process in its approach to urban design for Kendal, and recommended how this could be remedied.

All these documents may be inspected at the Town Hall.

Purpose of this Document

The Council is now responding to a further “Invitation of Submissions on the Conformity of the DPD with the National Planning Policy Framework (NPPF)”, published by the LPA on May 31st 2012⁹. The Council has used the May 2012 version of the NPPF¹⁰.

Cross References to the Land Allocations DPD

Please note that the Council considers it has no mandate to comment on the DPD, other than as it concerns the town and its residents. This is primarily Section 3 of the DPD, sections 3.3 - 3.42. However, some of the comments cover the process used to select sites, Section 2 of the DPD.

Comments to the Inspector

Summary

The Council believes that the DPD does not conform with the NPPF in several key areas. In particular, the model of development proposed for Kendal can not provide the foundation for sustainable development as demanded by the NPPF.

Development Model proposed by the DPD

The LDF process in South Lakeland has a long history, with work starting on the two key documents as far back as 2007 - the Employment and Housing Land Search Study (EHLSS)¹¹ and the Strategic Housing Land Availability Study (SHLAS)¹². The published Land Allocations can be traced directly back to these early studies. However, the assumption upon which the early work was based - that sustainability was best achieved through selecting sites “that are wholly within, or which straddle, settlement boundaries”- was increasingly challenged during the period.

For rural market towns, the evidence for a change in approach was published in July 2008 as the Taylor Review¹³, setting out the policy framework necessary to deliver the “vision of a living, working sustainable countryside”. Taylor provided compelling evidence that “doughnut development” was the wrong approach for sustainable rural market towns, and that a “hub and spoke” model represented the best pattern for sustainability.

This view is now recognised in the NPPF (para 52)

The supply of new homes can sometimes be best achieved through planning for larger scale development, such as new settlements or extensions to existing villages and towns that follow the principles of Garden Cities.

Working with the support of their communities, local planning authorities should consider whether such opportunities provide the best way of achieving sustainable development. In doing so, they should consider whether it is appropriate to establish Green Belt around or adjoining any such new development.

Throughout the DPD preparation, the LPA has refused to “work with the support of local communities to consider” this new approach. Instead, its consultation processes have focussed purely on its original, and increasingly outdated, development model. This is not in conformity with the approach to consultation laid out in the NPPF.

Sustainability implications of this model

The Taylor Review spelled out the potential impact of ‘doughnut development’ to the infrastructure of rural market towns, and how this would lead to development which was not sustainable. The Council believes that Kendal is a textbook example of how this development model fails.

Environmental sustainability

Previous submissions by the Council have described in detail the infrastructure issues that would need to be overcome to maintain meet environmental requirements in the town. These environmental ambitions are also now laid out in the NPPF.

Transport

NPPF para 32 states:

Plans and decisions should take account of whether: ... improvements can be undertaken within the transport network that cost effectively limit the significant impacts of the development. Development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe.

In 2009, the LPA commissioned a *Kendal Transport Assessment*¹⁴, based on an earlier preliminary land allocation, from independent consultants WS Atkins. The Assessment concluded¹⁵ that the existing highway network plus proposed improvements would just about accommodate the forecast level of traffic, provided three large sites were removed. The consultants could find no mitigation which would permit these sites to be developed within the parameters given for the Assessment (e.g. no compulsory purchase orders for major junction redevelopment).

The LPA decided to ignore this evidence, and continued to include the sites in the emerging DPD. Furthermore, it chose not to re-engage independent consultants, but asked the local Highway Authority - Cumbria County Council (CCC) - to re-run their traffic models against the latest allocations. "Initial Results" were published in October 2011¹⁶, and "Revised Results" in January 2012¹⁷. The approach taken to produce these "Revised Results" differed significantly from the independent consultants'. It demonstrated the DPD could only be delivered if ambitious sustainable transport goals were met, and major investments were made in transport improvement projects. Several of these projects have already sat for years on the back burner as they lacked a business case; one project was simply added in at the suggestion of a local councillor.

Air Quality

The issues with traffic directly impact on the air quality in Kendal town centre.¹⁸ The NPPF states (para 124)

Planning policies should sustain compliance with and contribute towards EU limit values or national objectives for pollutants, taking into account the presence of Air Quality Management Areas and the cumulative impacts on air quality from individual sites in local areas. Planning decisions should ensure that any new development in Air Quality Management Areas is consistent with the local air quality action plan.

The air quality in Kendal currently fails statutory guidelines, and an AQMA is in force. Nine monitoring sites currently exceed the annual mean nitrogen dioxide objective, and seven are close to the objective.¹⁹ Slow-moving traffic waiting at junction approaches is widely believed to be the major contributory factor, although no formal modelling has been carried out into cause and effect.²⁰ The latest *2011 Air Quality Progress Report for South Lakeland District Council* reported:

The road network is already working at capacity, with the effect that NO₂ levels in the town centre are close to or above the Objective. The Council is currently working with CCC on both the LDF and the LTP to ensure capacity is built into the road system to deal with the level of development required.

The CCC modelling work now shows that this "capacity" is simply not deliverable, without including projects which lack a business case, and finally injecting subjective and unverifiable assumptions into the modelling process.

Green infrastructure

Core Strategy CS2²¹ recognised a need to "Improve local green infrastructure, including parks, green spaces and allotments." The DPD makes no separate provision for these, as CS 9.2²² expects such green infrastructure to be provided as a developer contribution to "recreation provision (including open space,

allotments, play and sport facilities); biodiversity; enhancement of the public realm, including public art, civic space and the historic environment.” The Council agrees that such green spaces are a key feature of the existing urban townscape which must be continued going forward. The NPPF endorses this provision in Section 8, Promoting healthy communities, e.g. Para 73:

Access to high quality open spaces and opportunities for sport and recreation can make an important contribution to the health and well-being of communities. Planning policies should be based on robust and up-to-date assessments of the needs for open space, sports and recreation facilities and opportunities for new provision. The assessments should identify specific needs and quantitative or qualitative deficits or surpluses of open space, sports and recreational facilities in the local area. Information gained from the assessments should be used to determine what open space, sports and recreational provision is required.

Without specific allocations for green infrastructure (such as allotments) in the DPD, this provision is left as a developer contribution, with an inevitable but currently unquantified implication on achievable housing densities on the allocated land.

Economic sustainability

In a key section, the NPPF requires LPAs to ensure that plans are **viable and deliverable** (paras 173-177). Within this section, see para 173:

Pursuing sustainable development requires careful attention to viability and costs in plan-making and decision-taking. Plans should be deliverable. Therefore, the sites and the scale of development identified in the plan should not be subject to such a scale of obligations and policy burdens that their ability to be developed viably is threatened. To ensure viability, the costs of any requirements likely to be applied to development, such as requirements for affordable housing, standards, infrastructure contributions or other requirements should, when taking account of the normal cost of development and mitigation, provide competitive returns to a willing land owner and willing developer to enable the development to be deliverable.

In order to ensure deliverability, the NPPF requires the LPA to produce evidence, see para 177:

It is equally important to ensure that there is a reasonable prospect that planned infrastructure is deliverable in a timely fashion. To facilitate this, it is important that local planning authorities understand district-wide development costs at the time Local Plans are drawn up. For this reason, infrastructure and development policies should be planned at the same time, in the Local Plan. Any affordable housing or local standards requirements that may be applied to development should be assessed at the plan-making stage, where possible, and kept under review.

The submitted DPD fails this test. Despite references in the Core Strategy to a *South Lakeland Infrastructure Delivery Plan*²³, and confirmation in a meeting in February 2011 that such a Plan was due for delivery towards the end of summer 2011, the document never materialised. The LPA did undertake at a meeting of the Town Council on February 6th 2012 that the Infrastructure Plan would be published by the start of the consultation period (March 2nd). This document has still not appeared, and so the development costs required by the NPPF have not been produced.

Using the evidence that is available, such as earlier studies on transport projects, the Council believes the scale and cost of infrastructure which would be required to meet the environmental sustainability criteria in the NPPF means that the DPD fails the key deliverability test. Producing the necessary infrastructure, delivering green infrastructure within the allocated development sites, and meeting affordable housing targets creates a ‘triple whammy’ which would make development commercially inviable with the ‘doughnut’ development model.

Other non-conformities with the NPPF

Landscape Character

One of the Core Planning Principles in the NPPF (para 17) states that planning should:

contribute to conserving and enhancing the natural environment and reducing pollution. Allocations of land for development should prefer land of lesser environmental value, where consistent with other policies in this Framework

Following the publication of the Land Allocations “Emerging Options”, the Town Council obtained the LPA’s agreement to a consultants’ brief to prepare a Local Level Character Assessment for the Town Council area. Previous LCAs in this area had been carried out at a higher level, but the Town Council believed a more granular analysis was required if sites had to be prioritised within the town.

The work was commissioned by the Town Council and submitted to the LPA for addition to the evidence base. There was no disagreement over the quality of the work - its author passes the “Competent person” test (NPPF Annex 2). However, the published DPD failed to take this evidence into account, and so was unable to meet the NPPF requirement that “allocations of land for development should prefer land of lesser environmental value” within Kendal.

Design Quality

The NPPF requires (para 58)

Local and neighbourhood plans should develop robust and comprehensive policies that set out the quality of development that will be expected for the area. Such policies should be based on stated objectives for the future of the area and an understanding and evaluation of its defining characteristics. Planning policies and decisions should aim to ensure that developments ... respond to local character and history, and reflect the identity of local surroundings and materials, while not preventing or discouraging appropriate innovation ...

The Council identified that these policies were missing from the DPD, an opinion confirmed by an independent design review body, and proposed a piece of joint work to remedy this omission. However, as of the date of this report, the LPA has refused to engage, despite the requirement in the NPPF to do so.

Approach to Consultation

While these two issues are comparatively small breaches of the standards in the NPPF, they are indicative of the overall approach to consultation adopted by the LPA. This has been narrow and legalistic throughout, and at variance with the requirements of the NPPF, such as in para 155:

Early and meaningful engagement and collaboration with neighbourhoods, local organisations and businesses is essential. A wide section of the community should be proactively engaged, so that Local Plans, as far as possible, reflect a collective vision and a set of agreed priorities for the sustainable development of the area, including those contained in any neighbourhood plans that have been made.

The Council calls on the Inspector to require the LPA to undertake “meaningful engagement” with bodies such as the Council to remedy the shortcomings in the submitted DPD, and produce a new version in full conformity with the NPPF.

References

- 1 SLDC, [South Lakeland Local Development Framework Land Allocations Development Plan Document Emerging Options Consultations Edition](#) , January 2011
- 2 Kendal Town Council, [Response to Consultation prepared in response to South Lakeland Local Development Framework Land Allocations Development Plan Document Emerging Options Consultation Edition January 2011](#), April 2011
- 3 SLDC, [Land Allocations Document Further Consultation](#), July 2011
- 4 Kendal Town Council, [Sustainable Development in Kendal - Prepared in response to: South Lakeland Local Development Framework Land Allocations Development Plan Document Further Consultation Summer 2011](#), September 2011
- 5 Galpin Landscape Architecture, [Kendal Local Level Landscape Character Assessment](#), March 2011
- 6 SLDC, [South Lakeland Local Development Framework Land Allocations Development Plan Document incorporating changes to the Proposals Map Proposed Submission Edition](#), March 2012
- 7 Kendal Town Council, [Submission to the Planning Inspector SLDC Land Allocations DPD - Submission Edition March 2012](#), April 2012
- 8 Places Matter, [Site Allocations Strategy – Advice from Places Matter! to Kendal Town Council](#) , 6th February 2012
- 9 Public and Legal Notices, The Westmorland Gazette, May 31 2012
- 10 Department for Communities and Local Government , [The National Planning Policy Framework](#), March 2012
- 11 SLDC, [Employment and Housing Land Search Study](#), 2008
- 12 SLDC, [Strategic Housing Land Availability Study](#), March 2009
- 13 Matthew Taylor, [Living Working Countryside - The Taylor Review of Rural Economy and Affordable Housing](#) , Department for Communities and Local Government, July 2008
- 14 W.S.Atkins, [Kendal Transport Assessment Final Report](#), June 2009 - page 8
- 15 [Kendal Transport Assessment Final Report](#) - page 10
- 16 Cumbria County Council, [Kendal Local Development Framework Transport Study Initial Modelling Results](#), October 2011
- 17 Cumbria County Council, [Kendal Local Development Framework Transport Study Revised Modelling Results](#), January 2012
- 18 AEA Energy & Environment, [Detailed Assessment for Kendal Town Centre 2008](#) , Issue 2 June 2009 - p.28
- 19 SLDC, [2010 Air Quality Progress Report for South Lakeland District Council](#) , 30 June 2010 - p.40
- 20 This is a recognised weakness of the current Action Plan: there is no quantified assessment of how much each of the various actions will contribute to solving the air quality problem. Many of the actions also lack of milestones (“Indicators”) for delivery.
- 21 SLDC, [South Lakeland Local Development Framework Core Strategy](#), 20 October 2010 - CS2 Kendal Strategy, page 32
- 22 [South Lakeland Local Development Framework Core Strategy](#) - CS9.2 Developer contributions , page 113
- 23 [South Lakeland Local Development Framework Core Strategy](#) - page 36