

North Somerset Council: Site Allocations Plan examination

Schedule of responses to consultation on Policy SA4 MM2

4 December 2017

Having considered the responses received following consultation on the proposed modifications, a further change to SA4 was proposed by the Inspector and comments invited by 1 December 2017.

Eight responses were received to the consultation (including the Council's comments):

1. Pegasus Group
2. Aston & Co Ltd
3. Portishead Town Council
4. Environment Agency
5. St Modwen
6. Persimmon Homes Severn Valley
7. Standard Life
8. North Somerset Council

The responses are reproduced in full in the table below.

Respondent	Comments
1. Pegasus Group	<p data-bbox="483 333 1375 363">Please see below Anchor’s comments on MM2, shown as tracked changes.</p> <p data-bbox="483 405 2024 507">Paragraph sets out 3 objectives (achieving wider economic aspirations including regeneration, business growth, and improved commuting patterns), for which 3 tests are presented to assess whether proposals would adversely affect the realisation of these objectives. Only one test needs to be passed, hence the use of the word ‘or’ between each test. We support this approach.</p> <p data-bbox="483 549 2011 687"><u>However</u>, at present MM2 is potentially misworded via the use of the word ‘and’ at the end of the first paragraph. This implies a two-stage testing process. It implies an initial appraisal against the objectives, independent of the three tests that follow, and a subsequent appraisal process based on the three tests themselves. We are sure that this is not how the policy is intended to be used, and therefore suggest amendments to ensure that the policy is clear.</p> <p data-bbox="483 745 613 775">Policy SA4</p> <p data-bbox="483 801 2033 1046">Within existing B1–B8 business employment areas, as well as land identified on the Policies Map and in Schedule 2 for business employment development, proposals for unrelated non B1–B8 development will be permitted where it can be demonstrated that the loss of the site would not adversely impact the ability to achieve wider economic aspirations including regeneration, business growth, and improved commuting patterns within the plan period. and To demonstrate compliance in respect if these objectives, proposals should either;</p> <ul style="list-style-type: none"> <li data-bbox="533 1072 1957 1155">i. The proposal would not harm the range or quality of land and premises available for business use development within existing employment areas or expressly identified in the Plan to meet business needs; or <li data-bbox="533 1177 2029 1260">ii. demonstrate that where there is a specific requirement associated with neighbouring business uses, and the development would not lead to the overall site becoming unsuitable for the current or allocated employment use; or, <li data-bbox="533 1283 2002 1366">iii. through demonstration demonstrate through of effective marketing of the site or premises, the site is no longer capable of offering accommodation for business use development, or that the proposals would lead to the removal

	<p>of incompatible development, resulting in greater potential benefits to the community in terms of environmental benefits, significant improvements in the amenities of existing neighbouring residents or contribute to a more sustainable pattern of development that would outweigh the loss of employment capacity in the locality.</p> <p>The Council will consider removing certain Permitted Development rights when granting planning permission for new business development in order to avoid the future loss of these uses.</p>
2. Aston & Co Ltd	<p>Context This note is prepared in response to the Inspectors note on the Schedule of Modifications to the Site Allocation Plan [ID-8] and following publication of North Somerset Council's response [ED50] to the submissions made by interested parties following the SAP hearings [ED49].</p> <p>[ID-8] Policy SA4 - Amendment to MM2 The proposed amendment drawing point (iv) up in the text is welcome to emphasise the importance of the protection of employment land and wider Core Strategy aspirations. The two elements missing from this policy that are prevalent in North Somerset and other districts are;</p> <p>1. Flood Risk Assessment - At Portishead land east of the former commercial docks historically was all used for employment/commercial but under the new local plan is gradually being released for housing. Housing is more sensitive to the flood risk as documented in the Royal Haskoning Strategic Flood Risk Assessment Parts 1 and 2. A policy that protects employment land should reflect the preference of less sensitive employment use to residential use in such locations.</p> <p>2. Lack of Demand for employment use – Industrial/commercial land £200k/acre, residential land £750k-£1m/acre – there is a clear financial motivator to land owners to land bank commercial property and await the housing need leading to release such land. Robust marketing evidence needs to be supplied to demonstrate a real lack of demand. That should include evidence of marketing duration at an appropriate price. If LPA's allow 'creep' in use from employment to residential that affects valuation by creating 'hope value' and when that is reflected in marketing price that results in employment land stagnating.</p> <p>[ED50] Site Allocation Plan Main Modifications 2017 - Consultation Responses – NSC Summary and Reply NSC use the following response a number of times:</p>

	<p><i>“In order to boost short term supply, only sites with a pre-app or planning application have been reassessed, reflecting the developer view that it takes on average 5.5 years from submission of a planning application to seeing completions on site.”</i></p> <p>This was an unnecessary and unreasonable constraint. As evidenced by the submissions received [ED49] there is land at various stages of promotion including those sites submitted into the West of England JSP and later NSC Call for Sites 2017. Of these submissions some have been taken forward with landscape and visual impact, ecological, highways and transport assessments, etc. Therefore delivery would be possible well within 5 years.</p> <p>The 5-year housing supply shortfall demonstrated during the SAP hearings requires LPA’s to work constructively with land promoters/developers drawing on this available resource and working positively to find the best solutions for the allocation of land. That mode of operation was encouraged by the Inspector but has not been demonstrated.</p>
3. Portishead Town Council	Portishead Town Council strongly supports the Planning Inspector's proposed amendment, that North Somerset Council should consider removing certain Permitted Development Rights when granting planning permission for new business developments in order to avoid the future loss of these uses. Portishead has already lost employment land, and this would give added protection in the future.
4. Environment Agency	The Environment Agency has no comments to make on the proposed amendment to the employment policy (SA4).
5. St Modwen	<p>We have reviewed the inspectors suggested wording on employment policy SA4 and wish to suggest the following amendments <u>as highlighted red and underlined</u>.</p> <p>Policy SA4</p> <p>Within existing B1–B8 business employment areas, as well as land identified on the Policies Map and in Schedule 2 for business employment development proposals for unrelated non B1–B8 development will be permitted where it can be demonstrated that the loss of the site would not adversely impact the ability to achieve wider economic aspirations including regeneration, business growth, and improved commuting patterns; and</p> <p>i. the proposal would not harm the range or quality of land and premises available for business use development within existing employment areas or expressly identified in the Plan to meet business needs; or</p> <p>ii. where there is a specific requirement associated with neighbouring business uses, and the development would not lead to the overall site becoming unsuitable for the current or allocated employment use; or,</p> <p>iii. through demonstration of effective marketing <u>or viability</u> evidence of the site or premises, the site is no longer capable <u>or viable</u> of offering accommodation for business use</p>

	<p>development, or that the proposals would lead to the removal of incompatible development, resulting in greater potential benefits to the community in terms of environmental benefits, significant improvements in the amenities of existing neighbouring residents or contribute to a more sustainable pattern of development that would outweigh the loss of employment capacity in the locality.</p> <p>We would note that the below supporting text to the policy as shown on MM2 page 15 of doc ED51 includes reference to site viability which justifies our proposed change above.</p> <p><i>“However under certain circumstances the loss of a site to other uses may be the only viable or suitable option for the site, particularly with a view to maximising the efficient use of land. Commercial property demands are changing both in terms of the types of premises and their location reflecting changing economic characteristics, not least the rapid increase in online shopping, the ability to work remotely including home-working, and more general shifts in the economy and implications for land supply.</i></p> <p><i>The planning system therefore has a role to play in recognising and facilitating these shifts and offering a land supply that can respond to these conditions. Policy SA4 therefore allows for existing business sites to be developed for other uses provided certain conditions are met. This is considered to be in line with the principles of the NPPF and reflects the earlier tried and tested policy approach...”</i></p>
6. Persimmon Homes Severn Valley	<p>Thank you for providing an opportunity to comment on a further possible change to Policy SA4.</p> <p>Firstly, it is clear that the policy should comply with NPPF22 which is the basis for the current suggested changes. This raises two questions:</p> <ol style="list-style-type: none"> 1. What does the policy need to include specifically from NPPF22 and what is sufficiently covered in NPPF22 itself without needing to be repeated in the policy? 2. What does the policy cover which is not in NPPF22 and is that consistent with National Policy and Guidance? <p>Comparison of NPPF22 and Policy SA4</p> <p>NPPF22 says policies should avoid the long term protection of the sites where there is no reasonable prospect of the site being used for that purpose. We agree that this is the basis of the overall construction of Policy SA4, which sets out criteria for alternative uses.</p> <p>Then NPPF22 says proposals for alternative uses should be treated on their merits. Here, provisos (i) to (iii) provide guidance for assessing merits.</p>

Next NPPF22 provides guidance on matters that should be taken into account in assessing those merits. These are market signals which is addressed in (iii) and to support sustainable communities and again (iii) refers to '*a more sustainable pattern of development*'.

The third part of NPPF22 guidance refers to '*the relative need for different land uses*'. There are two issues here. Firstly the wording in the first sentence in the policy is '*proposals for unrelated non B1-B8 development*' and does not reflect the more positive concept of proposals for alternative uses of land as set out in NPPF22. Therefore, we consider the policy should be amended to delete '*unrelated non B1-B8 development*' and substitute '*alternative uses of land*'.

Secondly, the text in (iii) is different and relates to leading to the removal of incompatible development so is a test against the existing development rather than a positive test in favour of the need for the proposed use and consideration of alternative uses for land or buildings. That is not to say removal of incompatible development is an inappropriate test, but the addition of something like '*or alternative more appropriate uses of land or buildings*' would then allow for both tests.

Additions to NPPF22

However, our main concern is that the proposed modification retains the wider economic aspiration test, now in the first paragraph of the policy. We remain of the view that there is nothing specifically in NPPF22 which requires the inclusion of this test. NPPF22 refers only to the '*protection of sites allocated for employment use*' and employment use is not defined in the NPPF glossary, rather than the wider 'economic development, which is defined as '*development, including those within B use classes, public and community uses and main town centre uses (but excluding housing development)*' and clearly would include wider economic uses.

NPPF uses the term '*economic development*' in paragraph 161 in relation to the assessment of their 'robust evidence base' (NPPF160) to assess the need for all economic activity and the supply of land available for economic development, at the same time as a Strategic Housing Land Availability Assessment and a reappraisal of previously allocated land. In those circumstances it may be appropriate to have a policy requirement to protect wider economic aspirations, but only if supported by the evidence base and the allocation of sufficient land for '*economic uses*' and in the context of sufficient housing allocations.

However, as we know, by their own admission, the Council do not have a robust evidence base by virtue of their current employment land review, which will guide policy in the review of the Local Plan. This would provide the appropriate document for including this new wider economic aspirations test without changing a long established policy approach from the adopted Local Plan. For all these reasons, we consider the reference to wider economic aspirations should be deleted.

We have two suggestions for the ways this could be achieved through minor amendments which would retain the integrity of, the original policy wording. Our concern is related to the phrase 'wider economic aspirations, which we consider is too broad and wide ranging to be able to provide an objective policy test. However, the specific examples it then refers to, regeneration, business growth and improved commuting patterns can be more objectively assessed. Therefore our preference would be to delete the words '*wider economic aspirations including*' so that the phrase would read '*where it can be demonstrated that the loss of the site would not adversely impact the ability to achieve regeneration, business growth and improved commuting patterns.*'

However, if the Inspector is still of the view that there is a need to retain a reference to the wider economy, our issue is then specifically with the use of the word '*aspirations.*' We consider '*aspiration*' is too wide and unclear and relates to a hope or ambition which cannot be achieved. It does not provide clear guidance on what will or will not be permitted and where (NPPF154). Therefore we suggest, as a minimum, '*aspiration*' should be replaced by an alternative word, for example '*benefits.*' However, we consider our suggestion in the paragraph above is more appropriate, given the lack of a robust evidence base, and because a new evidence base is being prepared and that work is already underway to produce a new Local Plan which will replace the Site Allocations Plan.

Persimmon Homes Severn Valley Suggested Amended SA4 Policy Wording

Within existing B1-B8 business employment areas, as well as land identified on the Policies Map and in Schedule 2 for business employment development, proposals for ~~unrelated non-B1-B8 development~~ **alternative uses of land** will be permitted where it can be demonstrated that the loss of the site would not adversely impact the ability to achieve ~~wider economic aspirations including~~ regeneration, business growth, and improved commuting patterns; and

[**OR** replace '*to achieve wider economic aspirations*' with '*to achieve wider economic benefits including*' etc]

- i. the proposal would not harm the range or quality of land and premises available for business use development within existing employment areas or expressly identified in the Plan to meet business needs; or

	<p>ii. where there is a specific requirement associated with neighbouring business uses, and the development would not lead to the overall site becoming unsuitable for the current or allocated employment use; or,</p> <p>iii. through demonstration of effective marketing of the site or premises, the site is no longer capable of offering accommodation for business use development, or that the proposals would lead to the removal of incompatible development, or alternative more appropriate uses of land or buildings, resulting in greater potential benefits to the community in terms of environmental benefits, significant improvements in the amenities of existing neighbouring residents or contribute to a more sustainable pattern of development that would outweigh the loss of employment capacity in the locality.</p> <p>The Council will consider removing certain Permitted Development rights when granting planning permission for new business development in order to avoid the future loss of these uses.</p>
7. Standard Life	<p>GL Hearn acts for Standard Life Investments (SLI), which manages the Old Mill Road Business Park. These comments are solely in respect of the proposed amendments to main modification MM2, set out in “<i>ID-8 Inspector’s note re Schedule of Modifications</i>”, 15 November 2017.</p> <p>These comments should be read with regard to GL Hearn’s previous representations and examination statements made on behalf of Standard Life Investments.</p> <p>PROPOSED POLICY SA4</p> <p>Our previous representation to MM2 outlined our concerns that MM2 constituted a complete re-draft of the employment section of the Site Allocations Plan Publication Version (SAP) that proposed the introduction of new policy that applied unjustified and unsupported constraints on non-Class B development, including criteria that was unachievable, and that could not be held to accord with adopted policy.</p> <p>The re-draft of MM2 now proposed (as MM2 previously) also introduces new policy by specifically referring to Class B1 – B8 uses and - by not defining ‘existing B1–B8 business employment areas’ - extending the reach of the policy to such uses located outside of previously defined sites.</p>

	<p>As we have commented previously, Core Strategy Policy CS20, which sets strategic policy for “<i>Delivering a Prosperous Economy</i>” refers variously to ‘employment opportunities’, ‘economic development’ and ‘economic use’, but does not define any of these as being limited to B1 – B8 uses only.</p> <p>Policy CS21 of the Core Strategy which similar to CS20 is also concerned with ‘<i>Delivering a Prosperous Economy</i>’, encourages and supports the regeneration of town centres, including Portishead, providing proposals meet certain criteria relating to the scale of development (with no upper limit set for Portishead); supports the creation of a comfortable, safe, attractive and accessible shopping environment, and; improves the mix of town centre uses.</p> <p>1.5 Within this context, Para 1.3 of the SAP, sets out that the purpose of the SAP is to identify the detailed allocations required to deliver the North Somerset Core Strategy.</p> <p>Additionally, the introduction to the NSC Development Management Policies, Sites and Policies Plan Part 1 explains that the Site and Policies Plan brings forward the detailed development plan policies “<i>which complement</i>” the strategic context set out in the Core Strategy.</p> <p>On this basis and understanding, Policy DM60 of the Sites & Policies Plan - which says proposals for main town centre uses within the town centre will, in principle, be supported provided they contribute to the improvement of the town centre - must be considered to be consistent with the Core Strategy, and ‘main town centre uses’ development satisfying the criteria set out by DM60 should in turn therefore be considered to be consistent with the Core Strategy.</p> <p>The proposed re-drafted MM2, does not exist in isolation of this existing adopted policy context. It must recognise the objectives of the Core Strategy and the existing adopted policy designed to deliver those objectives, and critically (as a minimum) should not frustrate the delivery of development in line with that policy context.</p> <p>In our view the criteria now proposed within the re-draft of MM2 (now referred to as Policy SA4), aligns more closely with the Core Strategy and other adopted policy. We support the proposed change to ensure the policy criteria are applied individually rather than collectively, and welcome the recognition within the criteria that, in accordance with adopted policy, the sustainable and economic merits of development can rightly outweigh the potential loss of existing business floorspace.</p> <p>In terms of the specific wording of proposed policy SA4, we propose:</p> <ul style="list-style-type: none"> • The reference to ‘<i>improved commuting patterns</i>’ within the first paragraph should be deleted or amended to read ‘<i>travel patterns</i>’ rather than ‘commuting patterns’ so as to more accurately reflect the sustainability and ‘self-containment’ objectives of the Core Strategy. This amendment would also accord more closely with an emerging national and regional policy context. • In the interests of clarity, Criterion iii) should be split into separate criteria iii), iv) and v) as follows:
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	<p><i>iii) through demonstration of effective marketing of the site or premises, the site is no longer capable of offering accommodation for business use development; or</i> <i>iv) the proposals would lead to the removal of incompatible development, resulting in greater potential benefits to the community in terms of environmental benefits, significant improvements in the amenities of existing neighbouring residents; or</i> <i>v) contribute to a more sustainable pattern of development that would outweigh the loss of employment capacity in the locality.</i></p> <p>Finally, we note that there are no corresponding amendments proposed to the supporting text to proposed Policy SA4. We consider amendments to the supporting text should be made to ensure it reflects the direction and expectation of the policy as now proposed (rather than MM2 previously proposed), including recognising the existing Core Strategy and other adopted policy context as referred above.</p>
8. North Somerset Council	<p>The Council suggests a further rewording to move the proposed text in (i) into the first paragraph. This provides a policy requirement in the opening paragraph to ensure the retention of a range of quality sites and premises available for business development which needs to be complied with in all cases. Assuming that is met, then the subsequent policy test is that either the non-business use has a specific justification or that effective marketing has been undertaken.</p> <p>The proposed rewording of Policy SA4 is as follows:</p> <p><i>Within existing B1–B8 business employment areas, as well as land identified on the Policies Map and in Schedule 2 for business employment development, proposals for unrelated non B1–B8 development will be permitted where it can be demonstrated that the loss of the site would not adversely impact the ability to achieve wider economic aspirations including regeneration, business growth, and improved commuting patterns, and ensure the retention of a range of quality sites and premises available for business development; and</i></p> <p><i>i. where there is a specific requirement associated with neighbouring business uses, and the development would not lead to the overall site becoming unsuitable for the current or allocated employment use; or,</i></p> <p><i>ii. through demonstration of effective marketing of the site or premises, the site is no longer capable of offering accommodation for business use development, or that the proposals would lead to the removal of incompatible development, resulting in greater potential benefits to the community in terms of environmental benefits, significant improvements in the amenities of existing neighbouring residents or contribute to a more sustainable pattern of development that would outweigh the loss of employment capacity in the locality.</i></p>

	<i>The Council will consider removing certain Permitted Development rights when granting planning permission for new business development in order to avoid the future loss of these uses.</i>
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