

**IN THE MATTER OF THE  
MID-DEVON LOCAL PLAN REVIEW  
POLICY SP2**

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**OPINION**

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**INTRODUCTION**

1. I am asked to advise Mid-Devon Council in relation to draft Policy SP2 Higher Town of the Local Plan Review. This draft policy allocates land at Sampford Peverell for no more than 60 dwellings and is intended to provide for a sustainable location to meet housing needs arising from the Junction 27 allocation. The policy (with main modifications) provides as follows:

Higher Town, Sampford Peverell

A site of 6 hectares at Higher Town, Sampford Peverell is allocated for a low density residential development, to come forward following the commencement of development of the M5 Junction 27 allocation, subject to the following: [MM42]

- a) No more than 60 dwellings with 30% affordable housing;
- ~~b) No development until the completion of improved access works to the A361; [MM43]~~
- be) Landscaping and design which respect the setting and character of the area, conservation area and listed building;
- cd) Provision of a drainage strategy and Sustainable Urban Drainage Scheme to deal with all surface water from the development and arrangements for future maintenance;
- de) Mitigation of any wildlife impact including protection of hedgerows;
- ef) Archaeological investigation and appropriate mitigation; and
- fg) 2.5 hectares of Green Infrastructure laid out and managed with landscaping and open space; and [MM45]
- g) Improved access to the village for pedestrians and cyclists. [MM44]

Part of the supporting text provides as follows:

“The site is on the edge of Sampford Peverell, outside the main built up part of the village. The site is elevated and will require careful landscaping and mitigation measures. Development of the highest ground should remain as undeveloped green infrastructure. Low density and good design will be required to respect the existing character of edge-of village housing, conservation area and listed building. The site is currently bounded by hedgerow. Some loss of hedgerow would be required to enable access however, careful design should be considered to minimise this impact including incorporating new hedgerow into the design of the development.3.224b.

2. The allocated site as shown on the draft Policies Map includes the developable area and 2.5 hectares (this figure is the subject of a main modification) of green infrastructure intended to perform open space functions and provide for landscape mitigation etc. My Instructing Solicitor has asked me for my opinion specifically with regard to a request made by a member of the public to the Cabinet to agree a modification to the policy map for SP2. The proposal is to re-draw the settlement boundary, so that it no longer goes around the entirety of the allocation. Rather, that it will then cut through the site by excluding the area of green infrastructure from the settlement limit - the effect being that the settlement limit runs through the middle of the site. The claimed purpose of the proposed modification is that it will add greater protection to the area of land to be protected as green infrastructure.
  
3. The Local Plan Review has been through the examination stage and, subject to the making of a number of main modifications, including changes to SP2, it has been found sound. It is now going through main modifications procedures following receipt of the Inspector’s report.

## DISCUSSION

4. The Policies Map is not a local development plan document for the purposes of Development Plan Regulations 2012: R. (on the application of Bond) v Vale of White Horse DC [2019] EWHC 3080 (Admin) where it was held that a policies map is a local development document, not a development plan document. It is clear from reg.5 and reg.6 of the 2012 Development Plan Regulations that the AP map does not form part of the local plan, despite its function to "illustrate geographically the application of the policies in the adopted development plan" (reg.9). The local authority is not required to embark upon the elaborate process of amending the local plan. Instead, it could, by virtue of the general powers in s.23(1), s.23(5) and s.26(1) of the 2004 Act, lawfully revise the AP map outside the process for the adoption of a local plan. I return to this issue below.
  
5. Policy SP2 contains express reference to the green infrastructure that is to be protected and enhanced as part of the development of the site and all the land needed to meet the criteria of the policy is included within the allocated area as identified on the Policies Map. It makes it abundantly clear that the development of the whole site should be limited to 60 dwellings and that the 2.5 hectares of green infrastructure plays a significant role in the development of the site. It recognises its functional relationship. I cannot see that redrawing the settlement boundary as proposed would add any further protection to this area of land. The policy provides a firm basis upon which to impose conditions restricting and defining its use and its role within the development and to require s.106 obligations regulating its future use and maintenance, so far as may be necessary. In my opinion, the highest ground receives the necessary "protection" and

there is no planning imperative that requires the settlement boundary to be amended in this way.

6. Nevertheless, were the settlement boundary to be amended, thought would need to be given to whether the policy would need to be amended to reflect this fact in order to bring necessary clarity. Criterion (f) would *ideally* refer specifically to the 2.5 hectares of green infrastructure as the land forming part of the allocation *beyond the settlement boundary* so that it is made clear that, notwithstanding the fact that it is beyond the settlement boundary, it has a functional relationship with the development. I am of the view, however, that it would not be strictly necessary to amend the policy for this purpose as the effectiveness of the allocation and its policy criteria would not be undermined by a change to the settlement boundary itself.
  
7. Although the Policies Map is not the subject of the examination, if it is proposed to amend the settlement boundary, it would be prudent (and courteous) to make the Inspector aware of this so that he is able, independently, to consider the effectiveness of the policy in this context. Although I would not expect the Inspector to conclude that a change to the policy would be necessitated by a change in the settlement boundary, if, despite my view, a change to the policy were thought to be necessary in consequence of the change to the settlement boundary, it would need to be the subject of main modifications procedure and would prolong process.

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