

3. GENERAL POLICIES

3.1 GENERAL OBJECTIONS TO GENERAL POLICIES CHAPTER

The Objections

Gen/229/0593

Health and Safety Executive

Summary of Objections

- (a) Object to lack of statement in the Plan on likely constraints arising from development within the hazardous installations and pipeline consultation zones.

Inspector's Reasoning and Conclusions

3.1.1 The Revised Deposit Draft provided the opportunity to overcome the objection to the absence of a statement on likely constraints arising from certain developments within the consultation zones of Notifiable Installations through the amendments set out in paragraphs 3.3.5a and 3.3.5b. This updates the Plan in the light of government guidance reflecting the need to consider the existence of hazardous substances where new installations or extensions to new installations are proposed or where such substances may need to be considered when development proposals arise within a safeguarded area. Although not formally withdrawn, I consider this objection to be resolved and I shall not comment further.

RECOMMENDATION 3.1

Make no modification to the Plan in response to this objection.

3.2 PARAGRAPH 3.1.1

The Objections

Gen/para. 3.1.1./320/0949

Country Land & Business Association

Summary of Objections

- (a) General Policies should include a section devoted to water resources.

Inspector's Reasoning and Conclusions

3.2.1 I consider that a new policy on water resources in the General Policies section of the Plan is unnecessary because this topic is already adequately covered in Section 8.9, which specifically deals with groundwater and surface water resources.

3.2.2 The Objector also comments that the statutory requirement for water companies to supply does not take sufficient account of resources and the policies in the Plan should therefore

be strengthened to ensure that development only takes place where water is available. However, water supply is only one of the factors influencing the location of new development. Although it is clearly necessary to prevent rates of development from exceeding capacities of existing or planned water supply systems, water companies have the technology to allow water to be transferred from areas of excess to secure an adequate supply. I therefore find no reason to strengthen the policies in the Plan further in this respect.

RECOMMENDATION 3.2

Make no modification to the Plan in response to this objection.

3.3 POLICY G1

The Objections

| | |
|--------------|--------------------------------------|
| G01/433/1786 | Berkeley Strategic Land Limited |
| G01/393/1282 | Orchard Trust |
| G01/413/1466 | Barratt Bristol Ltd |
| G01/320/0945 | Country Land & Business Association |
| G01/409/1385 | Buchanan Partnership |
| G01/424/1554 | Stroud & Gloucestershire Green Party |
| G01/444/1864 | Various Clients of Andrew Watton |
| G01/577/2504 | NHS Executive South West |
| G01/444/3654 | Various Clients of Andrew Watton |
| G01/578/3860 | The House Builders Federation |

Summary of Objections

- (a) Should follow Government advice more closely on effects on neighbouring occupants
- (b) 'Overbearing effect' is superfluous, given previous use of wording 'unacceptable level'
- (c) Needs consistent wording, 'unacceptable' or 'excessive'
- (d) Meaning of overbearing, how can it be assessed?
- (e) 'General disturbance' is too vague; 'non-ionising radiation' and 'artificial lights' should be included
- (f) Indigenous uses should not be thwarted by newer residents
- (g) Policy should be worded positively
- (h) Effect upon neighbours is subjective rather than objective
- (i) Definitions should be expressed in a glossary

Inspector's Reasoning and Conclusions

3.3.1 On issue (a), I am satisfied that Policy G1 is in line with government guidance and it clearly lists the aspects of residential amenity that the policy seeks to protect. It is not necessary to quantify these further because the level to which amenity could be reduced is a matter which

would vary according to the specific circumstances of each development proposal. Paragraph 3.1 of PPG12 advises against too much detail in local plans and I do not consider it necessary for Policy G1 to be more explicit. Section 3.1.1 of the Plan makes it clear that Policy G1 is a general policy and it is implicit within the policy that where potentially adverse effects can be mitigated to acceptable levels, then the policy will not be breached.

3.3.2 I do not agree that the term “overbearing effect” is superfluous (issue (b)), given the previous use of wording “unacceptable level” in Policy G1. The two terms are separate, with “overbearing effect” being one of the factors to be considered when deciding whether development would cause an unacceptable level of intrusion.

3.3.3 On issue (c), the Objector queries the use of the term “unacceptable” in Policies G1 and G2 and “excessive” in Policy G3. I agree that there should be more consistency between the policies and I note that the Revised Deposit Draft provided the opportunity to overcome this objection by substituting ‘unacceptable’ for ‘excessive’ in policy G3. Although not formally withdrawn, I consider this objection to be resolved and I shall not comment further.

3.3.4 I agree that the term “overbearing effect” (issue (d)) would benefit from further clarification. The Revised Deposit Draft provided the opportunity to overcome this objection by introducing a definition in paragraph 3.2.2 of the Plan. As the meaning of the term has been explained in the text, I find no reason to delete it from this policy. On the related objection (i), I accept that some definitions would be better placed within a Glossary. Whilst the advice in PPG12 seeks plans that are clear and concise, in this case I consider it is helpful to provide an explanation of the term in the reasoned justification. This ensures that the meaning and interpretation of Policy G1 is clear without the need for further reference elsewhere in the document.

3.3.5 The charge that the policy is too vague (issue (e)) arises from the fact that whilst there are specific measurable effects, such as noise, encompassed in the wording, the terms ‘general disturbance’ and ‘overbearing effect’ are imprecise. In my view this is not a serious problem. The policy is a general one, setting an overall aim of avoiding conflict between an existing land-use and a new one. I do not find it a difficulty that there are some aspects which are measurable, and some that require subjective judgement. Many of the decisions over planning proposals are necessarily subjective, but can be supported by reasoned explanation. At the inquiry the Objector suggested that the terms such as ‘quality of life’ and ‘good neighbourliness’ should be inserted into the text. I do not find that either suggestion would add to the clarity or utility of the policy.

3.3.6 As to the possible addition of ‘artificial lights’ and ‘non-ionising radiation’, in respect of the former, the Council’s response is that it is not appropriate to seek a comprehensive list. I agree that the policy could become too complex if it were sought to include every sort of disturbance. It seems to me that ‘general disturbance’ is sufficient to include disturbance from artificial light sources. Pollution by the intrusion of light is also referred to in the reasoned justification to Policy G2, and so can be dealt with under that policy. The non-ionising radiation which the Objector has in mind is primarily that from mobile telephone and radio masts, but at the inquiry over-head power lines were cited as being the greatest source. In either case, it is the perception of a health risk which underlines the concern to see this addition to the policy. However, in PPG8¹ (paragraph 98) the Government’s firm view is set out that the planning system is not the place for determining health safeguards – that remains the Government’s responsibility. Whilst that PPG is concerned with telecommunications, it seems to me that the same advice must also apply to over-head power lines. These are things that affect all parts of the country. Whilst the Objector contended that this District may have a greater concentration of

¹ Planning Policy Guidance Note 8 – “Telecommunications” published in August 2001.

masts and power lines than some other parts of the country, I do not accept that there is any argument for making a local exception in Stroud District, against the Government's clear and rational policy.

3.3.7 The concern about indigenous uses (issue (f)) is about the effect on existing employment uses, which may be temporarily dormant, being affected by noise-sensitive development if allowed in immediate proximity. The Objector suggests that a minimum distance between residential and employment development could be specified, or that vulnerable employment sites could be identified on the Proposals Map with a protective policy. I am not in favour of either solution because of the added complexity and increased inflexibility which it would bring, and the difficulty of identifying all relevant sites which might need this protective approach.

3.3.8 On the other hand, I accept that there is a genuine concern here. Policy G3 explicitly deals with the Objector's fears as far as noise is concerned. And as worded, the policy is capable of being interpreted as covering the situation where, say, a sensitive development is proposed close to an existing site which is likely to give rise to complaint from the new development, if allowed, through, say, smelly processes. However, reading Policy G1 with its reasoned justification, the whole emphasis appears to be more on the protection of residential occupiers. I have come to the conclusion that the point of the Objector's concern should be met by amending the supporting text to the policy. I consider that the following could be added. "These effects will be a consideration where sensitive new development is proposed in a location where that new development might be affected by an existing site which gives rise to smell, noise, vibration, etc. In such a situation, consideration must be given to the need for the protection of the existing use from future complaints from the occupiers of the new development." Such an addition could be added at the end of paragraph 3.2.1.

3.3.9 With regard to issue (g), I find no reason to phrase the Policy more positively. The wording suggested by NHS Executive South West would give the impression that those aspects of residential amenity listed are the only factors to be taken into account when determining a planning application.

3.3.10 I do not share the view that the word 'unacceptable', (issue (h)), as suggested at the Inquiry, is likely to lead to difficulty of interpretation. It indicates the balancing judgement that frequently has to be made in development control. Nor do I consider that the policy could be broken into 2 sentences, with a full stop after 'noise', also suggested at the inquiry, with the remainder of the effects 'also being considered': this would be too weak.

RECOMMENDATION 3.3

Modify paragraph 3.2.1 of the reasoned justification to Policy G1 as set out in paragraph 3.3.8 above.

3.4 POLICY G2

The Objections

G02/577/2505
G02/424/1556

NHS Executive South West
Stroud & Gloucestershire Green Party

G02/413/1467
G02/320/0946

Barratt Bristol Ltd
Country Land & Business Association

Summary of Objections

- (a) Policy should be worded more positively
- (b) Wording is too vague, need definitions, who sets criteria – too subjective
- (c) Wording should refer to a test of development causing demonstrable harm to interests of acknowledged importance
- (d) Wording is confusing, ‘unacceptable’ or ‘excessive’

Inspector's Reasoning and Conclusions

3.4.1 I find no reason to phrase the Policy more positively. The wording suggested by the Objector would give the impression that the types of pollution listed are the only factors to be taken into account when determining a planning application.

3.4.2 I am satisfied that Policy G2 is in line with government guidance, and it clearly lists the types of pollution that the policy seeks to prevent. The supporting text provides adequate background information to allow interpretation of the Policy and I consider that further quantification is unnecessary, because this would be a matter for consideration at the planning application stage and would vary according to the specific circumstances of each development proposal. In addition, paragraph 3.1 of PPG12 advises against too much detail in local plans. It is also implicit within the reasoned justification to Policy G1 that, where potentially adverse effects can be mitigated to acceptable levels, then the proposed development will not breach the policy. The precise level of pollutants that are acceptable are normally advised by Consultees at the application stage, whilst the development control decision is clearly one for the local planning authority (subject to call-in and appeal procedures).

3.4.3 On the issue of the words ‘unacceptable’ and ‘excessive’, I refer to my conclusions on the similar objection to Policy G1 where I agree that there should be more consistency between the wording used in Policies G1, G2 and G3. The Revised Deposit Draft provided the opportunity to overcome this objection with the substitution of the word “unacceptable” for “excessive” in Policy G3. Although not formally withdrawn, I consider this objection to be resolved and I shall not comment further.

RECOMMENDATION 3.4

Make no modification to Policy G2 in response to these objections.

3.5 POLICY G3

The Objections

G03/444/1865
G03/444/3655
G03/577/2506

Various Clients of Andrew Watton
Various Clients of Andrew Watton
NHS Executive South West

Summary of Objections

- (a) Indigenous uses should not be thwarted by newer residents
- (b) Wording, 'unacceptable' is not defined, not objective
- (c) Should be worded more positively

Inspector's Reasoning and Conclusions

3.5.1 In relation to issue (a), I have dealt with the general considerations which arise in paragraphs 3.3.7 and 3.3.8 above, in dealing with Policy G1. In the latter paragraph I note that Policy G3 explicitly deals with the matter as far as noise is concerned: it appears to me that this policy provides adequately for the situation envisaged by the Objector, and I see no basis for recommending a modification. I have also addressed the issue raised in (b), in dealing with Policy G1, at paragraph 3.3.10. Nothing further needs to be added here.

3.5.2 As in relation to the same point raised in relation to Policy G1, I find no reason to phrase the Policy more positively. The wording suggested by the NHS Executive South West would give the impression that noise pollution is the only factor to be taken into account when determining a planning application.

RECOMMENDATION 3.5

Make no modification to Policy G3 in response to these objections.

3.6 POLICY G4

The Objections

| | |
|--------------|---------------------------------------|
| G04/555/2651 | Environment Agency (Planning Liaison) |
| G04/320/0948 | Country Land & Business Association |
| G04/201/0481 | Bisley & Lypiatt Parish Council |
| G04/424/1557 | Stroud & Gloucestershire Green Party |
| G04/424/1558 | Stroud & Gloucestershire Green Party |
| G04/444/1866 | Various Clients of Andrew Watton |
| G04/424/1559 | Stroud & Gloucestershire Green Party |

Summary of Objections

- (a) Integrated approach to flooding should be included
 - (b) Policy does not take into account downstream floods as a result of higher developments - Policy should require the provision of settlement lagoons.
 - (c) Delete policy - no development should be allowed on land liable to flood
 - (d) Policy is confusing and weak
 - (e) Policy is restrictive, as all development has an off-site flooding risk.
 - (f) Addition to policy, no development which could cause flooding should be allowed unless suitable measures taken
-

Inspector's Reasoning and Conclusions

3.6.1 I do not agree that Policy G4 should be deleted or that all development on the floodplain should be refused. Clearly there is a need for such a policy, and Government advice in PPG25² (the current version of which was published in July 2001) allows for a risk-based approach that may allow some development in flood risk areas. The recommendation I make for a modified Policy G4 follows the Government guidance in that PPG.

3.6.2 The remaining issues can all be dealt with together. In relation to these issues, there is very little between the Objectors and the Council: the latest version of Government guidance on the subject of development and flood risk, issued after the Revised Deposit version of the Plan was published, should be followed. It is a question of whether the Revised Deposit version of Policy G4, which the Council says can be used to achieve the PPG25 policy objectives, is written in the most effective way to control development such that the risk of flooding can be properly addressed, and development refused where unacceptable risks would result.

3.6.3 The approach in PPG25 applies the precautionary principle, using a risk-based search sequence, avoiding such risk where possible and managing it elsewhere. It is for a prospective developer to provide an assessment of whether any proposed development is likely to be affected by flooding, and whether it will increase flood risk elsewhere, and of the measures proposed to deal with these effects and risks. It is for the developer to satisfy the local planning authority that any flood risk to the development or additional risk arising from the proposal will be successfully managed, to ensure that the site can be developed and occupied safely with minimum environmental impact. As to local plans, PPG25 advises that local planning authorities should show areas of flood risk on local plans where specific policies are to be applied to minimise and manage the risk. They should apply the principles of the sequential approach set out in paragraph 30 and Table 1 of the PPG. It may be appropriate to include the latest version of the indicative flood plain maps, including the extreme flood line when it becomes available, as technical support to the local plan or in supplementary planning guidance to indicate where consideration of flood risk is likely to be necessary.

3.6.4 In the light of this advice, I agree that Policy G4 and its reasoned justification should be modified. In my opinion it does not sufficiently reflect the PPG25 approach. However, I do not agree that it should place a total embargo on development where it can be allowed under the terms of PPG25, or that it should be divided into two policies dealing with i) preventing building in flood risk areas, and ii) preventing increased risk elsewhere. Nor do I consider that the policy should require the provision of settlement (or balancing?) lagoons, since that is something which should be considered, if justified, at development control stage. I note that there is already a policy dealing with sustainable urban drainage systems (Policy N14). The contention that the policy is too restrictive, on the basis that all development has the potential to increase off-site flooding, is also not persuasive: the underlying concern appears to be that individual development control decision might be made by the authority's Members on a spurious basis. But development plan policies can only be written on the understanding that decisions based on them will be taken on a proper exercise of the authority's powers.

3.6.5 At the inquiry, and subsequently in further representations, a number of different drafting options for the policy were put forward. I will not reproduce the various texts which were canvassed, but rather will set out a wording which appears to me to be satisfactory, adopting parts of the suggestions as I consider appropriate:

“Flooding

Flood plains are the generally flat areas adjacent to a watercourse, tidal length of a river or the sea where water flows in times of flood or would flow but for the presence of defences.

² PPG 25: Development and Flood Risk”.

Development in such areas can reduce the storage capacity of the floodplain, impede the flow of water, increase the risk of flooding elsewhere and put life and property at risk. These areas also make an important contribution to the operation of the ecosystem by sustaining species and habitats dependent on seasonal flooding

The Environment Agency provides advice on flooding issues and produces indicative flood plain maps for stretches of watercourses where such information is available. The Environment Agency should therefore be consulted by developers, before submitting a scheme where proposals fall within, or will drain to, areas where development could contribute to flooding problems. For all such proposals an appropriate flood risk assessment (FRA), as set out in Planning Policy Guidance Note 25 "Development and Flood Risk" (Appendix F), must be carried out by the developer. The FRA will identify the likely frequency and impact of flooding, taking into account the adequacy of flood defences, the effect the development will have both on and off site and an assessment of the impact of climate change. When a planning application is received, where development could contribute to flooding problems, the District Council will consult the Environment Agency, and the FRA will inform the planning decision and may identify appropriate design and mitigation measures.

PPG 25 sets out that local planning authorities should apply a risk-based approach to their decisions through the application of a sequential test. Three zones are identified according to degree of flood risk, ranging from little or no risk, through to sites at high risk. Within the high risk flood zone there are 3 sub-divisions: functional flood plain, undeveloped and sparsely developed areas, and developed areas. Within high risk areas, the functional flood plain is defined as the unobstructed or active areas where water regularly flows in times of flood. Built development in such areas should be wholly exceptional and limited to essential transport and utilities infrastructure that has to be there. Built development should also be exceptional in undeveloped or sparsely developed areas unless that particular location is essential. In developed areas, there may be more scope for development provided that the appropriate minimum standard of flood defence can be maintained for the lifetime of the development.

Where flood defences and related engineering works are proposed, the developer should ensure that recognised ecological, geomorphological, archaeological, landscape and recreational interests associated with a watercourse or the land physically or visually linked to it are fully taken into account and, where appropriate, mitigation provided. In areas at lower risk the opportunities for development are greater but measures may still be required to mitigate potential flood risk. It is important for developers to discuss their proposal with both the Council and the Environment Agency at the earliest practical opportunity to assess the risks and to identify, in appropriate cases, what design criteria are necessary to mitigate flood risk problems. In all cases where the FRA reveals that mitigation works are necessary, these must be incorporated within the development itself, or at least be capable of being secured through conditions or a planning obligation. Where additional flood defences, other mitigation works or warning measures are required, they must be fully funded by the developer including on-going maintenance through a dedicated sum as advised in PPG25. In formulating development proposals or mitigation measures, a minimum access strip of 8 metres on main rivers and 5 metres on ordinary watercourses should be provided for the purposes of maintenance and emergency access.

There is insufficient data available to enable the District Council to show areas of flood risk on the Proposals Map, but an indication of these areas is available on the Environment Agency's web site, which is up-dated as necessary. When there is adequate data available, the

District Council will produce Supplementary Planning Guidance with a map which shows these areas in the District.

Policy G4: Development and Flood Risk

Planning applications within areas at risk of flooding must be accompanied by a flood risk assessment in accordance with PPG25, Annex F. Development will be permitted where an appropriate flood risk assessment has been carried out and the proposed development meets all the following criteria:

- i) There are no other reasonable options available in a lower risk zone.*
- ii) It will not itself be at unacceptable risk from flooding and will not increase the risk of flooding to third parties within the floodplain or in adjoining areas, so that the risk to human life and property is acceptable.*
- iii) Provision is made for a minimum access strip of 8m on main rivers and 5m on ordinary watercourses.*
- iv) Existing flood defences and other existing or potential flood alleviation measures are adequately safeguarded.*
- v) It would not result in extensive culverting.*
- vi) Where additional flood defences, other mitigation works or warning measures are required, provision is made for them to be fully funded, including adequate provision for ongoing maintenance through an appropriate dedicated commuted sum.*
- vii) The proposal does not involve significant and unsustainable additional flood defences in undeveloped or sparsely developed areas or within the functional floodplain.*

3.6.6 In drafting this text I have taken account of what is said in PPG25, for example in paragraph 21, "...that the Government is looking for a step-change in the responsiveness of the land-use planning system to the issues of flood-risk management as they affect the development process." As a result, the policy and justification which I recommend, although based on the re-draft put forward in the Council's response proof 'Policy G4/LPA/DC/006A', is more detailed. In re-drafting the policy and justification, I have taken account of all the representations made, and have adopted much of the suggestion of the Environment Agency, although I have sought to keep the text concise by, for instance, not including the full detail of percentage risk in the three zones.

3.6.7 In the final paragraph of the recommended reasoned justification, I have referred to the mapping of areas of flood risk, reflecting the advice in paragraph 51 of the PPG dealing with local plans. It may be that the Environment Agency has now developed more meaningful maps than were available at the time of the inquiry, and this part of the text may need further modification to reflect that, together with any additional mapping of areas which might now be put in the Plan. If this remains impractical, the Council should consider the publication of flood-risk area mapping at the earliest practical opportunity: which ever course is appropriate, the text should reflect the approach taken by the Council.

RECOMMENDATION 3.6

Modify Policy G4, and its reasoned justification, as set out in paragraph 3.6.5 above.

3.7 POLICY G5

The Objections

| | |
|---------------|----------------------------------|
| G05/413/1468 | Barratt Bristol Ltd |
| G05/577/2507 | NHS Executive South West |
| G05/433/1788 | Berkeley Strategic Land Limited |
| G05/1/3003-CW | Gloucestershire County Council |
| G05/444/1867 | Various Clients of Andrew Watton |

Summary of Objections

- (a) Policy is too general - Policy does not allow for situations where potentially adverse impacts can be overcome by suitable improvements to the highway network. Criteria should be established against which proposals can be tested.
- (b) Policy should be more positive
- (c) Technically incorrect, should be any user of any highway or public right of way
- (d) Some development could be allowed, which would improve access, but still not meet County or National guidelines.

Inspector's Reasoning and Conclusions

3.7.1 On issue (a), I support the Additional Suggested Change, which proposes the insertion of a new sentence at the end of paragraph 3.5.1 to explain that mitigating measures will be taken into account where they help to overcome highway safety concerns through Section 106 agreements or planning conditions. However, I do not consider it necessary to amend Policy G5 to include criteria or thresholds against which development proposals can be tested. Highway safety concerns would vary according to the specific circumstances of each development proposal and the detailed criteria relating to transport requirements and considerations are encapsulated in Policies T1 and T2 of the Plan.

3.7.2 I find no reason to phrase the Policy more positively. The wording suggested by the Objector would give the impression that highway safety is the only factor to be taken into account when determining a planning application.

3.7.3 In relation to Issue (c), I support Proposed Change PRO 23 which re-words Policy G5 and the supporting text to ensure that it is technically correct. I note that the objection has been conditionally withdrawn and I therefore consider the matter to be resolved. The Plan should be amended accordingly.

3.7.4 On Issue (d) the Objector raises a valid point and I support the Council's Additional Suggested Change, which amplifies the reasoned justification to meet these concerns. The amendments also help to reflect the reality of developing brownfield sites in the Stroud Valleys as requested by the Objector. Since the objection has been conditionally withdrawn, I shall not comment further.

RECOMMENDATION 3.7

Modify Policy G5 in accordance with Proposed Change PRO 23; and the Additional Suggested Change which deletes 'likely to be' from the wording of the policy, and which inserts an additional sentence at the end of paragraph 3.5.1. This sentence reads: 'In applying the policy, the Council would take into account any mitigating measures that would overcome highway

safety concerns and these would be secured through the use of Section 106 agreements of planning conditions.'

3.8 POLICY G6A

The Objections

G06A/543/3752 Government Office for the South West
G06A/578/3861 The House Builders Federation

Summary of Objections

- (a) Supporting text should refer to the Urban White Paper in relation to contaminated land
- (b) The financial implications of remediation of contaminated land should be included

Inspector's Reasoning and Conclusions

3.8.1 I agree that it would be helpful if the Urban White Paper was referred to in the supporting text, given the important references to the treatment of contaminated land that are in that document. I therefore support Proposed Change PRO 25, which meets the concerns of this Objector.

3.8.2 I also consider that risks and the costs of remediation should be acknowledged in the text, in view of the implications for the viability of development proposals on contaminated land. I again support Proposed Change PRO 25, which generally meets these concerns, but I do not agree that there is a specific need to refer to these costs in the actual Policy as suggested by the Objector.

RECOMMENDATION 3.8

Modify Policy G6A in accordance with Proposed Change PRO 25.