



Independent Examination of Warrington Local Plan

Hearing Statement submitted on behalf of the Police and Crime Commissioner for Cheshire and Cheshire Constabulary (Respondent ref: 0428)

Matter 3 – The Spatial Strategy

July 2022

Cheshire Constabulary HQ



CONTENTS

1	Introduction	3
2	Issue – Whether the Spatial Strategy is justified, effective and consistent with national policy, including in terms of the distribution of development across the Borough, site selection, the overall approach to the Green Belt and the overall approaches to infrastructure provision and viability.	4
Appendix 1	Summary of Appeal Decisions	
Appendix 2	Summary of High Court Judgements	
Appendix 3	Jelson Limited vs Secretary of State for Communities and Local Government and Hinckley and Bosworth Borough Council [2016] EWHC 2979 (Admin)	
Appendix 4	R (Police and Crime Commissioner for Leicestershire) vs Blaby DC [2014] EWHC 1719 (Admin)	

MATTER 3 – The Spatial Strategy

1 Introduction

- 1.1 This hearing statement is to be read in conjunction with the previous representation made by the Police and Crime Commissioner for Cheshire (PCC) and Chief Constable for Cheshire Constabulary (CCCC) dated 15 November 2021 (WBC ref: UPSVLP 0428). This representation was made by letter to Warrington Borough Council (WBC) in relation to the Updated Proposed Submission Version Local Plan (UPSVLP).
- 1.2 The PCC and CCCC is grateful for the opportunity to comment further on the Warrington Local Plan. These further representations and comments are made in respect of the Inspector's 'Matters, Issues and Questions' (MIQs) set out in the document issued by the Examination Programme Officer in June 2022. This document covers responses to the Inspector's questions relating to Matter 3 – Spatial Strategy.
- 1.3 Any additional matters that have arisen since the submission of the UPSLVP PCC and CCCC representations are addressed in this statement.
- 1.4 The PCC has a statutory duty to secure and maintain an efficient and effective police force for Cheshire and Warrington Borough Council is required by statute to consider crime and disorder and community safety in the exercise of its planning functions.
- 1.5 The letter of representation dated 15 November 2021 sets out in detail, CCCC's comments on the UPSVLP in relation to exercising this duty and the issues raised remain relevant to the Warrington Local Plan Examination. This statement should be read in conjunction with the submissions made on behalf of PCC and CCCC. For the avoidance of doubt, the previous comments made on behalf of PCC and CCCC remain valid and in the interest of brevity, are not repeated in detail herein.

- 2 Issue – Whether the Spatial Strategy is justified, effective and consistent with national policy, including in terms of the distribution of development across the Borough, site selection, the overall approach to the Green Belt and the overall approaches to infrastructure provision and viability.

Questions

The overall approach to infrastructure

Question 30 – What are the overall infrastructure requirements as a result of the proposals in the Local Plan? How have these been established and in particular how has the Council worked with other organisations?

- 2.1 Strategic Planning Polices Objective W4, MD1-MD6 and INF5 all share the same omission; namely that the impact of the delivery of growth planned for within the Local Plan and for the specific Main Development Areas and Site Allocations on the police and emergency services is not recognised or accounted for.
- 2.2 We have previously raised this issue in our representations to earlier public consultation stages and have made attempts to engage with the Council on this matter. Warrington Borough Council's (WBC) informal response was that the consideration of infrastructure requirements for the emergency services would undermine LP viability.
- 2.3 WBC has not acknowledged the concerns of Cheshire Constabulary nor addressed the issues raised in the Regulation 19 Responding to Representations Report. It has not provided any evidence to support the assertion that the provision of emergency services infrastructure necessary to support development growth would impact on viability or deliverability either on the LP as a whole, or individual development sites.
- 2.4 National Planning Policy Framework 2021 (NPPF) paragraph 25 requires strategic policy-making authorities to engage with their local communities and relevant bodies including infrastructure providers. However, the Council has not sufficiently engaged with Cheshire Constabulary (CC) to identify the necessary anticipated police infrastructure requirements and associated costs to support the levels of development proposed through the LP.
- 2.5 Whilst police and other emergency services infrastructure is not required to enable a development to be physically constructed and become operational, all such schemes and the populations they support (whether living, working and/or visiting) require emergency services coverage 24/7 throughout the year, without exception.

2.6 However, the reality is that emergency services, like any other public service, can only be provided to the required standards and within acceptable response times to a given development if the infrastructure is provided to enable this to happen.

2.7 In recognition of this, the Inspector (endorsed by the Secretary of State) in the Barrow Upon Soar appeal (Ref: APP/X2410/A/12/2173673) (**Appendix 1**) concluded:

“[291]...the twelfth core planning principle of the Framework...can only be served if policing is adequate to the additional burdens imposed on it in the same way as any other local public service. The logic of this is inescapable.”

2.8 A common misconception in this respect is that national funding for the police and other emergency services, or the monies raised through the Council Tax precept, will provide all the resources required for this infrastructure. This is not true unfortunately and mirrors the situation faced by other public services that more ‘traditionally’ seek infrastructure mitigation through the town planning system.

2.9 The decisions in **Appendix 1** reflect the fact that paragraph 20 of the NPPF states that strategic policies should make sufficient provision of infrastructure for “community facilities”. The police and other emergency services self-evidently fall into those categories; yet Objective W4, MD1-MD6 and INF5, do not recognise them. This is neither a justified or effective way of planning for sustainable development growth.

2.10 Furthermore, as the policies are Strategic Planning Policies, NPPF paragraph 20 impels them to make sufficient “security” (i.e the police) infrastructure provision alongside the overall strategy for the pattern, scale and design quality of places. The policies fail to do so.

Question 31 – What role does the Infrastructure Development Plan have and how does it relate to the Local Plan? How will the infrastructure Development Plan evolve over time?

2.11 The Infrastructure Delivery Plan (IDP) identifies the social, environmental and economic infrastructure that will be required to support the development and growth set out in the LP.

2.12 The IDP recognises that all of the Main Development Areas require extensive infrastructure to support their development. As with other infrastructure and services providers, the main development areas will also undoubtedly place a significant, additional demand on police services and infrastructure capacity that does not currently exist. Yet, contrary to NPPF paragraph 20, the IDP neither considers nor makes any provision for future emergency services infrastructure requirements as requested in our previous representations.

- 2.13 IDP costings and infrastructure requirements are only correct at the time of publication. Regular updates to the IDP are essential to provide certainty to WBC, developers, landowners and stakeholders that the necessary infrastructure requirements to support sustainable development growth can be identified and delivered as market and economic conditions vary over time.
- 2.14 CC is in the process of reviewing its Estate Strategy Plan 2021-2031. Although precise strategic police infrastructure costs for specific projects are currently unknown (i.e a new police base/station etc.), the IDP should allow for the inclusion of police infrastructures, at a later date, as and when identified.
- 2.15 The IDP states that the infrastructure requirements included in the IDP are strategic infrastructure requirements for the allocations identified in the LP which are over and above the standard on-site infrastructure and S106 planning obligations. Although work is currently on-going to establish the precise requirements for specific policing infrastructure projects, this should not preclude the IDP and relevant policies (INF5, MD1-MD6 and OS1-OS6) from recognising the need for development to mitigate site specific impacts of development on police infrastructures (including but not limited to premises, staff and officer set up costs, vehicles, mobile technology, PND capacity etc).

Question 32 – Is there a distinction between infrastructure which is essential for the proposed development to take place and desirable infrastructure?

- 2.16 The police, fire and rescue and ambulance services, play an essential role in supporting and ensuring public health and safety in our communities. Without exception, every existing and planned community must have adequate emergency service coverage. If given the choice, occupiers of both existing and future communities will likely agree emergency services are essential rather than desirable infrastructure.
- 2.17 Indeed, in appeal cases APP/X2410/A/13/2196928 and APP/X2410/A/13/2196929 and APP/G2435/A/14/2228806 (Appendix 1), the Inspectors determined that adequate policing is fundamental to the concept of sustainable communities.
- 2.18 In order to sustain the level of growth proposed in the LP and to continue to meet its statutory requirements, along with national and local policy objectives relating to safety and security, CC cannot continue to absorb the additional demands placed upon it by proposed developments without impacts being mitigated.

- 2.19 As part of the Government's reforms to the planning system, the Levelling Up and Regeneration Bill published on 10 May 2022 sets out the intended legal framework for the Infrastructure Levy. The Bill makes specific provision for emergency services to be included in the categories of 'infrastructure' (see 204N(3) on page 294) and includes "facilities and equipment". Although in its early stages, the Bill clearly identifies the emergency services as essential infrastructure providers for which IL funds will be used to address the demands that development places on it.
- 2.20 In addition, the NPPF clearly defines public sector employees who provide frontline services in areas including health, education and community safety – such as police and firefighters as "Essential local workers" (Annex 2: Glossary).
- 2.21 In line with national policy and Government national planning reform proposals, the LP fails to recognise the police and other emergency services as essential infrastructure necessary to support sustainable development growth.

Question 33 – How have costs for infrastructure been established? What are the sources of funding and is this sufficiently clear? Where there is a significant funding gap, how will this be met, is this clear and realistic?

- 2.22 WBC has not sufficiently engaged with CC to allow indicative infrastructure costs for police to be accounted for the IDP or LP Viability Appraisal (VA). The LP does not therefore ensure the demand and implications for essential policing infrastructure are adequately identified and provided for in a timely manner.
- 2.23 Regardless of whether costings for police infrastructure are included in the IDP or VA as a Main Modification, to address the additional pressures placed on our capital infrastructure programme arising from development growth, new development must bridge the funding gap. The LP must include a clear mechanism for this.
- 2.24 LP Policy INF5 is sufficiently flexible to allow planning obligations to be sought on development sites (subject to viability) in addition to those considered as part of the LP VA. However, for soundness, the LP should explicitly recognise and plan for essential emergency services infrastructure in the same way it does for other infrastructure providers and services.
- 2.25 Faced with levels of unprecedented demand for policing services across the wider Cheshire area, CC has resolved to seek developer contributions for developments in Halton, Cheshire West and Chester and Cheshire East local authority areas to ensure that existing deployment levels can be maintained in line with growth. This sets a clear precedent elsewhere in Cheshire.

- 2.26 As addressed in further detail in the PCC and CCCC Hearing Statement for Matter 11 – Transport and other infrastructure, various planning appeal (**Appendix 1**) and High Court decisions (**Appendices 2, 3 and 4**) confirm that emergency services S106 contributions meet the requisite Community Infrastructure Levy (CIL) Regulations 122 tests.
- 2.27 Appeal decision ref: APP/G2435/A/14/2228806 (**Appendix 1**), also confirms the acceptability of planning obligations towards police infrastructure even where the request is not linked to the requirements of development plan policies.
- 2.28 Policing contributions are therefore a realistic mechanism for applicants/developers to bridge the policing funding gap. Contributions are modest in comparison to those for other infrastructure/services and WBC has provided no evidence to demonstrate that additional planning obligations towards policing will undermine the viability/delivery of other strategic infrastructures, allocated sites or the Spatial Strategy as whole.

Viability

Question 36 – Does it provide a realistic and comprehensive assessment of revenue and costs for the Main Development Areas and site allocations over the plan period?

- 2.29 Policies MD1-MD6 and OS1-OS6 all share the same omission, namely that the impact of these sites upon the police and other emergency services is not recognised or accounted for in the LP. Notwithstanding, all of these sites will require the proportional growth of police infrastructures to maintain equivalent levels of service in the areas concerned.
- 2.30 Costs for policing infrastructures necessary to support the delivery of these sites have not been included in the LP VA. WBC, land promoters, developers and applicants cannot therefore be satisfied that the provided infrastructure costs are realistic and cover the full infrastructure and enabling works necessary to bring the sites forward for development.
- 2.31 Parties were made aware of the need for policing infrastructure to be accounted for in the VA in early 2021. However, emergency services are the only key infrastructure providers omitted in this this way.

Question 37 – Are all costs included and are the estimates of these justified? How have infrastructure requirements been factored in and how do these correspond to the Infrastructure Development Plan

2.32 WBC has not provided any evidence to support its assertion that the addition of policing infrastructure costs would undermine the viability of the LP. Therefore, in the interests of completeness and to inform the Inspector’s deliberations, an indicative figure for police infrastructure necessary to deliver each of the Main Development Areas is provided below in Table 1.

Main Development Area	Number of homes	Indicative police infrastructure costs
MD1 - Warrington Waterfront	Around 1,070 (in plan period)	£160,000
MD2 - South East Warrington Urban Extension	Minimum of 2,400 (in plan period)	£360,000
MD3 - Fiddlers Ferry	Minimum of 1,310 (in plan period)	£200,000
MD4 - Land at Peel Hall	Up to 1,200	£180,000
MD5 – Thelwall Heys	Minimum of 300	£45,000

Table 1: Indicative Cheshire Constabulary infrastructure costings

2.33 Infrastructure costs have been calculated in accordance with the nationally recognised methodology used to calculate S106 planning obligation requirements based on current levels of deployment and capacity.

2.34 In order to meet the requisite legal tests (CIL Regulations 122), policing infrastructure costs are not calculated simply by attributing a set figure per dwelling. Rather, where development is proposed, the Constabulary will seek to deploy additional staffing and infrastructure at the same level that is required to deliver policing to the locality. The methodology has been upheld at appeal and High Court on numerous occasions (**Appendix 1**).

2.35 Infrastructure costings are derived following a close and careful analysis of the current levels of policing demand in the locality concerned and an assessment of infrastructure and service capacity. Costs are to fund the minimum level of infrastructure required to mitigate the impacts of the particular Main Development Area in question in order to maintain existing service levels to both existing and the planned community.

- 2.36 Actual costs sought on development proposals for the Main Development Areas may vary. The demand for policing changes over time and this can be reflected in CC's deployment. However, the intention is to take a view on this at the time applications and appeals are made and use the most up-to-date information available to inform any future infrastructure funding requests.
- 2.37 Policing infrastructure costs for Cheshire are modest in comparison to other infrastructure/service costs and will not in isolation tip the viability balance towards the LP or any individual sites being rendered unviable. Furthermore, the VA includes an assumption based allowance for site specific S106 contributions to be considered at application stage (subject to viability) that have not already been accounted for. Funding for policing infrastructure could fall under this allowance.
- 2.38 Against this context, WBC has presented no reason to justify the exclusion of CC's infrastructure funding requirements from the VA or reticence to permit policing S106 contributions to be secured at application stage.

Question 38 – What is the basis for the assumptions regarding the phasing of development and the timing of the need for and costs of infrastructure and are these realistic and justified?

- 2.39 Unlike the Council Tax precept which meets the ongoing revenue costs to address the demands new development places on the police, funding for capital infrastructure necessary to support police deployment (i.e premises, vehicles, mobile IT, uniform etc.) is a one-off cost necessary to support officer deployment as soon as a development generates a police response for any reason.
- 2.40 In many instances, deployment is required during the construction phase to respond to incidents relating to security, vandalism, anti-social behaviour and theft of site tools and equipment.
- 2.41 In the first instance, CC will therefore seek to secure infrastructure funding on commencement of development of each respective phase to ensure infrastructure is in place to support officer deployment to the site.