

POLICY CO1 - DEVELOPMENT WITHIN THE DEVELOPED COASTAL ZONE
Written Statement Paragraph 20.17

OBJECTIONS: 052/2 Manchester Ship Canal Company 053/5 English Nature
068/1, 068/12 to 068/14 UML Ltd 070/125 GO-M
084/17 Merseyside Development Corporation
119/8 National Museums and Galleries on Merseyside
121/20 MAFF 216/4 RSPB

COUNTER-OBJECTION: 053/C English Nature

Summary of Objections

- 20.1 'Normally' should be deleted from Policy CO1 (070/125). The requirement in Criterion (i) that only development requiring a coastal location should be permitted in the Coastal Zone is unnecessary, and too restrictive in relation to Proposals EM5/2, EM5/3 and EM5/4¹ (052/2).
- 20.2 The text of Policy CO1 (especially Criterion (ii)) should be amended along the lines of the protection policies suggested by the Objector to replace Policies NC1, NC3 and NC5², conforming with PPG20 *Coastal Planning* (053/5).
- 20.3 Criterion (i) of Policy CO1 unreasonably restricts development at Cammel Laird (Proposal EM1), the Twelve Quays/Shore Road Development (Proposal EM3/1) and areas of Shore Road (Proposal EM3/15), Monks Ferry and Rose Brae with potential for development not requiring a coastal location. The defined Coastal Zone should therefore be reviewed (084/17). Criterion (ii) should refer to archaeology (119/8).
- 20.4 The Reasoned Justification could contain a reference to PPG20 (121/20). The onus should be on the developer to show that development will not harm coastal and marine ecology (216/4). The requirement in Paragraph 20.17 that development in the Coastal Zone should make provision for public access to the coast is inappropriate, especially in relation to chemical/hazardous processes. Sites WM1/2, WM1/4, EM5/1 and EM4/3³ should not be subject to this aspect of Policy CO1 (068/1, 068/12 to 068/14).

¹ Proposal EM5 - Locations for Special Industrial Uses, proposed to be deleted under ALT/EMPLOYMENT/015 (CD056, page 18) after the abolition of the Special Industrial Use Classes B4 to B7. EM5/2-QE II Dock, Bankfields Road, Eastham; EM5/3-Bankfields, off North Road, Eastham; EM5/4-North of North Road, Eastham.

² Policies NC1, NC3, NC5 - The Protection of Sites of International, National and Local Importance for Nature Conservation.

³ Proposal WM1/2 - North Bromborough Dock and North Reclamation Area, Bromborough; Proposal WM1/4 - South Bromborough Dock, Bromborough; Proposal EM5/1 - Dock Road South, Bromborough; Proposal EM4/3 - Former UML Power Station, Commercial Road, Bromborough.

20.5 The proposed amendments to Policies NC1/NC3⁴ do not meet the concerns expressed in Objection 053/5 (053/C).

Assessment and Conclusions

20.6 The Council's published change to Policy CO1⁵ omits 'normally', and the accompanying Reasoned Justification makes reference to PPG20. The requirement in Criterion (i) of the Policy that only development which requires a coastal location should be permitted in the coastal zone is consistent with Criterion (ii) of Policy COA1⁶, and with PPG20⁷. It is not part of the case in Objection 052/2 that the sites mentioned should not be in the Coastal Zone, and the requirements of Criterion (i) seem to me to be the more appropriate in circumstances in which the Council propose to incorporate Sites EM5/2, EM5/3 and EM5/4 within Proposal EM3⁸. Nevertheless, the proposed amendment to Policy CO1 does introduce an element of flexibility into Criterion (i), by acknowledging that there may be circumstances in which no alternative site outside the Coastal Zone is available. The Council make the point that indeed it may be difficult to accommodate the type of industry envisaged in Proposal EM5 in other parts of the Borough than this part of the developed Coastal Zone.

20.7 It is inferred in Objection 084/17 that the sites mentioned should not be shown as within the defined Coastal Zone. PPG20 advises that the inland limit of a coastal zone should depend on the extent of maritime influences and coast-related activities. The area to be designated should depend on local circumstances⁹. All the sites directly adjoin the coast and some contain features or activities characteristic of a coastal location. They are therefore in my view rightly included within the Coastal Zone. I accept however that the restrictions of Criterion (i) of Policy CO1 could inhibit the range of development which might take place on the sites which are important to urban regeneration in the Birkenhead area. However if Criterion (i) of the amended Policy now proposed is interpreted sufficiently flexibly to enable consideration to be given to mixed use schemes where only some of the activities could be said to *require* a coastal location, it unlikely in my view that the Criterion will inhibit the redevelopment of the sites and the process of urban regeneration. However this is a matter which the Council should keep under close review; it does not do away with the responsibility to consider the advantages and disadvantages of any development proposal in the light of the development plan *and* all other material considerations.

⁴ See ALT/NATURE/002 (CD056, page 171) and ALT/NATURE/003 (CD056, page 172). The Objector's representations on these Policies are discussed on pages 273-276 of this report. Further changes to Policy NC1 and its supporting text, and to Policy NC3 were published under ALT2/NATURE/001, 002 and 003.

⁵ ALT/COAST/002 (CD056, page 299).

⁶ Policy COA1 - Principles for the Coastal Zone.

⁷ PPG20, paragraphs 2.9 and 2.10.

⁸ Proposal EM3 - Land for General Employment Use. See ALT2/EMPLOYMENT/001 (CD057, page 1).

⁹ PPG20, paragraph 1.7.

20.8 In responding to Objection 053/5 the Council make the point that Policy CO1 is not meant to duplicate other Policies in the UDP; however they recognise that some cross-referencing to other provisions may be helpful. The proposed amendment to the Reasoned Justification to Policy CO1 does this at Paragraph 20.16. Changes are also proposed to Criterion (ii) of the Policy itself by the identification of nature conservation and earth science as distinct branches of ecology. Whilst this did not satisfy the Objector's concerns having regard to separate representations made in relation to Policies NC1 and NC3, this appears to have been resolved by the publication of further changes to those Policies¹⁰.

20.9 The Council have also accepted the view that archaeology is an important issue in relation to the Wirral coast, and have included it in the amended Criterion (ii) of Policy CO1. The word 'detrimental' is replaced by a more clearly understood 'adversely affect'. It is not the responsibility of the developer to prove that a proposal will not harm coastal and marine ecology; to my mind it is for the local planning authority to determine whether or not there would be any such harm, in these circumstances having regard to information supplied about the proposals and with the benefit of the important views of English Nature.

20.10 On the question of public access to the coast, like the Council I accept that there will be instances in which the nature of the use of coastal sites makes it inappropriate on safety grounds for there to be full or even partial public access. The proposed amendment to Policy CO1 takes this into account, referring to the protection of existing public access ways and to the enhancement of the system of public access 'where practical and safe to do so'. This to my mind suggests that this is a matter which should be considered on its merits when proposals are submitted for development on Sites WM1/2, WM1/4, EM5/1, EM4/3 or any other site within the Zone.

Inspector's Recommendation

20.11 I recommend that the UDP be modified by the amendment of Policy CO1 and its Reasoned Justification in accordance with ALT/COAST/002.

¹⁰ Under ALT2/NATURE/001 (CD057, page 22) and ALT2/NATURE/003 (CD057, page 24).

POLICY CO2 - DEVELOPMENT WITHIN THE UNDEVELOPED COASTAL ZONE

OBJECTIONS: 053/6 English Nature 070/126 GO-M
126/4 Mersey Estuary Conservation Group
119/9 National Museums and Galleries on Merseyside 216/5 RSPB

COUNTER-OBJECTION: 053/D English Nature

Summary of Objections

- 20.12 The word 'normally' should be deleted from Policy CO2 (070/126). The text of the Policy (and especially Criterion (ii)) should be amended along the lines of the 'site protection' policies suggested by the Objector to replace Policies NC1, NC3 and NC5¹. This would be in-line with PPG20 *Coastal Planning* (053/6).
- 20.13 Policy CO2 should have an additional criterion, requiring development proposals to describe how water-based recreation is to be managed, to avoid disturbance to key areas of nature conservation importance (126/4). Criterion (iii) of the Policy should include a reference to archaeology (119/9). It is unclear how the determination is to be made that a proposal is 'detrimental'. The Policy gives insufficient protection to internationally important birds around the Wirral coast from water-based recreation, and damage could also be done to the Coastal Zone by land-based facilities for such activities (216/5).
- 20.14 The proposed amendments to Policies NC1/NC3² do not satisfy the concerns expressed in Objection 053/6 (053/D).

Assessment and Conclusions

20.15 A published change to Policy CO2 omits 'normally'³. In responding to Objection 053/6 the Council state that Policy CO2 is not meant to duplicate other policies in the UDP, but accept that some cross-referencing to other policies would be helpful. The proposed amendment to the Reasoned Justification for Policy CO2 does this at Paragraph 20.20. It is also proposed to change Criterion (iii) of the Policy itself, to identify nature conservation and earth science as distinct branches of ecology. Whilst this has not satisfied the Objector's concerns having regard

¹ Policies NC1, NC3, NC5 - The protection of Sites of International, National and Local Importance for Nature Conservation.

² ALT/NATURE/002 (CD056, page 171) and ALT/NATURE/003 (CD056, page 172). the Objector's representations on these Policies are discussed on pages 273-276 of this report. Further changes to Policy NC1 and its supporting text, and to Policy NC3 were published under ALT2/NATURE/001, 002 and 003.

³ ALT/COAST/003 (CD056, page 300).

to separate representations made in relation to Policies NC1 and NC3, this appears to have been resolved by the publication of further changes to those Policies⁴.

20.16 The Council also accept that archaeology is an important issue in relation to the Wirral coast, and have included it in an amended Criterion (iii) of Policy CO2. The word 'detrimental' is replaced by the more clearly understood 'adversely affect'. It falls to the local planning authority to determine whether harm to nature conservation or ecological interests would be caused by any proposal, having regard to information provided by the developer and the benefit of the important views of English Nature.

20.17 The Policy enables proposals for land-based recreation, or land facilities to support water-based recreation to be considered on their merits against a set of criteria. Insofar as water-based activities themselves are unlikely to involve development requiring planning permission, the Policy is unable to be of much help in protecting bird life or other nature conservation interests from the effects of such activities. The Council refer to their Wirral Coastal Management Plan (a Leisure Services document) and the management plans for the Dee and Mersey Estuaries. I agree with the Council that it would be inappropriate to include criteria in Policy CO2 that were not related to land use planning matters. There is a balance which PPG20 confirms it is necessary to achieve between recreation and conservation objectives⁵, but it seems to me that for coastal water-based recreation *per se* this may largely have to be influenced by non-planning management plans rather than development plans such as the UDP.

Inspector's Recommendation

20.18 I recommend that the UDP be modified by the amendment of Policy CO2 and its Reasoned Justification in accordance with ALT/COAST/003, but that no further modification be made in response to Objections 126/4 and 216/5.

⁴ Under ALT2/NATURE/001 (CD057, page 22) and ALT2/NATURE/003 (CD057, page 24).

⁵ PPG20, paragraph 3.4.

POLICY CO3 - TOURISM AND LEISURE IN THE COASTAL ZONE

OBJECTIONS: 084/16 Merseyside Development Corporation
220/3 Birkenhead History Society¹

Summary of Objection 084/16

20.19 Policy CO3 places a blanket requirement for coastal access provision on all developments in the identified sites at Twelve Quays and Cammel Laird². This is unrealistic and unreasonable. The Policy should be amended by the use of the term 'where appropriate' in relation to coastal access, as well as in relation to coastal related recreation and tourism.

Assessment and Conclusions

20.20 The Council have published a change to Policy CO3³ which meets the spirit of Objection 084/16. The qualification of the requirement to provide coastal access is presented as a matter of safety and practicality; in my view this strikes the right balance between the public interest of improving coastal access and the factors influencing a developer as to whether or not to provide for such access.

Inspector's Recommendation

20.21 I recommend that the UDP be modified by the amendment of Policy CO3 in accordance with ALT/COAST/004.

¹ This Objection is considered in the Tourism and Leisure Section of this report (pages 248-249).

² Proposal EM1 - Former Cammel Laird Shipyard; Proposal EM3/1 - Twelve Quays, Birkenhead.

³ ALT/COAST/004 (CD056, page 301).

Part II: *Policy CO4 and supporting text -*

Criteria for Coastal Protection and Sea Defence Works

Policy CO5 - Developing (sic) Requiring Additional Coastal Defence Works

Policy CO6 - Development within Areas at Risk of Coastal Erosion

POLICY CO4 - CRITERIA FOR COASTAL PROTECTION AND SEA DEFENCE WORKS; Written Statement Paragraphs 20.24, 20.27

POLICY CO5 - DEVELOPING (sic) REQUIRING ADDITIONAL COASTAL DEFENCE WORKS

POLICY CO6 - DEVELOPMENT WITHIN AREAS AT RISK OF COASTAL EROSION

OBJECTIONS: 053/7 English Nature 070/127 to 070/129 GO-M
121/21, 121/22 MAFF
119/12 National Museums and Art Galleries on Merseyside
126/5 Mersey Estuary Conservation Group 216/6 RSPB

COUNTER-OBJECTION: 053/E English Nature

Summary of Objections

- 20.22 The word 'normally' should be omitted from Policies CO4, CO5 and CO6 (070/127 to 070/129). Criterion (vi) of Policy CO4 should make reference to 'international' sites (053/7, 126/5). The Policy should clearly safeguard internationally and nationally important areas on the seaward side of any defences; cross referencing to Policies NC1 and NC2¹ might be helpful (216/6). The Policy should accommodate the Habitats Regulations² (053/7).
- 20.23 Policy CO4 should be consistent with the Government's Strategy for Flood and Coastal Defence in England and Wales to reduce risks to people and the environment from flooding and coastal erosion by encouraging the provision of technically, environmentally and economically sound and sustainable defence measures (121/21).
- 20.24 An additional criterion should be added to Policy CO4 requiring the impact of works on archaeological resources to be identified and assessed (119/12).
- 20.25 The Reasoned Justification for Policy CO4 at Paragraph 20.27 is not accurate, and should be reworded (draft suggested) (121/22).
- 20.26 The published change to Policy CO4³ does not satisfy the concerns expressed in Objection 053/7 (053/E).

¹ Policy NC1 - The Protection of Sites of International Importance for Nature Conservation; Proposal NC2 - Sites of International Importance for Nature Conservation.

² This is taken to refer to the Conservation (Natural Habitats &c.) Regulations 1994.

³ ALT/COAST/005 (CD056, page 302).

Part II: Policy CO4 and supporting text -

Criteria for Coastal Protection and Sea Defence Works

Policy CO5 - Developing (sic) Requiring Additional Coastal Defence Works

Policy CO6 - Development within Areas at Risk of Coastal Erosion

Assessment and Conclusions

20.27 The proposed amendments to Policy CO4 and its Reasoned Justification, and published changes to Policies CO5 and CO6⁴, omit 'normally'. It is proposed in Criterion (vi) of Policy CO4 to refer to international sites, and also to refer to sites on both the landward and seaward sides of the Coast. There is no explicit cross referencing to Policy NC1 and Proposal NC2, but it is clear from Criterion (vi) and from a proposed extension of Paragraph 20.28 of the Reasoned Justification that due regard will be had to those and other provisions in the Nature Conservation Chapter. It is not necessary in my view for Policy CO4 or its supporting text to make express reference to the Habitats Regulations.

20.28 Counter-objection 053/E states that the proposed changes to the Policy do not satisfy concerns about Policy CO4 expressed in Objection 053/7 having regard to the changes proposed to Policies NC1 and NC3⁵. However, these concerns appear to have been resolved by the publication of further changes to those Policies⁶. It is also proposed to add a new Criterion (vii) to Policy CO4, referring to archaeological matters in the manner requested in Objection 119/12. The reasoned Justification for the Policy as proposed to be amended includes a revised Paragraph 20.27, which adopts the wording suggested in Objection 121/22.

20.29 I support the Council's view that it is not the function of the UDP as a land use plan to replicate the coastal protection strategy effected through management plans drawn up under MAFF guidelines. I have no reason to suppose that the land use implications of such a strategy are not fully taken into account in Policy CO4 and other Policies in the Coastal Zone Chapter of the UDP. I therefore recommend no further changes to the UDP on this account.

Inspector's Recommendation

20.30 I recommend that the UDP be modified:

(a) by the amendment of Policy CO4 and its Reasoned Justification in accordance with ALT/COAST/005 and

(b) by the amendment of Policies CO5 and CO6 in accordance with ALT/COAST/006 and 007,

but that no modification be made in response to Objection 121/21 and Counter-objection 053/E.

⁴ ALT/COAST/006 (CD056, page 303) and ALT/COAST/007 (CD056, page 304).

⁵ ALT/NATURE/002 (CD056, page 171) and ALT/NATURE/003 (CD056, page 172).

⁶ Under ALT2/NATURE/001 (CD057, page 22) and ALT2/NATURE/003 (CD057, page 24).

POLICY CO7 - CRITERIA FOR DEVELOPMENT IN THE INTER-TIDAL ZONE
POLICY CO8 - DEVELOPMENT IN THE COASTAL ZONE REQUIRING ENVIRONMENTAL ASSESSMENT

OBJECTIONS: 053/8 English Nature 070/130 GO-M
119/10, 119/13 National Museums/Galleries on Merseyside 216/7 RSPB
COUNTER-OBJECTION: 053/F English Nature

Summary of Objections

20.31 'Normally' should be omitted from Policy CO7 (070/130). Confusion could be caused in implementation of the Policy due to its relationship with Policy NC1¹. Criterion (v) should be rewritten (053/8), and make reference to archaeology. A criterion should be added to Policy CO8 for the same purpose (119/10, 119/13). 'Detrimental' in Criterion (v) of Policy CO7 lacks clarity; it is not certain who is responsible for deciding whether a proposal is detrimental or not (216/7). The amended Policy CO7² does not satisfy the concerns expressed in Objection 053/8, particularly in view of the proposed amendments to Policies NC1 and NC3³ (053/F).

Assessment and Conclusions

20.32 The published change to Policy CO7 omits 'normally'; Criterion (v) refers to archaeology. A proposed change to Policy CO8⁴ introduces Criterion (vi) for the same purpose. Amended Criterion (v) of Policy CO7 distinguishes between nature conservation and earth science and appears satisfactory and to relate adequately to Policies NC1 and NC3, especially in view of further changes proposed to those Policies⁵ which are now acceptable to the Objector. 'Detrimental' in Policy CO7 is proposed to be replaced by the clearer 'adversely affect', although some subjectivity will remain. The responsibility for determining what will be 'adverse' lies with the decision maker (in most cases the local planning authority). The advice of English Nature and other specialist bodies is an important input.

Inspector's Recommendation

20.33 I recommend that the UDP be modified by the amendment of Policies CO7 and CO8 in accordance with ALT/COAST/008 and 009.

¹ Policy NC1 - The Protection of Sites of International Importance for Nature Conservation.

² ALT/COAST/008 (CD056, page 305).

³ Policy NC3 - The Protection of Sites of National Importance for Nature Conservation. The changes to Policies NC1 and NC3 are under ALT/NATURE/002 (CD056, page 171) and ALT/NATURE/003 (CD056, page 003).

⁴ ALT/COAST/009 (CD056, page 306).

⁵ ALT2/NATURE/001 (CD057, page 22) and ALT2/NATURE/003 (CD057, page 24).