
SUPPLEMENTARY PLANNING GUIDANCE (SPG)

Written Statement Paragraphs 5.26, 6.17, 6.24, 6.25, 6.26, 6.30, 6.34, 6.37, 6.40, 6.52, 6.57, 6.61, 6.65, 6.68, 7.21, 8.27, 8.39, 11.9, 11.76, 13.29, 13.41, 15.28, 15.39, 16.36, 17.15, 17.42.

THE LEGALITY OF THE UDP

OBJECTIONS: 063/1 Mr W Kelly 070/3, 070/4, 070/140 to 070/174 GO-M

Summary of Objections

- 24.1 References in the UDP to SPG Statements, whilst helpful and consistent with and directly related to the Plan's stated policies, do not indicate that such statements are publicly available, nor is their status clear (070/3, 070/4, 070/140-174).
- 24.2 Policies HS2, HS3 and HS7¹ refer to Planning Guidelines which were not put on deposit with the UDP itself. This is against the interests of natural justice, is an infringement of human rights and prejudices the legality of the UDP (063/1).

Assessment and Conclusions

24.3 The Council have published a change to the UDP inserting Paragraph 1.21a into the Written Statement, which I am satisfied clarifies the two matters raised by in Objections 070/3, 070/4 and 070/140-174)². This change may go some way to meet the concern expressed in Objection 063/1, as it emphasises that the SPG does not form part of the UDP. I note that no Counter-objection has been submitted to the change. SPG should therefore in the determination of planning applications be given the weight appropriate to a document which does not form part of the development plan.

24.4 In my view Policies HS2, HS3 and HS7 are capable of being read on their own, especially in view of the amendments I recommend to those Policies³. I therefore consider that no further change need be made to the UDP on account of Objection 063/1. As for the Objector's submission about legal prejudice, any legal challenge to the UDP is required to be made under a separate procedure beyond the terms of reference of this report.

Inspector's Recommendation

24.5 I recommend that the UDP be modified by the insertion of Paragraph 1.21a into the Written Statement in accordance with ALT/SPG/001, but that no further modification be made in response to Objection 063/1.

¹ Policy HS2 - Criteria for New Housing Development; Policy HS3 - Density and Design Guidelines; Policy HS7 - Backland Development.

² ALT/SPG/001 (CD056 errata).

³ See pages 106, 107-108 and 115 of this report.

THE USE OF 'NORMALLY' AND 'APPROPRIATE CIRCUMSTANCES'

OBJECTION: 100/2 The Wirral Society

Summary of Objection

24.6 The words 'normally' and 'appropriate circumstances' should not be used in the UDP; a more positive approach should be given to the construction of Policies.

Assessment and Conclusions

24.7 I deal with other Objections to the words 'normally' and 'appropriate circumstances' elsewhere in this report. In every case the Council have proposed changes to the UDP omitting these words, amending if necessary the construction of the text of the Policy, Proposal or Reasoned Justification. I support these changes and recommend accordingly.

Inspector's Recommendation

24.8 [See recommendations for individual Policies, Proposals and supporting text]