

Matter 3: The Spatial Strategy for Sustainable Development

Issue 1: Policy SP3 – the Spatial Strategy

Q3.1 Taking account of the nature, characteristics and settlement pattern in South Tyneside, is the Spatial Strategy set out in the Plan at Policy SP3 justified?

Q3.2 Does the Plan take account of reasonable alternatives (informed by Sustainability Appraisal) and is the spatial strategy based on proportionate evidence?

Q3.3 A key strand of the spatial strategy is to identify a single, strategic Growth Area (Fellgate) for residential development. The NPPF at paragraph 73 says that the supply of large numbers of new homes can often best be achieved through planning for larger scale development, provided they are well located and supported by the necessary infrastructure and facilities. Is a single large strategic site a justified approach as part of an appropriate strategy for South Tyneside?

Q3.4 The Employment Land Technical Paper [EMP2] refers to a new business park (circa 25ha) being a logical way to meet employment land needs. The paper addresses Green Belt options for a greenfield business park site and explains why they have been discounted (against a minimum 20ha threshold). Was this approach (i.e. a single business park) justified based on the Employment Land Review evidence or were there reasonable alternatives to look at more dispersed patterns of new greenfield sites for employment?

Q3.5 Point 7 of Policy SP3 outlines that general employment needs would be met through land supply at designated Employment Areas (including Port of Tyne) and allocating land at Wardley Colliery. Is that a justified and effective approach as part of the spatial strategy?

Q3.6 What would be the broad distribution of housing and employment growth in the Local Plan over the plan period by location when applying the spatial strategy in Policy SP3 – i.e. the amount in the Main Urban Area, the Fellgate Sustainable Growth Area, Town End Farm, the Boldons, Cleadon and Whitburn?

Q3.7 Are there any factors which indicate that the Boldons, Cleadon and Whitburn should have a reduced role because of a limited ability to sustainably accommodate growth? Conversely, has plan-making unreasonably constrained the scope and potential of these settlements to have a greater role in the Spatial Strategy to sustainably accommodate a higher level of growth?

Q3.8 Has sustainability appraisal, and plan-making more generally, taken into account all constraints to development in South Tyneside?

Q3.9 Is the capacity to appropriately treat wastewater arising from growth a fundamental constraint on how much development should be planned and how and where development should be distributed in the Plan area? Does the Council's evidence, including the Sewage Management – Local Plan Position Statement 2025 [document INV13], Infrastructure Delivery Plan [INV1] and statements of common ground with the Environment Agency [SUB5d] and Northumbria Water [SUB5e] sufficiently demonstrate that the existing treatment works at Howdon and Hendon will cope with the demands from the Plan's proposed distribution of growth?

1. When considering water and wastewater capacity it must be recognised that water companies are subject to statutory duties under S37 and 94 of the Water Industry Act 1991 (WIA 1991). Section 37 of the Act, set out below, imposes a statutory duty on all water companies to provide and maintain adequate infrastructure and potable water supplies.
“S37 General duty to maintain water supply system etc. (1) It shall be the duty of every water undertaker to develop and maintain an efficient and economical system of water supply within its area and to ensure that all such arrangements have been made— (a) for providing supplies of water to premises in that area and for making such supplies available to persons who demand them; and (b) for maintaining, improving, and extending the water undertaker's water mains and other pipes, as are necessary for

securing that the undertaker is and continues to be able to meet its obligations under this Part. (2) The duty of a water undertaker under this section shall be enforceable under section 18 above— (a) by the Secretary of State; or (b) with the consent of or in accordance with a general authorisation given by the Secretary of State, by the Director.”

2. Section 106 of the WIA 1991 confers the power to connect to a public sewer. Section 106(1) states that the owner of any premises or the owner of any private sewer which drains premises, shall be entitled to have its drains or sewer communicate with the public sewer of any sewerage undertaker and therefore discharge foul water and surface water from those premises or that private sewer. Specifically, in relation to wastewater, the Supreme Court considered this matter in 2009 – see *Barratt versus Welsh Water* [2009] UKSC 13. Paragraph 23 of the decision is salient. Given its importance in the context of wastewater it is recited in full below:
*“The right to connect to a public sewer afforded by section 106 of the 1991 Act and its predecessors has been described as an “absolute right”. The sewerage undertaker cannot refuse to permit the connection on the ground that the additional discharge into the system will overload it. The burden of dealing with the consequences of this additional discharge falls directly upon the undertaker and the consequent expense is shared by all who pay sewerage charges to the undertaker. Thus, in *Ainley v Kirkheaton Local Board* (1891) 60 LJ (Ch) 734 Stirling J held that the exercise of the right of an owner of property to discharge into a public sewer conferred by section 21 of the 1875 Act could not be prevented by the local authority on the ground that the discharge was creating a nuisance. It was for the local authority to ensure that what was discharged into their sewer was freed from all foul matter before it flowed out into any natural watercourse.”*
3. The HBF agrees that there must be sufficient water capacity and wastewater infrastructure to serve new development. But it is the responsibility of water companies, working with local authorities and the Environment Agency, to plan for the future demand for water services relating to the development requirements proposed in local plans, not applicants. If the water company is unable to supply those needs, this needs to be disclosed in the Water Resource Management Plan.
4. This approach is also the one advocated in national policy with paragraph 34-002-20140306 outlining the need for early discussion with water and sewage companies to help ensure proposed growth is reflected in company business plans and long term water resource management plans. This is reiterated in paragraph 34-016 of PPG which states: *“Planning for the necessary water supply would normally be addressed through authorities’ strategic policies, which can be reflected in water companies’ water resources management plans Water supply is therefore unlikely to be a consideration for most planning applications”*. As such if there is insufficient capacity to support new development this will need to be addressed with sites for new or enhanced water and wastewater infrastructure being identified in the local plan. If there is no identified way of addressing that capacity, then the only assumption must be that the plan is not deliverable over the plan period and as such unsound. Such issues cannot be left to development management policies that require all development to assess capacity.

Q3.10 Overall, is the Spatial Strategy in Policy SP3 an appropriate strategy for the Plan area?

5. The HBF considers that it is important that the spatial distribution of sites follows a logical hierarchy, provides an appropriate development pattern and supports sustainable development within all market areas. The HBF supports the Council in amending Green Belt boundaries and identifying exceptional circumstances to ensure that the housing need is met. However, the Council will need to ensure that they are meeting all aspects of need in the housing market, across the borough. The HBF also note that there is no consideration of safeguarded land which would ensure that the Council can meet the longer-term development needs and maintain an appropriate spatial strategy. The HBF considers that this is

not in line with the NPPF¹ which states that when defining green belt boundaries plans should be able to demonstrate that Green Belt boundaries will not need to be altered at the end of the plan period.

¹ NPPF Sept 2023 paragraph 143 / NPPF Dec 2023 paragraph 148