

Stafford Borough Council Local Plan Examination

Hearing Sessions

Homework List

Council Response

Full justification for moratorium and further details of its application

1. Principle of the Moratorium

1. An essential element of the Development Strategy is the distribution of growth between settlements in the Borough. Spatial Principle SP4 sets out the intended distribution, the purpose and derivation of which is explained fully in Background Statement (K1) Topic Paper D. The prospect of applying a Moratorium (Plan (A1) para. 6.49) to the grant of further planning permissions is seen as a necessary tool to secure the delivery of Spatial Principle SP4, for reasons which will be fully explained in this statement. This first section addresses the principle of the Moratorium. The following sections consider the situation should a Moratorium not be available, and the practical considerations in using such an approach (which includes a draft Policy to explain the practicalities, and address the operational concerns which have been raised).
2. The intention behind the Plan's approach to the distribution of housing is to ensure that the pattern of future housing growth in the Borough is sustainable. The NPPF's primary objective of ensuring sustainable development is common ground. The NPPF para. 151 indicates that the Local Plan "*must be prepared with the objective of contributing to the achievement of sustainable development*". The Plan for Stafford Borough includes Spatial Principle SP1 to make this explicit within the Development Strategy.
3. The approach taken in the Plan is to concentrate more development in the higher levels of the settlement hierarchy, defined in Spatial Principle SP3, and less in the lower order settlements. This would represent a significant shift in relative distribution compared with the recent past, since during the last decade a significant proportion of all growth took place in the rural villages and smaller settlements. The sustainable nature of this approach and the worth of seeking this shift in distribution were well supported during the preparation of the Plan, and appeared similarly to have a strong degree of support during the Examination Hearing on 24th October 2013. The main issues where disagreement remained appear to relate to the precise proportions (and in terms of Spatial Principle SP3, which village settlements), but the concept, and the sustainability of the approach, appears to be fully accepted.
4. The reasoning behind the contention that this distribution is the most sustainable approach is set out fully in Background Statement (K1) Topic Paper D. In a nutshell, it seeks to direct growth to the most accessible settlements with the most facilities and services, and the greatest potential for growth within existing and future infrastructure capacity. A number of participants at the Hearing on 24th October spoke in support of this, and its compliance with the objectives of the NPPF. One of the twelve Core Planning Principles contained in the NPPF

(para. 17) is to:

“actively manage patterns of growth to make the fullest possible use of public transport, walking and cycling, and focus significant development in locations which are or can be made sustainable”

5. This approach is further endorsed by the statement in NPPF para. 33 that: *“plans and decisions should ensure that developments that generate significant movement are located where the need to travel can be minimized, and the use of sustainable transport modes maximized.”* Similarly, NPPF para. 55 indicates that *“to promote sustainable development in rural areas, housing should be located where it will enhance or maintain the vitality or rural communities”*
6. Thus far, there seems to be general agreement. The difficulty appears to result when putting these principles in practice might suggest the need to refuse further development, and thus jeopardise the interests of those seeking immediate planning permission. The possibility of a Moratorium on the grant of further planning permissions appears to be regarded in that manner. But the NPPF does not promote a free for all, nor does it offer unrestrained support for all development – instead it requires development to be sustainable. The essence of the NPPF’s Core Principle (para. 17) quoted above is that development should be “actively managed”. The clear issue here is that whilst individual proposals might be viewed as sustainable in themselves – e.g. located within or adjacent to settlements defined in SP3, and in compliance with detailed site considerations contained within Spatial Principle SP7, or the principles controlling rural development defined by Policy C5 – in aggregate, the cumulative nature of such proposals might not be sustainable. It is the cumulative effect, rather than the individual, which could be of concern. If the balance of development contained in Spatial Principle SP4 represents the necessary sustainable approach, then actively managing the achievement of that distribution is both necessary, and fully compliant with the objectives of the NPPF.
7. Concern for the cumulative impact of proposals cannot in itself be regarded as contrary to the intentions of the NPPF – which regards active management as an ongoing concern. The need to take account of cumulative considerations is raised for example elsewhere in the NPPF regarding transport movements (para. 32) or the extraction of minerals (para. 143). In these cases, the indication is clearly that individual proposals could be acceptable as sustainable, but in aggregate, they might not.
8. In this case, the sustainability concern is the balance of development, and the principle that growth should be restrained in the lower tiers of the hierarchy compared to the higher. The substance of this is defined by Spatial Principles SP2 and SP4, which taken together define the quantities of growth which are intended to be directed to each part of the Borough, on an annual basis. The sustainability reasoning behind this distribution appears to be common ground – and assuming that the Spatial Principles are incorporated in the adopted Plan (as amended, if considered necessary by the Inspector), require to be implemented to secure sustainable development in accordance with the NPPF and Spatial Principle SP1.

9. Encouragement towards the achievement of provision in the higher orders of the hierarchy can be given by making positive proposals, bringing forward specific development sites, in those locations. The Plan adopts this approach particularly in the case of Stafford town, where the Strategic Development Location (SDL) proposals will bring forward some 64% of the whole Borough provision. Elsewhere, it is the intention in due course to encourage local communities to bring forward Neighbourhood Plans, or failing that, for the Council to include proposals for these areas in the forthcoming Site Allocations DPD. Either approach should enable sufficient sites which match the overall Spatial Principles SP2 and SP4 quantities to be identified, and for Settlement Boundaries to be established which provide an appropriate limit to further development.
10. But until such Plans are brought forward, there is a very real risk that development proposals may come forward that in aggregate considerably exceed the scale and proportions intended by Spatial Principles SP2 and SP4 – which would thus in terms of the intentions of the Plan be regarded as unsustainable development. Although not necessarily expressed at the Hearings, it is known that there are a considerable number of proposals, including submitted applications that are currently being advanced by land-owners and developers for locations related to Stone, the Key Service Villages or the wider other rural areas of the Borough. If submitted immediately, and individually considered against the relevant Plan policies (e.g. SP7 or Policy C5), many such proposals might well be judged sustainable and thus acceptable. However, taken together with the recent past building rates, and consents already granted, as shown in Background Statement (K1) Topic Paper C para. C2.2, it is clear that a situation could rapidly be reached in the lower three levels of the hierarchy that if much further housing is permitted, the scale of development might render the distribution intended in Spatial Principle SP4 impossible to achieve.
11. The principle of the Moratorium on the grant of further planning permissions is thus designed to operate, if needed, in such situations, and provide the “active management” indicated by NPPF (para. 17). The working of a Moratorium is explained in the Plan (A1) para. 6.49, and further in Examination Statement. It would be intended to apply to individual tiers in the SP3 hierarchy, below the level of Stafford Town, and relate to development over a certain period – 4 years is suggested. In order to clarify the situation, a Further Additional Modification (FAM12, A27) was advanced. In view of the discussion at the Hearing on 24th October 2013, and the Inspector’s comments, the current Statement takes this process further, and culminates in a proposed form of words, attached to this Statement as an Appendix, which now replaces FAM12, and the Council asks that this be considered as a Modification to the Plan. This would clearly need to be progressed as a Major Modification, if it were to be supported by the Inspector. The details of the revised proposed wording, and suggested Policy, are considered in Section 3 below.
12. Three important points need to be made about the intentions in respect of a Moratorium, as it is being advanced in this Statement:
 - i. it is important to stress that the intention is not at all to achieve an embargo on all new development. A Moratorium would relate to the grant of further planning permissions. In the lower tier areas which might be affected, development has already occurred since the start of the Plan period, and will continue as the existing substantial stock of planning permissions is built out. The intended Moratorium

- would simply ensure, allowing for a substantial margin of excess, that the scale of development matched over time the objective of Spatial Principle SP4;
- ii. the achievement of the overall scale of building required in the Borough, as defined in Spatial Principle SP2, is of primary and over-riding concern. The objective is encapsulated in the requirement to provide (and demonstrate) that a Five Year Land supply exists at all time (plus an appropriate buffer). Thus there would be no intention to operate a Moratorium if such a Five Year Land Supply could not be demonstrated;
 - iii. meeting of local affordable housing needs under the “rural exception sites” approach described in Policy C5 would also be excluded from any Moratorium, reflecting the specific benefits of meeting affordable housing needs, and the priority accorded this by both the Plan and the NPPF.
13. It might be suggested that for as long as the total Plan period share of development allocated to a tier of the hierarchy had not been reached, permissions should continue to be granted, i.e. take a total Plan period approach rather than a four year average. That approach could lead to the “completion” of development for a tier well before the end of the Plan – with the resultant implication that an embargo on further development, within minor limits, might be contemplated. This approach – suggesting a stop to all development – would definitely not be desirable. The approach proposed using a Moratorium based on 4 year trends would in contrast allow for the continuation of some development, at a controlled level, throughout the Plan period – thus helping to sustain local communities and permit local needs to be met within a reasonable timescale.

2. Consequences of not having a Moratorium

14. Paragraph 10 above indicates the situation which is expected to materialise, indeed in the very near future, if a Moratorium is not capable of being applied. The evidence of the last ten years, and the failure to implement the intentions of the last Stafford Borough Local Plan 2001 (F14), suggest that will easily happen again. Indeed, it is clear that the approvals of the last ten years were not in themselves contrary to Local Plan policies pertaining at the time, but in aggregate the effect was to distort the pattern of development substantially away from that intended, as explained in paras. 6.42 – 43 of the Plan (A1).
15. What is needed therefore is some robust mechanism to deliver what is demonstrably a sustainable pattern of development, whilst also achieving the overall scale of objectively determined needs for the Borough as a whole, as required by the NPPF. Without such a mechanism, then including the statement and delivery of the Spatial Principles could amount to little more than making an empty gesture. Such an outcome would be clearly contrary to the intentions of the NPPF.
16. Moratoria have been considered in the past in other locations, and clearly have had a variable response. In some cases they have proved unworkable because they seek to stop all development, provide little choice, or thwart wider objectives such as the overall delivery of housing through the operation of the housing market. But these circumstances do not

pertain in Stafford Borough – where the Plan is seeking to make positive provision in sustainable locations, particularly Stafford town, and to secure the appropriate overall scale of development, through Spatial Principle SP2. In other cases application of a Moratorium has simply not been necessary, because the Plan is working with the market, and not seeking to divert market pressures to more sustainable locations, which is the objective here. Indeed, in the period of less than two years since the NPPF was introduced in March 2012, it is quite possible that similar situations have not been fully tested. The Government is clear that an increase of house building is necessary – a sentiment which is fully, and practically, supported by the Borough Council – but equally it is adamant that the objective is to secure sustainable development. What is sustainable is clearly a complicated and often controversial debate, but must include the patterns of development sought by Spatial Principle SP4, as the Examination Hearing discussed. The local expression of what is sustainable – again a Government key principle – is set out through this Local Plan (A1).

17. Suggestions have been raised that preferable alternative approaches could be adopted, including incorporation of phasing explicitly into the Plan. Indeed in some circumstances phasing might be a practical solution, although this would still result in some sites being identified and brought forward for development, whilst others were held back – not necessarily because of their long term developability or sustainability, but because they were not needed at that time. However, in this case The Plan for Stafford Borough is a strategic plan, and deals solely with strategic principles and the very largest strategic sites (the SDLs). It has not yet been possible to proceed to the identification of specific sites in other locations, and the determination of detailed boundaries which would restrain further development. That process will be undertaken through the Site Allocations DPD, and wherever possible, by the Neighbourhood Plan process which has a high measure of Government support.
18. Indeed, the implications of any Moratorium on Neighbourhood Plans is a significant consideration. It is clear that in practical terms, many planning applications have already been submitted to the Council relating to the lower tiers of the hierarchy, which are likely to prejudice the operation of Localism – the determination by local communities of their own preferences as reflected in a Neighbourhood Plan. A Moratorium would not frustrate that process – quite the opposite. Whilst it would temporarily prevent the grant of further planning permissions, it would not prevent the building out of current permissions. However, more significantly from the point of view of the local communities, it would, in practice, provide a breathing space for the preparation of Neighbourhood Plans, which would be concerned with the location of appropriate development throughout the whole Local Plan period. Preparation of Neighbourhood Plans, necessarily in accordance with the Local Plan, would be assisted, within the context of a clear overall strategy based on the delivery of the Spatial Principles over the whole Plan period.
19. Finally, could the implementation of the distribution of development contained in Spatial Principle SP4 be achieved by any other means? The importance of positive support for development in the higher tiers has been covered above. However, there are no other mechanisms which have been identified which could restrain lower tier growth. One possibility nonetheless is to build considerations of cumulative change into Spatial Principle SP7, in the same way that the NPPF includes concerns relating to cumulative traffic implications or environmental implications (para. 7 above).

20. Spatial Principle SP7 commences with the indication that “Development or activities of a scale and nature appropriate to secure the sustainability of each settlement will be supported within the Settlement Boundaries”. This could be amended (addition in italics) to read “Development or activities of a scale and nature appropriate to secure the sustainability of each settlement, *where in the case of housing proposals this is consistent with the delivery of the proportions of development intended by Spatial Principles SP2, SP3 and SP4*, will be supported within the Settlement Boundaries”.
21. Such an approach would be far less effective than operating a Moratorium, and critically, less clear to all concerned in advance of consideration of specific proposals. It is not therefore the preference of the Borough Council, but may need to be considered if the inclusion of the Moratorium principle is still regarded as unsound.

3. Practical solutions: the proposed approach

22. The attached Appendix identifies the proposed revised text (replacement para. 6.49), together with a new Policy (DS1). The criticism has justifiably been made that the Moratorium principle and proposal is somewhat “buried” in the text, and not made explicit. Taking account of points raised at the Hearing and submissions made, elaboration of the justification for the approach, together with operational details, is now proposed to be clarified in para. 6.49, and in order to make the approach clear and explicit, the principle is proposed to be elevated to the status of a Policy (using bold italicized text, following the convention in the rest of the Plan).
23. Apart from clarifying the reasoning and operation, the new Policy now makes clear that overall housing delivery to meet the Borough’s needs is paramount, and thus demonstration of a Five Year Supply of housing land (including an appropriate buffer) will be a fundamental pre-requisite before any Moratorium could be applied. Similarly, the exclusion of Rural Exception Sites for affordable housing is made clear.
24. Monitoring of the situation would be undertaken on an annual basis, as part of the Annual Monitoring Report process. However, it would not need to be delayed to accord with the completion of the full compilation of an AMR, but notification simply published at a fixed, early date after the data on completions and commitments became available for the preceding financial year, ending in March. It should therefore be possible to establish whether or not a Moratorium were to be imposed, or removed, by June of any year, to apply from that date onwards for a particular financial year.

APPENDIX: HOUSING MORATORIUM - PROPOSED MAJOR MODIFICATION TO THE PLAN

Delete Plan for Stafford Borough (A1) para. 6.49, and replace with:

6.49 The Spatial Strategy will be delivered through the Local Plan policies for Stafford, Stone, the Key Service Villages and other areas together with the Borough-wide Core Policies and Development Management policies. As part of the annual monitoring process, implementation of the Spatial Strategy will be assessed robustly. If the levels of development differ significantly from those identified within Spatial Policy SP4, the Council will seek to impose a Moratorium on the grant of further planning permissions in some or all of the tiers of development comprising Stone, the Key Service Villages and the rural area. The Moratorium would not apply to Stafford town because development there is fundamentally linked to the delivery of the Strategic Development Locations, which each have a delivery horizon which extends throughout the Plan period. This Moratorium approach is intended to support the delivery of Spatial Principle SP4, and is in accordance with the Core Principle of NPPF (para. 17) which seeks to actively manage growth in order to achieve sustainable development. It would be applied to a tier in the Spatial Principle SP3 hierarchy if completions in the previous four year period, together with current unimplemented planning commitments, exceed a threshold calculated by applying the Spatial Principle SP4 proportion to the Spatial Principle SP2 annual provision, plus a 50% buffer. Continuation of the Moratorium will be reviewed annually, and lifted when the level of completions and commitments falls below the identified threshold. Two exceptions to this principle will apply: firstly, in order to secure land provision to meet the Borough's overall housing needs, if a Five Year Supply of land for housing development, plus an appropriate buffer, could not be demonstrated following application of the Moratorium. Secondly, in view of the importance of securing affordable housing, the Moratorium would not apply to affordable housing proposals on Rural Exception Sites which are in accordance with Policy C5.

DS1

At any point in time within the Plan period it may be necessary to apply a Moratorium on the further grant of planning permissions for housing development in particular areas, if the balance of development defined in Spatial Principle SP4 is to be delivered through the Plan period. Such an approach would not be adopted at any time if, following the implementation of a Moratorium, it would not possible to demonstrate that a Five Year Supply of Land for Housing (plus an appropriate buffer) existed.

In Stone, Key Service Villages, or the rest of the Borough area but not at Stafford Town, if the total number of units completed and committed over the preceding four year period exceeds by more than 50% the quantity of development intended for the area based on proportions set out in Spatial Principle SP4, applied to the total housing requirement set by Spatial Principle SP2, a Moratorium on the grant of new housing planning permissions will be applied. The need to continue any such Moratorium will be re-considered on an annual basis, in the light of the completions and commitments outstanding at the next review.

The Moratorium would not apply to affordable housing proposals for Rural Exception Sites which are in conformity with Policy C5.