Comments

Site Specific Part 2 Local Plan - Publication Plan Consultation (18/12/19 to 12/02/20)

Comment ID 241
Response Date 12/02/20 17:15
Consultation Point Policy KET9 McAlpine's Yard, Pytchley Lodge Road (View)
Status Processed
Submission Type Email
Version 0.3

Representation
Please use a separate form for each representation.

Which part of the Publication Plan does your representation relate to?
Policy KET9

Tests of Soundness
Do you consider the Local Plan is sound in terms of being:

Justified . No
Effective
Positively prepared
Consistent with National Policy . No

Duty to Cooperate
Do you consider the Local Plan to be compliant with the Duty to Cooperate? Yes

Reasons
Please give the reason(s) why you consider the Local Plan is not legally compliant or is unsound or fails to comply with the statutory Duty to Cooperate.

Unsound Policy KET9, McAlpine's Yard, Pytchley Lodge Road

The Strategic Flood Risk Assessment (SFRA) Level 1 for this allocation contains insufficient evidence to justify the allocation of this mixed use development (residential and employment development) as the risk of reservoir flooding is unknown.
Strategic Flood Risk Assessment Level 1 - The Kettering Strategic Flood Risk Assessment (SFRA) Level 1, published in August 2019, identifies all of the sites that have been reviewed in terms of flood risk within Kettering Borough. This site was identified as requiring additional work before allocation as it is partly within Flood Zone 2, has been affected by flooding incidents in the past, and is entirely at risk of reservoir breach flooding.

We have concerns that the risk of flooding is not fully understood and therefore allocating this site is premature. The SFRA Level 1 has identified this site as requiring a Level 2 Strategic Flood Risk Assessment (SFRA) to establish the risk of flooding and inform the allocation of this site.

There is a Level 2 SFRA for Kettering, which was published in April 2010, however this was for the Town Centre only and this site is not included within that boundary.

National Planning Policy Framework - The NPPF sets out the Government’s planning policies for England and how these should be applied. It provides a framework within which locally-prepared plans for housing and other development can be produced. Para 31 states that the preparation and review of all policies should be underpinned by relevant and up-to-date evidence.

The NPPF (paragraphs 155-161) and National Planning Practice Guidance (NPPG) (flood risk and coastal change section) recommends a staged process for the development of SFRAs to enable the detail of the assessment to be related to the risk posed by new development. A Level 1 SFRA is required to provide the LPA with flood risk information to apply the sequential test. Where it is clear that proposed development and infrastructure is not able to be accommodated in accordance with the sequential test, taking account of the flood vulnerability category of the intended use, then a more detailed Level 2 SFRA is required to facilitate the application of the exception test.

NPPG – Paragraph: 014 (Reference ID: 7-014-20140306) of flood risk and coastal change guidance advises that: ‘The failure of a reservoir has the potential to cause catastrophic damage due to the sudden release of large volumes of water. The local planning authority will need to evaluate the potential damage to buildings or loss of life in the event of dam failure, compared to other risks, when considering development downstream of a reservoir. Local planning authorities will also need to evaluate in Strategic Flood Risk Assessments (and when applying the Sequential Test) how an impounding reservoir will modify existing flood risk in the event of a flood in the catchment it is located within, and/or whether emergency draw-down of the reservoir will add to the extent of flooding’.

Paragraph 006 (Reference ID: 7-006-20140306) in respect of reservoir undertakers also states that: local planning authorities should discuss their proposed site allocations with reservoir undertakers to:

- avoid an intensification of development within areas at risk from reservoir failure, and;
- ensure that reservoir undertakers can assess the cost implications of any reservoir safety improvements required due to changes in land use downstream of their assets.

We are not aware that these discussions have taken place or that evidence is available to confirm the undertaker is satisfied that the site should be allocated.

Breach analysis must be undertaken to assess the probability and consequence of flooding on the site following failure of the upstream reservoir(s). This analysis should detail the speed, depth and duration of flooding. This is required to fully inform the Sequential and Exception Tests to ensure that flood risk is fully taken into account when considering allocation and that any development proposed is capable of being made safe for its lifetime.

Breach analysis of Kettering Leisure Village reservoir is required, with a review of failure in series for the other upstream reservoirs (Thorpe Malsor and Cransley). The views of the reservoir panel engineer should be sought regarding failure in series. If failure in series is possible, detailed analysis will be required.

Paragraph: 058 (Reference ID: 7-058-20140306) of flood risk and coastal change guidance, states that ‘Local planning authorities are also advised to consult with the owners/operators of raised reservoirs, to establish constraints upon safe development’.

The draft Level 1 SFRA advised that this site had failed to pass the sequential test and a Level 2 SFRA would be required. The published Level 1 SFRA (which the Environment Agency were not consulted on) advises that this site had passed the sequential test however no evidence has been provided demonstrating this.
We are pleased a sequential approach has been applied to the site, in accordance with Policy 5 of the North Northamptonshire Joint Core strategy, i.e. residential development in flood zone 1 and employment in flood zone 2 (in respect of fluvial flooding), however, the issue of reservoir flooding has not been addressed, and no evidence of the application of the Sequential Test has been provided, which is relevant to flooding from all sources.

We note that Policy KET9 requires a Level 2 SFRA to assess the risk of flooding from the nearby reservoirs. It is our view that it is not appropriate to allocate a site and require that the evidence base to justify its allocations is provided post adoption of the plan/policy. As stated above, NPPF Paragraph 31 requires all policies to be underpinned by relevant and up-to-date evidence. As it currently stands, there is insufficient evidence to determine if this site is developable.

Proposed Actions/Changes

Please explain what changes or actions are needed to make the Local Plan legally compliant.

Given the sites close proximity to a reservoir, it is premature to include this site as an allocation. The Level 1 SFRA identified this site at risk of flooding from a reservoir. In particular, the SFRA states that the ‘site is entirely at risk from Cransley Waters, Thorpe Malsor and Slade Brook Balancing Reservoirs. Given proximity of the site to Slade Brook Balancing Reservoir, warning time is likely to be minimal’. There is no evidence (e.g. Level 2 SFRA or site specific flood risk assessment) to demonstrate that the Exception Test can be met and the proposed development can be made safe. In the absence of the Level 2 SFRA or site specific flood risk assessment, this allocation should be removed.

Attendance at the examination hearings

If you are seeking to change the Plan, would you like to attend the examination hearings? Yes

If Yes, please outline the reason(s) why, below.

Lack of evidence to justify the allocation of development in a location at risk of flooding.

Notifications

Do you wish to be notified?

- When the Plan is submitted for independent examination?
- When the Inspector’s Report is published?
- When the document is adopted?