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## Report to West Oxfordshire District Council

by **Helen Hockenhull BA(Hons) B.PI MRTPI**

an Inspector appointed by the Secretary of State

Date: 07 January 2026

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Planning and Compulsory Purchase Act 2004 (as amended)

Section 20

## Report on the Examination of the Remitted Part of the Salt Cross Garden Village Area Action Plan

The Salt Cross Garden Village Area Action Plan (AAP) was submitted for examination on 10 February 2021.

Policy 2 of the AAP was ordered to be remitted to the Secretary of State on 4 March 2024.

The examination of the Remitted Part of the AAP began on 2 April 2024. The examination hearing into the Remitted Part of the AAP took place on 30 June 2025.

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## Abbreviations used in this report

|      |   |
|------|---|
| AAP  | Area Action Plan                          |
| DPD  | Development Plan Document                 |
| EPC  | Energy Performance Certificate            |
| EUI  | Energy Use Intensity                      |
| FHS  | Future Homes Standard                     |
| FVAU | Financial Viability Appraisal Update      |
| HRA  | Habitat Regulations Assessment            |
| LPA  | Local Planning Authority                  |
| MM   | Main Modification                         |
| NPPF | National Planning Policy Framework        |
| PEA  | Planning and Energy Act 2008              |
| PCPA | Planning and Compulsory Purchase Act 2004 |
| SA   | Sustainability Appraisal                  |
| SAC  | Special Area of Conservation              |
| SAP  | Standard Assessment Procedure             |
| TER  | Target Emissions Rate                     |
| WMS  | Written Ministerial Statement             |

## Non-Technical Summary

This report concludes that the Remitted Part of the Salt Cross Garden Village Area Action Plan (AAP) provides an appropriate basis for the planning of the Salt Cross Garden Village, provided that a number of main modifications [MMs] are made to it. West Oxfordshire District Council has specifically requested that I recommend any MMs necessary to enable the Plan to be adopted.

Following the hearings, the Council prepared schedules of the proposed modifications and, where necessary, carried out sustainability appraisal of them. The MMs were subject to public consultation over a six-week period. In some cases, I have amended their detailed wording where necessary. I have recommended their inclusion in the Plan after considering the sustainability appraisal and all the representations made in response to consultation on them.

The MMs can be summarised as follows:

- Modifications to the supporting text to reflect the updated evidence base;
- Modifications to Policy 2 to provide flexibility in the event of technical or viability issues and to provide clarity to the policy requirements in relation to space heating demand, energy use intensity targets, the approach to predictive energy modelling and the monitoring and reporting arrangements; and,
- A number of other consequential modifications to the AAP, including the Delivery and Monitoring Framework, to ensure that the remitted plan is positively prepared, justified, effective and consistent with national policy.

## Introduction and Context

1. This report contains my assessment of the Remitted Part of the Salt Cross Garden Village AAP in terms of Section 20(5) of the Planning and Compulsory Purchase Act 2004 (as amended). It considers whether the Remitted Part of the Plan is compliant with the legal requirements and whether it is sound.
2. The AAP was submitted for examination in February 2021 and the Plan was examined under the February 2019 version of the National Planning Policy Framework (NPPF). A revised version of the NPPF was published immediately after the AAP hearings in July 2021 and further revisions have since been published. Under the transitional arrangements set out in the current NPPF (February 2025), in line with paragraphs 234 and 235, where a plan has been submitted for examination on or before the 12<sup>th</sup> March 2025, that Plan should be examined on the basis of the relevant previous version of the NPPF. In this case that is the February 2019 NPPF. Unless otherwise stated, the references to the NPPF in this report are to that version of the document.
3. The NPPF (paragraph 35) makes it clear that in order to be sound, a Local Plan should be positively prepared, justified, effective and consistent with national policy.

## Policy Context

4. The AAP relates to land that lies to the north of Eynsham, approximately halfway between Witney and Oxford. The main characteristic of the land is that of open countryside, predominantly in agricultural use.
5. The West Oxfordshire Local Plan was adopted in 2018. It includes Policy OS2, which identifies the development of a self-contained settlement based on garden village principles to the north of Eynsham that is to be delivered as part of the overall distribution of housing set out in Policy H1. Policy EW1 sets out more detailed policy for the comprehensive development of a free-standing exemplar Garden Village that is to be led by an AAP, the remitted part of which is the subject of this examination.

## High Court Challenge

6. The AAP was submitted for examination in February 2021. A hearing was held in June and July of that year. Additional evidence was then required in relation to infrastructure, phasing and viability which was the subject of consultation in March and April 2022. This led to consultation on MMs in September and November 2022. This included a rewording of Policy 2 in relation to net zero-carbon development to remove prescriptive detail and enable a more pragmatic

approach for the necessary transition to a low carbon future. The Inspectors' report was then issued on 1 March 2023.

7. Shortly after, a legal challenge was submitted, challenging the legality of the Inspectors conclusions in respect to Policy 2. This was heard in the High Court in November 2023 and the judgment handed down on 20 February 2024. The subsequent Order dated 4 March 2024 confirmed that the judicial review was allowed and that the Inspectors' proposed MMs to the AAP insofar as they related to Policy 2 were quashed.
8. The examination was re-opened in April 2024 to allow the Council to suggest further proposed MMs to Policy 2 and submit further evidence in support of their position.
9. In the interest of expediency, I prepared a schedule of Matters, Issues and Questions relating to the proposed MMs and further evidence. These were published on 7 May 2025 and those representors who had previously commented on Policy 2 were invited to submit hearing statements by 13 June 2025. The hearing took place virtually on Monday 30 June 2025.
10. The scope of this reopened examination relates to Policy 2 only and any consequential revisions to the AAP. All other policies in the Plan were examined in June/July 2021 and are not the subject of this examination.

## Main Modifications

11. In accordance with section 20(7C) of the 2004 Act the Council requested that I should recommend any MMs necessary to rectify matters that make the Plan unsound or not legally compliant and thus incapable of being adopted. My report explains why the recommended MMs are necessary. The MMs are referenced in bold in the report in the form **MM1, MM2** etc, and are set out in full in the Appendix.
12. Following the examination hearing, the Council prepared a schedule of proposed MMs and carried out Sustainability Appraisal (SA). A further Habitats Regulations Assessment (HRA) was not required. The MM schedule was subject to public consultation for six weeks. I have taken account of the consultation responses in coming to my conclusions in this report and in this light, I have made some amendments to the detailed wording of the MMs where these are necessary for consistency or clarity. None of the amendments significantly alters the content of the modifications as published for consultation or undermines the participatory processes and sustainability appraisal that has been undertaken. Where necessary I have highlighted these amendments in the report.

## **Policies Map**

13. The Council must maintain an adopted policies map which illustrates geographically the application of the policies in the adopted development plan. When submitting a local plan for examination, the Council is required to provide a submission policies map showing the changes to the adopted policies map that would result from the proposals in the submitted local plan.
14. The policies map accompanying the West Oxfordshire Local Plan cross references to the Eynsham Inset at figure 9.5e within the Plan. This shows an indicative boundary for the Garden Village. Figure 3.2 of the AAP confirms the boundary as following the indicative one from the Local Plan, with the exception of the inclusion of land to the north.
15. No changes to the adopted policies map itself result as a consequence of the Remitted Part of the AAP.

## **Public Sector Equality Duty**

16. I have had due regard to the aims expressed in S149(1) of the Equality Act 2010 in my consideration of the Remitted Part of the Plan.

## **Assessment of Duty to Co-operate**

17. Section 20(5)(c) of the 2004 Act requires consideration of whether the Council complied with any duty imposed on it by section 33A in respect of the Plan's preparation. The 2023 Inspectors Report concluded that the Duty had been met. Consequently, it is not necessary for me to formally consider this matter further in respect to the Remitted Part of the Plan.

## **Assessment of Other Aspects of Legal Compliance**

### **Consultation**

18. Consultation in respect to the modification of Policy 2 has met the requirements of the 2012 Regulations and the Council's Statement of Community Involvement. A Statement of Common Ground (ED14) was prepared with the site promoter who represents a consortium of landowners controlling the majority of the land within the boundary of the Garden Village. This sets out areas of agreement and disagreement between the parties.

## **Sustainability appraisal (SA)**

19. The AAP has been subject to SA incorporating the requirements of the Strategic Environmental Assessment throughout its preparation. The full SA report for the Pre Submission AAP dated August 2020 was submitted alongside the AAP examination in 2021. An Addendum was then prepared for the subsequent MMs in July 2022. A further SA Addendum Note dated March 2025 (ED9c) was submitted to this re opened examination to consider the implications of the proposed changes to Policy 2, post the legal challenge. A Second Addendum Note (ED19) was then prepared to reflect the final proposed MMs consulted on in October/November 2025.
20. The methodology of the SA follows that of previous iterations. The Second Addendum Note concludes that the likely effects of the revised Policy 2 on the SA objectives remain as reported in the August 2022 SA for the Pre submission AAP, that is the effects are mainly positive. I am satisfied that the SA meets the relevant regulations and is legally compliant.

## **Habitat Regulations Assessment (HRA)**

21. A HRA was carried out and submitted with the AAP in 2021. The HRA carried out appropriate assessment of the effects on the Oxford Meadows Special Area of Conservation (SAC) in relation to air quality. The assessment was informed by Natural England's guidance for competent authorities on assessing road traffic emissions under the Habitats Regulations. The Inspectors concluded in their report that the AAP would not result in adverse effects on the integrity of the SAC as a result of air pollution, either alone or in-combination with other plans and projects. An update to the HRA was published to accompany the MMs consultation in September/ November 2022.
22. As a result of the limited scope of Policy 2, with no implications for relevant European Sites, a further update to the HRA was not required to support the Remitted Part of the AAP.

## **Other Legal Aspects**

23. As concluded in paragraph 24 of the March 2023 Inspectors' Report for the AAP, the Plan has been prepared in accordance with the Council's Local Development Scheme.
24. The Development Plan, taken as a whole, but in particular Policy 2, is designed to secure that the development and use of land in the local planning authority's area contributes to the mitigation of, and adaptation to, climate change.

25. In terms of other legal requirements, including the 2004 Act (as amended) and the 2012 Regulations, these have been met as concluded in paragraph 44 of the Inspectors' Report for the AAP dated March 2023.

## Assessment of Soundness

### Main Issues

26. Taking account of all the representations, the written evidence and the discussions that took place at the examination hearing, I have identified one main issue upon which the soundness of the Remitted Part of the Salt Cross Garden Village AAP depends. This report deals with this main issue. It does not respond to every point or issue raised by representors.

### **Issue 1 – Whether the approach set out in Policy 2 to achieve a net zero carbon development is consistent with national planning policy and the Written Ministerial Statement on Local Energy Efficiency Standards (WMS), and whether Policy 2 is positively prepared, justified and effective.**

27. The proposed Garden Village at Salt Cross, reflects the Government's national programme of new garden communities designed to be innovative, providing homes and development fit for the future. The ambition for a net zero carbon development at Salt Cross reflects these principles and seeks to create a truly sustainable community.
28. Oxfordshire's strategic vision for long-term sustainable growth, sets out a number of principles and ambitions agreed by the six Councils of Oxfordshire and key strategic partners. These include by 2050 to have energy efficient, well-designed homes. To support the delivery of the vision, the Future Oxfordshire Partnership commissioned a net zero action plan.
29. In June 2019, West Oxfordshire District Council passed a motion to declare a climate and ecological emergency and made a pledge to become a carbon neutral Council by 2030.
30. Policy 2 provides an ambitious and aspirational approach to tackle climate change through a zero-carbon development at Salt Cross. It sets out a number of detailed standards and requirements for development relating to building fabric, overheating, energy efficiency, the use of fossil fuels, renewable energy and embodied carbon. These standards go beyond both existing and planned Building Regulations.

## Consistency with national planning policy including the WMS

31. In terms of legislative background, there are two statutory powers upon which a Local Planning Authority (LPA) can rely, to include a policy standard more onerous than one set in national regulations or policy in a Development Plan Document (DPD). These are the Planning and Energy Act 2008 (PEA 2008) and the Planning and Compulsory Purchase Act 2004 (PCPA 2004)
32. The PEA 2008 in section 1 provides that an LPA may in their DPDs include policies imposing reasonable requirements for, amongst other things, development in their area to comply with energy efficiency standards that exceed the energy requirements of Building Regulations (s.1(1)c). Notably Section 1(5) of the 2008 Act states that policies included in a DPD must not be inconsistent with relevant national policies for England.
33. Section 19 (1A) of the PCPA 2004 requires that development plans must, taken as a whole, 'include policies designed to secure that the development and use of land in the LPA's area contribute to the mitigation of and adaptation to climate change'.
34. The Climate Change Act 2008 imposes a duty on the Secretary of State to ensure that the net carbon account for the year 2050 is at least 100% lower than the 1990 baseline.
35. At the time that the AAP was originally submitted for examination in February 2021, the WMS on Housing Standards: Streamlining the System, dated March 2015, provided national policy guidance amongst other things on energy efficiency standards exceeding Building Regulations. Since then, and post the March 2023 Inspectors Report, the Government's position has been clarified through the publication of the WMS on Local Energy Efficiency Standards in December 2023. This does not constrain a LPA from seeking to achieve energy efficiency standards higher than current or planned Building Regulations. Rather it sets out guidance for planning policies that seek to do this.
36. It states that:

*Any planning policies that propose local energy efficiency standards for buildings that go beyond current or planned buildings regulation should be rejected at examination if they do not have a well-reasoned and robustly costed rationale that ensures:*

- *That development remains viable, and the impact on housing supply and affordability is considered in accordance with the National Planning Policy Framework.*

- *The additional requirement is expressed as a percentage uplift of a dwelling's Target Emissions Rate (TER) calculated using a specified version of the Standard Assessment Procedure (SAP).*

37. I address both bullet points below.

## **Viability**

38. A Financial Viability Assessment Update (FVAU) (ED9A) forms part of the evidence base supporting the Remitted Part of the AAP. This has been conducted based on the existing available market evidence. It tests different scenarios including the impact of an eco-premium, uplift in sales values and variations in affordable housing contributions. It also includes sensitivity testing of values and costs to provide some future proofing to the assessment.
39. In regard to build costs, the FVAU assumes lower quartile costs. Bearing in mind the proposed quality of the development meeting Garden Village principles, the use of median quartile build costs may have been more appropriate.
40. The FVAU also applies an uplift to base build costs to reflect the cost increase of a net zero carbon development. It considers variations in house types and built form and assumes a mid-point uplift of 6.6%. This contrasts with research by Savills (2023) highlighted by a representor, that the uplift should be between 10-14%. I therefore have concerns that the assumed uplift may be too low, though I recognise that over the lifetime of the Garden Village development, build costs attributed to achieving net zero may reduce as demand increases and technology improves.
41. In regard to sales values, the FVAU acknowledges that there is a lack of adequate transaction data for new build homes within the past 2 years (since August 2022) in Eynsham. A wider area has therefore been considered. I note that many of the schemes assessed were small in scale, and not comparable to a development of the size of the Garden Village. This reduces confidence in the reliability of assumed sales values.
42. The FVAU also introduces an eco-premium; a premium that buyers are willing to pay to buy an energy efficient home. The evidence base refers to various studies that have been undertaken to support its application. However, they suggest a range of premiums that have been achieved in different contexts. The most compelling evidence comes from small bespoke sites where there are limited eco homes available in the local market. There is little evidence of a premium on larger scale developments constructed over a number of years such as that proposed at Salt Cross. It is also unclear whether any increase in sales value could result from other factors, such as a 'Garden Village premium',

generated by the quality of place and the natural amenities and facilities that a Garden Village concept provides.

43. I note that an eco-premium was not previously applied in the original viability assessment prepared in 2021 which accompanied the submission of the AAP at that time. The updated evidence indicates that one should be applied but there is contradictory evidence with regard to the appropriate level.
44. Given the above and having carefully considered the evidence base and representations, I consider that it is likely that the scheme costs have been underestimated, and the sales values overestimated.
45. It is clear that viability is a significant issue for the Garden Village development. The FVAU concludes that a policy compliant scheme with 50% affordable housing and meeting Policy 2 requirements is marginally unviable. The document also suggests that an optimum scheme in terms of viability would be one that provides 45% affordable housing.
46. I accept that the cost of Policy 2 adds additional pressure on the overall viability of the scheme. However, it is important to put the costs of meeting Policy 2 into context. As a percentage of Gross Development Value, without an eco-premium they amount to around 2.5%. With an eco-premium and varying affordable housing targets they reduce to between 2.38% and 2.26%.
47. I recognise that the delivery of net zero is not the only factor affecting scheme viability. Increased overall construction costs, inflation, rising labour and material costs and infrastructure costs all have an effect.
48. The Council have compared the originally submitted Baseline Appraisal (EV39) from January 2021 with the October 2024 FVAU. This demonstrates that, excluding the cost of Policy 2 requirements, these other scheme costs have increased and would have a notable impact on overall viability.
49. The Future Homes Standard (FHS) is shortly to be introduced through a change to Building Regulations. This aims to make all new homes 'zero carbon ready' as an interim step to net zero in 2050. The FHS aims to achieve a 75% reduction in carbon emissions and will inevitably mean an increase in build costs for the Garden Village. The FVAU does not provide an assessment of the cost of meeting the FHS for comparison purposes. However, it is reasonable to assume that the additional cost of going a step further, beyond FHS, to achieve net zero in line with Policy 2, would proportionately represent a small addition to build costs.

50. Given all the above considerations, the application of Policy 2 in isolation, is unlikely to impose a high financial burden on the Garden Village scheme or have a significant effect on housing supply and affordability as other factors also impact on overall viability.
51. The delivery of the Garden Village is a priority for the Council. I take account of the fact that Policy 23 of the AAP sets out that the provision of affordable housing is subject to a viability clause. The Council also confirmed at the hearing that section 106 infrastructure costs would be the subject of negotiation. In line with usual practice through the development management process, there would need to be further assessment of viability and negotiation at application stage. The additional costs associated with achieving net zero are not significant in and of themselves and particularly when compared to other policy and construction costs. As a result, the application of Policy 2 is not a factor likely to make a development unviable.
52. Given the above, I see no reason why a net zero development at the Garden Village, would not be viable and deliverable. There would therefore be no adverse impact on housing supply or affordability, and the requirements of the WMS in this regard would be met.

## **Energy Metrics**

53. The WMS requires that any additional energy efficiency requirement be expressed as a percentage uplift of the TER calculated using a specified version of the SAP. Policy 2 proposes to deviate from this and use a different metric, Energy Use Intensity (EUI).
54. The Net Zero Carbon Development Evidence Base (ED9B) points out the advantages of EUI, that it represents the total energy needed to run a building over a year divided by its floor area. It includes both regulated energy use such as heating, cooling, lighting and hot water and also non-regulated energy use such as plug loads, IT equipment etc. It is based on delivered energy and is a good indicator of the energy efficiency of a home/building and can be calculated or checked at both design stage and post completion. In contrast TER only considers regulated energy use. It does not measure unregulated use which can represent up to 50% of a building's operational emissions.
55. I recognise that one of the objectives of the WMS is to prevent a proliferation of different standards and provide a standardisation of approach. The use of an energy metric other than TER therefore conflicts with this objective. However, the evidence base demonstrates a move towards the introduction and use of other metrics to measure energy efficiency.

56. For example, the Government is introducing a new metric, the Home Energy Model, to assess compliance with the FHS. This new metric forms part of a planned change to Building Regulations and would form a replacement to SAP.
57. A consultation on reform to Energy Performance Certificates (EPC) published by the Ministry of Housing, Communities and Local Government and the Department for Energy Security and Net Zero in December 2024 considers updating EPC metrics and introducing multiple metrics to provide a more complete representation of building energy performance. The introduction of an energy use metric is put forward to measure total energy use as it can be more accurate and meaningful to building owners.
58. The Net Zero Carbon Development Evidence Base (ED9B) assesses a low carbon option aligned to the stipulation of the WMS and also a net zero carbon option with a low total energy use measured using the EUI metric. This shows that both options are achievable from a technical and cost viewpoint. In the absence of technical or cost issues, the advantages of using the EUI metric weigh positively in favour of its use.
59. Standards in s.1(1)(c) and s.1(2) of the PEA 2008 refer only to the metrics or measures used in assessing energy efficiency. They do not limit energy efficiency standards to a choice of metric but refer to standards set out in regulations or in national policy or guidance. The National Model Design Code in the section on Resources, paragraph 66, focusses on standards and sets out that standards relating to sustainability are important and can be incorporated into design codes or covered in other policy. It goes on to recognise that local authorities can set policies in local plans for higher energy efficiency standards. The Design Guide goes on to endorse a number of environmental standards including embodied carbon and whole life cycle carbon, i.e. carbon emissions resulting from materials, construction and use over a building's entire life.
60. The National Model Design Code Part 2 Guidance Notes in paragraph 201 refers to multiple ways to reduce energy waste. It states that in developing policies, consideration should be given to improving energy efficiency including through assessing whole life costs. Energy efficiency standards related to whole life costs are therefore endorsed in national policy.
61. Bringing all the above together, the evidence provides a clear and robust justification for the use of the EUI metric. I am therefore satisfied that it represents a sound approach to measure total energy use.

## Conclusion

62. The NPPF in paragraph 148 states that the planning system should support the transition to a low carbon future. I acknowledge that the WMS is a material

consideration. It does not override the plan making obligation to address climate change and should be read in the context of wider national policy and legislative considerations.

63. The technical evidence that underpins Policy 2 is robust and provides a well-reasoned justification for the approach adopted. I accept viability is marginal. I have no reason to doubt that with negotiation and flexibility, a viable development can be forthcoming which ensures the delivery of housing in the District.
64. No matter how energy efficiency is proposed to be measured in Policy 2, the environmental outcome, to mitigate climate change and contribute to meeting the net zero obligation, is achieved.
65. Therefore, I conclude the Council's approach is consistent with national policy and is justified and sound.
66. In reaching my conclusion I have had regard to the Court of Appeal judgment in the R (Rights: Community: Action Ltd) v Secretary of State for Housing, Communities and Local Government [2025] EWVA Civ 990 case, July 2025, which challenged the lawfulness of the WMS. The Court set out that LPAs can set higher local energy efficiency standards than national regulations where justified. It also confirmed that national policy is only guidance and can be departed from in local circumstances.

## **Whether Policy 2 is positively prepared, justified and effective**

67. Policy 2 as drafted has an introductory paragraph and then is split up into different topic areas. I shall deal with each in turn and assess their soundness. I shall then consider any consequential changes to other parts of the AAP.
68. In the initial overarching paragraph, Policy 2 requires that all development at Salt Cross must achieve net zero operational carbon on site through ultra-low energy fabric, low carbon technologies and on-site renewable energy generation. Whilst I appreciate the aspirational nature of the policy, there should be recognition that technical issues and/or viability, may mean that the policy requirements cannot be met.
69. The WMS supports flexibility in the application of policies going beyond current or planned Building Regulations to ensure housing delivery. In order to provide this and ensure delivery to meet both the housing needs of the District and Oxford's unmet need, **MM23** is necessary. This provides an appropriate caveat, that the policy requirements are expected to be met unless clear and demonstrable technical or viability constraints can be demonstrated. In such cases the approach should be to provide the maximum feasible delivery of net

zero outcomes. This modification ensures the policy is positively prepared and effective.

## Building Fabric

70. The Policy requires that buildings must meet a space heating demand of less than 15-20 kWh/m<sup>2</sup>.yr. As drafted, the inclusion of a range in the policy is ambiguous and ineffective. **MM23** is therefore necessary to require a space heating demand for both residential and non-residential developments of less than 20 kWh/m<sup>2</sup>.yr. However, performance less than 15 kWh/m<sup>2</sup>.yr would be supported. This modification ensures this part of the policy is effective and provides clarity for developers, decision makers and the community.

## Overheating

71. At outline planning stage mitigation is required to focus on orientation and massing. However, at this early stage of a development, there may be insufficient scheme details to do this. **MM23** is required for effectiveness to recognise that this may not always be possible or applicable.
72. This section of the Policy amongst other things requires a demonstration of compliance with Part O of the Building Regulations and CIBSE TM52 at detailed planning stage. As this duplicates other regulations, **MM23** deletes it from the policy text and **MM10** adds reference to it in the supporting text for effectiveness.

## Energy Efficiency

73. This section of the policy requires energy budgets for different types of development to demonstrate specified EUI targets. However, the evidence base outlines that it is difficult to predict energy use in some uses for example research and development, retail and sports and leisure uses. It is also unclear at what stage the policy requirement would be required.
74. In the interest of effectiveness, **MM23** clarifies that the energy use intensity targets apply to the design and construction stage and sets out the EUI targets for residential, schools and office uses and requires that energy targets for other uses should be agreed following discussion with the Council. **MM11, MM12 and MM13** update the supporting text for the same reason.
75. The Policy also requires that a validated predictive energy modelling approach (eg PHPP, CIBSE TN54) be agreed with the Council and carried out across a cross section of building typologies at detailed planning stage, pre commencement preoccupation and monitored post completion. It is unclear how

this applies across a phased development which would include different uses at different stages and be built out by different developers. For effectiveness **MM23** provides clarity that modelling should be agreed with the Council and applied consistently across all building types. The fact that this applies at the detailed planning application stage ensures that each phase or part phase would be considered separately on their individual merits.

76. The examples of energy modelling stated in the policy ie. PHPP and CIBSE TN54, could be superseded, and other enhancements made to provide improved modelling techniques. In the interests of effectiveness, **MM23** therefore removes their reference from the policy.

### **Fossil Fuels**

77. Policy 2 expects all development to be fossil fuel free. **MM23** for effectiveness removes the phrase 'will be expected to' be fossil fuel free and replaces it with 'must' to remove any ambiguity and also removes superfluous references to the use of fossil fuels, for example in cooking.

### **Zero Operational Carbon Balance**

78. The Policy requires that 100% of the development's energy demand must be met through on-site renewable energy such as solar PV. It goes on to require that renewable energy generated for the whole site should equal or exceed the total energy demand for the development.
79. The updated Net Zero Carbon Development Evidence Base (ED9B) identifies that for certain residential typologies, for example apartments, this cannot be achieved on the building alone. It must therefore be achieved on plot or within the wider village development. As drafted the policy lacks clarity in outlining this expectation. **MM23** amends the policy for effectiveness.
80. I acknowledge that a zero operational carbon balance may be difficult to achieve across the Garden Village as a whole from a technical and viability perspective. If it entails the provision of renewable energy installations elsewhere in the village, such as in areas of public open space, this may also raise environmental and place making issues. However, the policy recognises that there may be challenges in meeting some of its requirements and provides for flexibility should it be demonstrated that a particular requirement is not achievable. The Policy is therefore justified and effective.

## Embodied Carbon

81. The Policy requires that development demonstrates attempts to reduce embodied carbon and refers to meeting the upper limits of the UK Net Zero Carbon Buildings Standard. This reflects the findings of the Council's Net Zero Carbon Development Evidence Base (ED9B). Whilst it is justified to require an embodied carbon assessment, this standard is currently a pilot and could be superseded. **MM23** removes this reference from the policy and **MM17** adds it to the supporting text, highlighting the importance of reducing embodied carbon and suggesting development should attempt to meet this standard. These modifications are necessary for effectiveness.
82. The Policy goes on to require embodied carbon calculations at outline and detailed planning stage. It is unclear what should be provided at each stage. **MM17** provides clarity in the supporting text that any assessment should be proportionate to the level of information available. This ensures this section of the Policy is effectively worded.

## Energy Strategy, Monitoring and Verification

83. The Policy requires a submitted energy strategy to include metering, monitoring and reporting arrangements with post occupancy monitoring to be undertaken annually for five years and then centrally stored and shared among developers' designers and contractors. Post occupancy energy monitoring is important to address the performance gap between as designed and as built. However as drafted, the policy is unclear how metering in particular could be achieved, how such measures could be enforced and how monitoring arrangements are to be resourced. There are also no details of how a database could be stored, by whom and how the data would be made available and used. As drafted this section of Policy 2 is unjustified and ineffective.
84. **MM23** rectifies this by setting out when an energy strategy should be submitted and what it is expected to include. It also sets out that the scope of this and that the methodology should be agreed with the Council and secured through an appropriate planning condition or planning obligation. For effectiveness **MM18, MM19 and MM20** provide further guidance in the supporting text and set out that the Council will prepare a guidance note setting out how monitoring and reporting could be achieved. It is not necessary for soundness for the Plan to set out that a developer may put forward their own suggested monitoring and reporting arrangements for agreement with the Council before the guidance is available. This should ensure that the determination of submitted planning applications is not delayed.

## Conclusion

85. Subject to the MMs identified above, and having regard to Section 1(1) of the PEA 2008, I am satisfied that the Policy imposes reasonable requirements. The application of Policy 2 is not a factor likely to make a development unviable and there should therefore be no adverse impact on housing delivery and affordability. Whilst there is a slight deviation from the WMS in terms of the use of an energy metric other than the TER, this is justified by the evidence. Irrespective of the metric used, the national planning policy objective to deliver sustainable development, mitigate climate change and support the transition to net zero by 2050 is achieved. Therefore, I conclude that Policy 2 is consistent with national planning policy taken as a whole, and is positively prepared, justified and effective.

## Consequential changes to other parts of the Remitted AAP

86. The Remitted Part of the AAP is supported by updated evidence, including a Net Zero Carbon Development Evidence Base (ED9B). **MM1, MM2, MM3, MM4, MM5, MM6, MM7, MM8, MM9, MM14 and MM15** are necessary to reflect the findings of ED9B in the supporting text. This ensures the Plan is justified and effective.

87. **MM16** proposes the deletion of part of paragraph 5.52 of the supporting text. However, the text proposed to be retained is misleading and contradicts the evidence base which demonstrates that roof top solar PV may not be sufficient alone to meet modelled energy demand. I have therefore made a further change to the MM as consulted upon, deleting the whole of the paragraph in the interest of clarity and effectiveness.

88. The Delivery and Monitoring Framework for the AAP also requires amendment to take account of the proposed modifications to Policy 2, in particular the requirements for an energy strategy and the post occupation monitoring and reporting. This is achieved for effectiveness by **MM21 and MM22**.

## Overall Conclusion and Recommendation

89. The Plan has a number of deficiencies in respect of soundness for the reasons set out above, which mean that I recommend non-adoption of it as submitted, in accordance with Section 20(7A) of the 2004 Act. These deficiencies have been explained in the main issue set out above.

90. The Council has requested that I recommend MMs to make the Plan sound and capable of adoption. I conclude that with the recommended main modifications set out in the Appendix, the Remitted Part of the Salt Cross Garden Village AAP

satisfies the requirements referred to in Section 20(5)(a) of the 2004 Act and is sound.

*Helen Hockenhull*

INSPECTOR

This report is accompanied by an Appendix containing the Main Modifications.