

NORTH WARWICKSHIRE BOROUGH COUNCIL
LOCAL PLAN EXAMINATION

PRELIMINARY NOTE

Introduction

1. I am Tom Bristow, the inspector appointed by the Secretary of State to examine the North Warwickshire Borough Council Local Plan ('LP'). This note covers various administrative points and gives an indication of the expected progress of the examination.
2. It also asks several questions, in bold, where a response is sought from the Council ('NWBC'). Questions related to the plan period, to the Duty to Co-operate and to the level of development planned for are of particular importance. Following responses, I will provide further guidance in relation to the examination, formulate a programme and a schedule of matters, issues and questions ('MIQs').
3. This note is based on an initial review of the evidence before me. Its primary aim is to ensure that the examination proceeds as efficiently as possible. It may be that some of the answers to the questions below are simply to direct me to the appropriate documentation.
4. Nothing in this note indicates a pre-disposition towards the outcome of the examination, and I may have further questions to ask. In line with the Ministerial Statement of 21 July 2015,¹ I will raise any significant issues with the LP at an early stage in order to allow NWBC full opportunity to respond.

Examination programme

5. I am in contact with the appointed Programme Officer (PO), Kerry Trueman, with a view to agreeing working arrangements. NWBC will need some time to respond to the questions below. Accordingly, given the statutory notice period of six weeks of the start of hearings, and my availability, hearings cannot commence until the week of 9 July 2018 at the earliest.
6. The LP contains strategic elements related to overall development needs and constraints, site allocations, and development management policies. It would be logical to conduct hearings on the strategic elements of the LP before proceeding further. This precautionary approach would avoid incurring time and expense in considering detailed matters, in the event that significant issues arise with strategic elements of the LP.
7. I understand that NWBC are keen to avoid hearings in August on account of the likely availability of staff and representors. Therefore hearings related to

¹ Official Record HCWS172.

site allocations and development management policies could be held during September (provided hearings on strategic elements are held in July and no significant delays arise for whatever reason).

Q1. Are NWBC content with this provisional approach?

Documentation

8. An examination library was added to the LP examination website on 20 April 2018, where all documents related to the examination should be located and referenced uniquely. Having reviewed the library it would be helpful if, for clarity, four sections could be created.
9. The first would host documents related to the examination, or which have emerged since the submission of the LP for examination on 29 March 2018. The second would contain documents related to the submission version of the LP (Regulations 19 and 20).² The third would contain documents related to the development of the LP at formative stages including at Regulation 18 stage. The fourth would contain any relevant earlier documentation.
10. I would caution against using the phrase 'Draft Submission' in the title of any documents. That is because Regulation 18 is the 'preparation of a plan', which suggests a draft stage. Local Plan Regulations 19 and 20 refer, instead, to the 'submission' version of a plan.

Q2. Can NWBC ensure that any relevant documents are uploaded to the examination website following the approach above?

Representations

11. In addition to examination document CD1/3, a summary spreadsheet of representations to the submission version of the LP, I understand that NWBC are preparing a digital database containing all Representations. For ease of use this should be readily searchable by representor and the policy, or site, in respect of which they have made comments.
12. Examination document CD1/3 appears to contain 459 unique representors arranged in 654 entries to take account for where representors have referred to several elements of the LP. However paragraph 3.1 of examination document CD1/5 'Board Report for Submission of Local Plan (1)' refers to only 363 unique representations made by 5 March 2018, of which 14 fell beyond the 'original closing date of 31 January 2018'.
13. It is for NWBC to determine whether to accept late representations. However if these are accepted without exceptional good reason (such as altered circumstances during consultation) this may set an adverse precedent for further late representations and the efficient progress of the examination.

² The Town and Country Planning (Local Planning) (England) Regulations 2012 as amended.

Q3. NWBC is requested to clarify the number of representors who made representations in respect of the submission version of the LP, and whether any late representations have been accepted.

Main issues

14. I have reviewed the Council's statement under Regulation 22(1)(c)(v) ('the statement'). That is, as I understand it, at paragraph 4.2 of CD1/5 referred to above. I have also seen examination document CD1/6 'Response to Sustainability Appraisal/ HRA'.
15. The statement is brief, consisting of 9 bullet points. It contains little indication of the extent or detail of the main issues raised by representors. It is also challenging to read across between it and CD1/3. Paragraph 3.1 of CD1/5 also indicates that the statement may have been prepared at a time when not all representations to the submission version of the LP had been reviewed.
16. Paragraph 1.10 of the Planning Inspectorate's Procedural Guide to Local Plan Examinations ('the PINS' Guide') explains that 'it is well worth investing the time in producing a focussed and comprehensive statement of the main issues under Reg 22(1)(c)(v)', and that 'it is very helpful if the LPA briefly indicates its responses to the representations, i.e. both to the main issues it has identified and to all the representations'.
17. A more detailed statement setting out a comprehensive list of what NWBC consider to be the main issue arising from representations, cross-referenced to CD1/3 is necessary to maximise the effectiveness of my time on the plan and to firm up the programme and MIQs.

Q4. NWBC is requested to revisit their Regulation 22(1)(c)(v) statement in line with the PINS' Guide set out above and to submit a comprehensive statement of issues.

Plan period

18. I understand there was some discussion during the examination of the North Warwickshire Core Strategy ('CS') regarding the appropriate timescale for that plan, which was ultimately set as 2011 to 2029. The submitted LP has an end date of 2033. However it does not have a clearly set base year/ start date. Although 2011 is indicated in policy LP6, the Council's statement under Regulation 22(1)(c)(i) refers to a 15 year plan period, suggesting a base year of 2018.
19. Establishing the timescale of the plan will be particularly relevant to matters of housing supply and delivery, given the difference in the housing requirement now proposed compared to previously. In that context I note that a five year housing land supply statement, as of 31 March 2017, is referenced in the LP but is not within the examination library. There may now be an updated version.

Q5. Can NWBC clarify where the intended base year for the LP is set out?

Q6. Can NWBC upload to the examination library the latest evidence related to five year housing land supply?

The Duty to Co-operate ('DtC')

20. I acknowledge the particular challenges in demonstrating compliance with the DtC in North Warwickshire given overlapping housing market and functional economic areas, and significant levels of growth forecast around the periphery of the Borough.
21. However the Council's DtC statement, examination document CD0/5, contains limited evidence related to certain statements (and to incorrectly refer to North East Leicestershire District Council). In particular there are several references to 'regular meetings' between authorities without details of their substance, number, or outcomes. Appendix B of examination document CD0/2 'Local Plan Consultation Statement' details some meetings, however the participants and topics covered are on occasion unclear or absent.
22. The DtC statement refers to a 'previous agreement' with North West Leicester District Council that there are no common strategic issues. It is not clear where this is formally set out. There are also references to ongoing discussions with Solihull Metropolitan Borough Council regarding the implications of HS2, however no reference is made to HS2 having been discussed in appendix B of CD0/2. Some statements of common ground appended to the DtC are also in draft.
23. The DtC statement refers to working with the Coventry and Warwickshire Local Enterprise Partnership ('CWLEP') in 'many different ways'. However, having reviewed the CWLEP's representation to the LP it appears there remains an area of dispute regarding whether appropriate account has been taken of the strategic economic context of the Borough. Whilst the DtC is not a duty to agree, there appears to be only one meeting between NWBC and CWLEP given in CD0/2 on 11 March 2016 where the item discussed is simply stated as 'growth'.
24. Paragraph 1.18 of the PINS' Guide explains that a DtC statement should focus on the outcomes of co-operation and demonstrate that the parties have done 'all that they reasonably could have in trying to resolve the [relevant] issues through co-operation (e.g. by including meeting notes and agreements in appendices)'.

Q7. Given the above, for me to be able to judge whether the Council has met the DtC in the preparation of the LP, NWBC is requested to provide a note which sets out evidence related to the number of meetings, subjects discussed, and outcomes which are presently referenced in general terms in the DtC statement.

Amount of housing development

25. The Planning Practice Guidance ('PPG') set out that establishing objectively assessed housing needs ('OAHN') is the initial step in working towards the housing requirement in a plan.³ Policy constraints and objectives, such as the effect of encouraging economic growth on housing growth, and engagement with other authorities should then be factored in as a further stage of the assessment.
26. LP table 2 appears to blur the distinction between the two stages of establishing a housing requirement figure by including 500 homes 'redistributed' from Tamworth Borough Council's administrative area as part of OAHN. It is also unclear how the 'redistribution' of 540 homes from the Coventry and Warwickshire Housing Market Area ('CWHMA') shown in LP table 2 relates to the 'economic uplift' already factored into OAHN from the CWHMA in LP table 1.
27. I acknowledge that Birmingham City Council's Local Plan was adopted on 10 January 2017 after the formative stages of preparing the LP, and that bringing forward plans should not be unduly delayed because of uncertainties elsewhere. Notwithstanding any subsequent evidence, the Birmingham Development Plan 2031 establishes that it will only be able to deliver approximately 51,100 homes against an OAHN of 89,000 (leaving a residual of 37,900 homes).
28. Although establishing housing needs is not an exact science, LP paragraph 7.39 explains that NWBC have tested delivering 10% of that residual (3,970 homes), which is referred to in the LP as an 'aspiration'. Whilst that aspiration is significant in pro-rata terms given the number of authorities within the Greater Birmingham Housing Market Area ('GBHMA'), the justification for a figure of 10% is not readily apparent.
29. I note in particular that paragraph 4.4 of the Sustainability Appraisal ('SA', examination document CD1/2) explains 'the Council does not consider that there are any reasonable alternative options... as the expectation is that this amount of homes should be delivered within the Borough'.
30. It is also unclear how the 'aspiration' to deliver these 3,790 homes via policy LP6 would guide decision-taking in practice as, accorded its ordinary meaning, an aspiration is more flexible and may legitimately not be achieved (as opposed to a requirement). I also cannot readily correlate proposed housing delivery with the housing trajectory at appendix B of the LP on account of the absence of clearly set out figures in this respect.

Q8. To aid my understanding of the amount of housing development that the LP intends to provide, the Council is requested to provide the following:

- i. **A note clarifying the approach NWBC has taken to establishing OAHN on the one hand and the effect of policy constraints/ objectives/ engagement with other authorities on the other.**

³ Reference ID: 2a-004-2040306.

- ii. **A note setting out the evidence that supports the aspiration of delivering 3,790 additional homes, and which explains how that aspiration is intended to guide decision-taking.**
- iii. **The anticipated LP housing delivery trajectory set out numerically year by year over the plan period.**
- iv. **A table setting out the predicted housing yield and trajectory of site allocations (referencing supporting evidence).**

Development of the LP

31. The CS (examination document CD6/2B) was adopted on 9 October 2014, subject to Main Modifications ('MMs') recommended in the examining inspector's report of 24 September 2014. Notwithstanding references in the LP to the objectives of the CS, it is the role of the examination to determine whether the LP is legally compliant and sound in its own right.
32. In this context I note in particular that there is no apparent reference in the LP to the updated version of Planning Policy for Traveller Sites published by the Government in August 2015 ('PPTS'). Policy LP6 'Amount of development' sets the same requirements as CS policy NW7 'Gypsy & Travellers'.
33. Paragraph 7.25 of the CS refers to the Council's intention to bring forward a Gypsy and Traveller Development Plan Document in order to 'provide for a range of small sites' to 2028. The LP does not appear to allocate such sites, and the latest version of the Local Development Scheme ('LDS', examination document CD5/4) does not refer to the intention to now produce a separate document related to travellers.
34. Paragraph 173 of the National Planning Policy Framework ('NPPF') sets out that pursuing sustainable development requires careful attention to viability and costs in plan-making. Paragraph 1.15 of the PINS' Guide explains that certain evidence base documents dating from 3 or more years before the submission of a Local Plan are at risk of having been overtaken by events. It appears that the latest viability assessment related to the LP is dated March 2014, pre-dating the adoption of the CS [CD8/22].

Q9. Can NWBC clarify, with particular reference to travellers and to viability, whether all elements of the CS have been reviewed via the development of the LP?

35. Examination document CD0/1, the LP for examination, is dated March 2018. Examination document CD1/5 references changes that representors have suggested to the LP.

Q10. For clarity, does CD0/1 contain any proposed amendments compared with the version of the LP published under Regulation 19?

36. Independent consultations were undertaken at Regulation 18 stage on a site allocations development plan document and a development management policies development plan document [CD1/1, CD4/1].

Q11. Did the version of the LP as published under Regulation 19 contain site allocations and development management policies?

37. The LP includes three Design Guides and Parking Standards (appendices H to K). The Design Guides are referred to in LP paragraph 13.18 as being prepared in order to illustrate the application of the development management policies. If they are only included in the LP for reference and exist separately, there is no need to include them in the LP.

Q12. Are the Design Guides and Parking Standards part of the LP or do they exist independently of it (for example as Supplementary Planning Documents or Guidance)?

The examination process

38. As set out above, my role is to consider through the examination process, whether or not the LP is legally compliant and sound in the terms of paragraph 182 of the NPPF. Legal compliance includes that plans are prepared in accordance with the Local Development Scheme ('LDS') the latest version before me in this instance appears now to have been overtaken by circumstances (examination document CD5/4).⁴

39. The starting point for examination is that NWBC have submitted what they consider to be a sound plan. This will be examined by me in line with subsequent MIQs which will form the basis of discussion during the examination (refined through agendas for hearing sessions).

40. In this context it is not for me to opine as to whether alternative strategies or omitted sites would have been preferable. Representations that an omission site should be included in the LP will therefore not be heard. However where representors have suggested an alternative strategy or omission site, that is in effect challenging the appropriateness of the strategy in the LP or the suitability of sites. I will therefore consider such representations in that light.

41. In the event that I were to come to the view that the LP is unsound in some respect, NWBC would be given the opportunity to reflect on my indicative findings with a view to finding a remedy. I will not, however, recommend alternative sites or strategies directly as this would be contrary to the principle of localism.

42. A revised version of the NPPF was published in draft on 5 March 2018 for consultation. That does not alter the statutory or policy context for the examination of the LP. Paragraph 209 of the draft revised NPPF also proposes transitional arrangements for plans in preparation. These include that plans submitted for examination when the revised NPPF is issued in final form should not have regard to it.

43. I will therefore not seek submissions concerning the draft revised NPPF in this examination. In the event that circumstances change before the

⁴ Section 19 of the Planning and Compulsory Purchase Act 2004 as amended.

examination closes, however, I will accept further submissions, as appropriate, in order to ensure a fair hearing.

Modifications

44. The Council should, from the outset, keep a schedule of any modifications that it is considering (whether Main Modifications ('MMS') which go to soundness, or Additional Modifications ('AMS') which do not). This should be updated regularly on the examination website as things progress. This schedule will ultimately form the basis of public consultation, and MMs may feature as a schedule to my report.
45. For me to recommend MMs, if required to make the LP sound, NWBC must invite me to do so (in accordance with Section 70(7C) of the Planning and Compulsory Purchase Act 2004 as amended, the 'PCPA').
46. I would explain that the policies map is not a statutory Development Plan Document, and consequently I do not have the power to recommend modifications to it directly. However in the event that any modifications to the plan require consequential amendments to the policies map, these should be published alongside, rather than as part of, a schedule of MMs.

Q13. Does NWBC wish to make a formal request under Section 70(7C) of the PCPA at this stage?

Q14. Will officers during hearing sessions have authority to discuss MMs?

Next steps

47. Responding to the questions above may take some time. I therefore ask that NWBC acknowledge receipt of this note swiftly, and provide a date by which a response to the above questions will be returned (which will then be a document included in the examination library).
48. I will continue to consider the evidence and representations before me, and the Council's response to this note, in drawing up guidance related to the examination for participants, a programme, MIQs and agendas. Responses to the guidance from those wishing to participate in the examination will enable the PO to work up arrangements for hearings.
49. If the Council has any other comments or questions at this stage, I would be happy to receive them.

Thomas Bristow

INSPECTOR

27 April 2018