

North Warwickshire Local Plan Examination
Position Statement on behalf of IM Properties

Matter 2: Other Legal Compliance

August 2018

Contents

1.	Introduction	3
2.	Response to Issues and Questions	5

1. Introduction

- 1.1 This statement is submitted on behalf of IM Properties Development Ltd (IM Properties) to the North Warwickshire Local Plan Examination.
- 1.2 It follows representations submitted to the Draft Local Plan consultation in March 2017 and to the Draft Submission Local Plan consultation in March 2018 (hereafter referred to as the 'March 2017 representations' and the 'March 2018 representations' respectively).
- 1.3 IM Properties is a privately owned Midlands-based company located near Coleshill and has a strong track record for bringing forward high-quality developments across the region. It has invested £750m in development projects across the Midlands and has an investment portfolio of £900m alongside a £1bn residential land portfolio. IM Properties' record of working closely with local authorities on major developments includes Birch Coppice Business Park within North Warwickshire, which has been transformed from a disused colliery and developed to the highest standards of building design, park infrastructure, landscaping, amenities and management.
- 1.4 IM Properties also controls 70 hectares of land to the west of Junction 9 of the M42/M6 Toll, within North Warwickshire. The site was submitted to the Borough Council's Call for Sites in 2015, and provides an exceptional opportunity for a major new employment development to meet a well evidenced, significant and pressing need for strategic employment sites in this location.
- 1.5 The site is situated within the heart of the M42 corridor and benefits from excellent access to the strategic road network, proximity to labour supply and access to intermodal facilities. It can make a substantial contribution to the jobs, investment and growth agenda of the regions' Local Enterprise Partnerships (LEPs) and the West Midlands Combined Authority, and the wider objectives of the Midlands Engine Strategy.
- 1.6 Our March 2017 and March 2018 representations set out significant concerns with the emerging plan, and these concerns remain in respect of the Local Plan Submission (March 2018) [CD0/1]. The key issues which form the focus of our representations to the Examination are as follows:
 - The failure of the Plan to recognise the strong economic need for additional strategic employment land in the Borough to address the significant and growing unmet need and demand at a sub-regional level, and within the M42 corridor more specifically;
 - The spatial strategy which has been selected without first understanding the appropriate housing and employment needs to plan for, and which has been unduly influenced by seeking to protect the Green Belt, rather than a consideration of the most sustainable strategy for directing growth; and
 - Allied to our concerns above, the significant and substantive procedural shortcomings with the Sustainability Appraisal, including issues arising from the

failure to prepare a revised SA Scoping Report at the outset of the process, failure to carry out and consult upon an SA of the strategic Growth Options at the appropriate time, the failure to assess the preferred growth option and reasonable alternatives and the erroneous treatment of Green Belt as an environmental constraint.

- 1.7 This statement responds to Matter 2 of the Examination, and specifically sets out IM Properties concerns with the Sustainability Appraisal process in the context of the adopted SCI, and the reporting of representations to the Executive Board.
- 1.8 We have requested to appear at the Examination in respect to Matter 2.

2. Response to Issues and Questions

Q2.1 Has the LP been prepared in accordance with the Statement of Community Involvement ('SCI') [CD5/2]

2.1 NWBC failed to accurately scope the nature and content of the Sustainability Appraisal ("SA") process by not publishing a revised and accurate SA Scoping Report to support the Local Plan. In addition, the Local Plan has not been prepared in accordance with the Statement of Community Involvement ("SCI") [CD5/2].

2.2 Paragraph 6.7.5 of the SCI states the following:

"The Council will prepare issues and options papers on the relevant topics, using the evidence gathered in the pre-production stage. An initial sustainability appraisal will also be prepared in tandem with these. It is essential that stakeholder and community involvement is undertaken at this stage to ensure that the Council is aware of all of the issues which affect North Warwickshire and that consultees gain an opportunity to input into the process before decisions are made."

2.3 Furthermore, paragraph 6.7.6 adds the following:

"Following on from the information received during consultation on the issues and options papers, the Council will produce 'preferred options and proposals' documents alongside a sustainability appraisal report."

2.4 NWBC last published a formal SA Scoping Report in 2006, which is confirmed by paragraph 2.3 to 2.12 of the Submission SA Report [CD1/2]. This is on the basis that the requirements of Stage A of the Strategic Environmental Assessment ("SEA") process have been undertaken through the preparation of the Core Strategy. Such an approach is flawed as the Local Plan Submission (March 2018) [CD0/1] is proposing an additional level of growth (and potentially very different sustainability impacts) significantly beyond that proposed in the adopted Core Strategy.

2.5 The statutory consultees and all other interested parties should therefore have been given the opportunity to comment on a new SA Scoping Report containing a revised and accurate baseline and key sustainability issues given the substantial changes in spatial planning context since the adoption of the Core Strategy.

Q2.2 Noting objections to the LP during its preparation, have consultees had appropriate opportunity 'to input into the process before decisions are made' (SCI, paragraph 6.7.5)?

2.6 Consultees have not had the appropriate opportunity "to input into the process before decisions are made" in accordance with paragraph 6.7.5 of the SCI.

2.7 In April 2016, a paper entitled 'Growth Options for North Warwickshire' [CD6/6] was presented to the NWBC LDF Sub-Committee to consider the significant increase in the

proposed housing and employment requirement in the LP since the adoption of the Core Strategy in October 2014.

- 2.8 The paper outlined ten options for growth across the Borough and was supported by a recommendation to carry out an SA of the options for growth, which would feed into the Draft Local Plan. Therefore, Members were unable to comment on the sustainability implications of the different strategic growth options at the NWBC LDF Sub-Committee in April 2016 as the SA had not been prepared and/or finalised.
- 2.9 Subsequent to this, a ‘Sustainability Appraisal of Growth Options’ [CD6/7] was presented to the NWBC LDF Sub-Committee in August 2016 – four months after the ‘Growth Options for North Warwickshire’ [CD6/6] was presented to Members.
- 2.10 The Draft Local Plan [CD2/1] was also presented to the NWBC LDF Sub-Committee in August 2016 indicating that the preferred option(s) for growth was an *ex post facto* decision taken without the necessary input from an SA or comment from key stakeholders.
- 2.11 There is no evidence to suggest that ‘Sustainability Appraisal of Growth Options’ [CD6/7] was issued for formal consultation, which is contrary to statements made within the document, including paragraph 1.15:

“... in order to ensure that the statutory consultees have had the opportunity to comment on the scope of the SA work for the combined new Local Plan, this note presents the outputs of the Scoping stage of the SA and comments are invited on the appropriateness of this to inform the SA of the new Local Plan.”

- 2.12 Furthermore, paragraph 4.45 of the Draft Local Plan SA [CD2/2] set out the following:

“The growth options were disseminated to all Borough Parish Councils and Area Forums for consultation. Consultation comments and the SA findings on the growth options were considered by Members in April 2016 and a new pattern of growth was identified based on a mixture of growth options IN1 and IN2 and OUT1, OUT2 and OUT3. Table 4.4 below summarises the Borough’s reasoning behind the selection and non-selection of growth options appraised above.”

- 2.13 The above statement is incorrect and is contrary to the meeting minutes of the NWBC LDF Sub-Committee held in April 2016 and August 2016.

Q2.3 Have all interested parties had appropriate opportunity to comment on evidence supporting the LP?

- 2.14 No.
- 2.15 Firstly, all interested parties have not had the appropriate opportunity to comment on a new SA Scoping Report and the ‘Sustainability Appraisal of Growth Options’ [CD6/7], which is explained in further detail in our response to Q2.1 and Q2.2 respectively and Matter 4 (i.e. questions 4.4 to 4.6).

- 2.16 Secondly, paragraph 7.15 of the Local Plan Submission (March 2018) [CD0/1] sets out the following:

“... a second Study of the Green Belt has been carried out looking at the future boundaries of the Green Belt in relation to the outer limits and the detailed boundaries around settlements. The study has been undertaken to look at ensuring that the boundaries continue to be defensible and follow clear physical features.”

- 2.17 IM Properties seek clarification on what the ‘second study of the Green Belt’ is. NWBC has not made it clear whether adequate public consultation has been undertaken on the ‘second Study of the Green Belt’. This document has not been made available and no opportunity has been provided to comment on the methodology of the study and its findings.

Q2.4 Is the LP compatible with the Public Sector Equality Duty?

- 2.18 No comment

Q2.5 Have the requirements of HRA (the Conservation of Habitats and Species Regulations 2010 as amended) been satisfied, including with regard to recent case-law?

- 2.19 It is not clear from NWBC's response to the Inspector's additional questions [NWBC 11] that there would be no significant effect on the integrity of the River Mease SAC, Ensor's Pool SAC or Cannock Chase SAC without reliance on the mitigation measures expressly referred to in NWBC's December 2017 HRA screening report. If this was the case we question why express reference was mentioned to policies in the plan that at least partly were considered to provide mitigation by reducing traffic and air pollution.

Q2.6 Is it clear how the findings of the HRA have influenced the LP?

- 2.20 No comment

Q2.7 Does the approach in, and evidence supporting, the LP demonstrate that it would contribute to mitigating and adapting to climate change in accordance with Section 19(1A) of the PCPA?

- 2.21 The approach taken in the Local Plan to demonstrate that it would contribute to the mitigation of and the adaption to climate change, in accordance with Section 19(1A) the PCPA, can be made more robust. This is explained in further detail in our response to Matter 4.
- 2.22 Policy LP37 of the Local Plan Submission (March 2018) [CD0/1] should make specific reference to regulated energy given that it is the element of building energy consumption regulated by national policy.
- 2.23 Policy LP37 has the potential to result in greater carbon emission reductions than would be achieved solely through renewable energy technologies, by inserting the following wording into the policy:

“New development will be expected to be energy efficient in terms of its fabric and use. Major development will be required to provide a minimum of 10% of its regulated energy requirements from a combination of energy efficient fabric and services and/ or renewable or low carbon technologies subject to viability.”

2.24 The above amendment would ensure Policy LP37 is justified and effective.

Q2.8 Has the LP been otherwise prepared in accordance with the relevant requirements of the PCPA and of Regulations (including in respect of publication, advertising and notification)?

- 2.25 In the ‘Inspectors Preliminary Note to the Council’ [INSP1], the Inspector raised concerns with the reporting of written representations to the North Warwickshire Executive Board and Full Council. This also included concerns with other inconsistencies, including reference to the extended consultation period of the Draft Submission Local Plan [CD1/1].
- 2.26 IM Properties share the concern that the reporting of representations was completed in advance of the extended deadline and which meant that the reporting had to be supplemented in paper and verbal format on the evening of the North Warwickshire Executive Board meeting on March 2018.
- 2.27 The premature and mixed method used for reporting the representations lead to a confusing and inadequate summation of the representations both in terms of their number and the matters discussed. In particular, the disorderly North Warwickshire Executive Board meeting resulted in the serious and extensive representations made by IM Properties [CD1/3: SLP436-439] being under-reported. IM Properties’ concerns are not just limited to the March 2018 Executive Board meeting, but extend to the process of reporting throughout the preparation of the plan.

Turley Office
9 Colmore Row
Birmingham
B3 2BJ

T 0121 233 0902