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# North Warwickshire Local Plan Examination

Matter 4: Strategic approach,  
distribution of development and  
justification (including Sustainability  
Appraisal, 'SA')

## **Matter 4: Strategic approach, distribution of development and justification (including Sustainability Appraisal, 'SA')**

### ***Issues and Questions***

Individual sites will not be covered in this matter, but the overarching strategy, approach to distributing development and the evidence in support of it. The focus will be primarily on LP strategic objectives, Policy LP2 in particular, and chapter 7 'Spatial Strategy'. I will want to reflect on the Council's response to Q20 of INSP2, regarding the Sustainability Appraisal ('SA') underpinning the LP and whether or not it has been demonstrated that the plan strategy is justified, i.e. the most appropriate strategy, when considered against the reasonable alternatives.

Issues and questions

### **Strategic Objectives**

***4.1 Is the LP founded upon a spatial vision and strategic objectives which are effective and justified?***

***4.2 Has appropriate consideration been given to commuting patterns and redeveloping previously developed land in establishing the overarching spatial approach to development?***

***4.3 Would any areas of conflict arise between the spatial vision and strategic objectives of the LP relative to its policies arise? How could any be resolved?***

- 1.1 The Spatial Vision for the consultation plan is largely based on that in the adopted 2014 Core Strategy; however, it is considered this should be revisited in the context of the changing emphasis of the North Warwickshire Local Plan. In particular, it is considered there should be greater emphasis in relation to the Plan's role supporting neighbouring Authorities in delivering co-ordinated growth in the wider Housing Market Area.
- 1.2 The fourth paragraph of the Spatial Vision makes reference to the location of new development indicating that the majority of new growth will be focused towards the Market Towns and Local Service Centres. Though this generally reflects the pattern of development proposed in the consultation Local Plan, it does not reflect the shift in the settlement hierarchy which now includes growth on the edge of larger settlements as another significant contributor towards the Council's supply.
- 1.3 The Council's allocations strategy (as part of emerging policy LP39) includes a significant proposal adjacent to Tamworth along Robey's lane. In order to bring the overall Spatial Vision in line with the proposals, it is recommended that this paragraph of the Spatial Vision is amended to reflect the boundary of Tamworth, within North Warwickshire's administrative area, as a location for new growth as a core tenet of the Council's Local Plan strategy.

## Sustainability Appraisal

**4.4 Including in respect of its timing, and the consideration of growth options [CD6/6, CD6/7], was the sustainability appraisal process legally compliant [CD1/2]?**

**4.5 What reasonable alternatives to the plan strategy have been assessed via the SA, including to the housing requirement and aspiration in respect of GBHMA? (a) Have reasonable alternatives to the plan strategy been defined distinctly? (b) Has that assessment been in a comparable level of detail to the approach now advanced by the LP? (c) Is it clear how assessments of the likely significant effects of the plan strategy in environmental, social and economic terms have influenced the LP?**

### **The Greater Birmingham HMA**

1.4 Paragraph 5.189 of the SA (December 2017) (**CD1/2**) acknowledges that North Warwickshire Borough lies wholly within two Housing Market Areas (HMAs): the Greater Birmingham and Black Country HMA; and the Coventry and Warwickshire HMA, and that **“Consequently, any growth within North Warwickshire can be attributed to the needs of either HMA”**.

1.5 Paragraph 6.179 of the SA also references that North Warwickshire Borough Council has been working with partners across the Greater Birmingham and Black Country Housing Market Area (HMA), as well as other local authorities beyond the HMA, to agree a redistribution of the HMAs identified shortfall, which has resulted in the drafting of a Memorandum of Understanding. Consequently, and overall, the Borough therefore plans to deliver 9,598 dwellings over the Plan period to accommodate its own needs and a proportion of its neighbours.

1.6 A separate statement has been provided in relation to Matter 1 addressing the GBHMA issues, however, given the nature of the overlapping HMA boundaries and the acknowledgement within the SA that any growth within the Borough should be attributed to either HMA, in the view of RPS this should be reflected in the spatial distribution of growth and put simply the most sustainable locations for growth should be identified within the Local Plan.

### **Reasonable Alternative for Growth Adjoining Tamworth**

1.7 As part of the Core Strategy Examination, the Inspector had difficulties in drawing conclusions. Part of the Inspector’s doubt stemmed from an inconsistency in the Council’s evidence base, which he drew on as part of paragraph 20 of his report.

1.8 This inconsistency referred to the 2012 Sustainability Appraisal (SA) (**CD6/3A**) prepared in support of the 2014 Core Strategy. As part of the SA, the document considered a number of potential growth options to direct growth towards meeting Tamworth’s unmet need. Three main options (set out at paragraph 29) emerged from this process:

- T1: Develop west of the M42 (adjoining the Tamworth boundary);
- T2: Guide 'Tamworth related development' to Polesworth, Dordon and Kingsbury; and
- T3: Add housing to the overall Borough figures.

1.9 In terms of the findings, the SA did not consider option T3 as there was not enough clarity on where growth would be located. In terms of Option T1, the SA considered that this option would result in less landscape impacts than Option T2 and would help retain the character boundary between Polesworth and Tamworth (paragraph 30 refers). Option T2 on the other hand could provide more economic benefits, though would result in more greenfield land developed and impacts on the landscape. This is explored again within the SA, as part of paragraph 5.15 of the SA, which is replicated below:

Figure 1: Excerpt from 2012 North Warwickshire Sustainability Appraisal of the Core Strategy:

5.15 Option T1, which would be to develop west of the M42 would be more likely to retain the important 'character' boundary between Tamworth and the main part of North Warwickshire Borough, that is important to retain the identity of each. It would also provide an opportunity for people working in Tamworth to live closer to their place of work, although not necessarily to use public transport to get there. It would inevitably require the development of greenfield land and the proximity of the M42 could be an issue, such as air and noise pollution.

- 1.10 The Council's own evidence indicates that development to the west of the M42 would be more likely to retain the character boundary between Tamworth and North Warwickshire. This recognises the significance of the M42 as a physical separation between the settlements. Therefore, the Council's own evidence base rightly recognises the important role of the motorway in achieving settlement separation.
- 1.11 Land to the west of the M42 presents a sustainable solution to meeting a proportion of the housing requirement in a way which would not prejudice retention of the character and identity of settlements in North Warwickshire. As part of the land allocations proposed in Policy LP39, the Council is proposing Land at Robey's Lane for development of around 1,300 dwellings. It is considered that Taylor Wimpey's proposal on Land at Tamworth Road could complement this development.
- 1.12 Whilst it is acknowledged the Inspector does not want to focus on individual sites to demonstrate the basis for the flawed approach of the LP process in ruling out reasonable growth options for additional growth on the edge of Tamworth, reference is made below to the SA assessment process below in relation to sites, to demonstrate that reasonable alternatives have not properly been considered.

- 1.13 In the SA Report (December 2017), site DLP329 Land off Tamworth Road, Polesworth is considered alongside two other sites adjacent to neighbouring local authorities. The other two sites adjoining North Warwickshire Borough (POL23, WIS1) have been allocated as site H13 and H14 respectively in the Draft Submission Local Plan.
- 1.14 Paragraph 5.25 provides comments on the unallocated site option DLP329 and states that “it scores similarly to site POL23 across the SA objectives”. Paragraph 5.26 states that “more information about the reasons for the significant positive and negative effects identified can be found in the detailed SA matrices in Appendix 7. Explanations for why each option was or was not taken forward as an allocation in the Draft Submission Local Plan can be found in Appendix 8”.
- 1.15 Whilst appendices 7 and 8 do provide information about site POL23 and WIS1, there is no information in either of these appendices about site DLP329. The only SA information which compares the three adjacent sites to neighbouring Local Authorities is Table 5.4 in the SA Report itself (p70).
- 1.16 The Environmental Assessment of Plans and Programmes and Regulations 2004 sets out the requirements for the Environment Report under Schedule 1. In accordance with Article 5(1) of the SA Directive and regulation 212(2) of the SEA Regulations the environmental report must identify, describe and evaluate the likely significant effects of the reasonable alternatives to the plan taking into account the objectives and geographical scope of the plan.
- 1.17 The Council has not yet established and explained how the plan making process had identified its preferred options and the reasons for discounting options for the purpose of Article 5(Annex I(h)) of the SEA Directive.
- 1.18 It is therefore unclear as to how the Council can identify the allocations included within the consultation document as allocations when they have not firstly been subject of an SA Report prepared that outlines what alternatives have been appraised and the reasons for selecting the preferred sites against the reasonable alternatives that exist. Article 5(Annex I(h)) of the SEA Directive specifically requires this information to be published.
- 1.19 Schedule 2 ‘Information for Environmental Reports’ refers to likely significant effects on the environment, including short, medium and long-term effects, permanent and temporary effects, positive and negative effects, and secondary, cumulative and synergistic effects, on issues such as biodiversity, etc. It is considered that the Final SA Report does not address the SEA Directive as the only commentary about how site DLP329 performs against the SA Objectives is found in paragraph 5.26 of the SA Report and this does not provide a commentary on all of the objectives. Furthermore, the SA report does not, for example,

consider short, medium and long-term effects when appraising policies. Table 5.4 from the SA is replicated below.

**Table 5.4: Summary of SA scores for residential/mixed use site options Adjacent to Neighbouring Local Authorities**

| SA Objectives              | Allocated sites  |                 | Unallocated sites |
|----------------------------|------------------|-----------------|-------------------|
|                            | POL23 (site H13) | WIS1 (site H14) | DLP329            |
| 1. Services and facilities | 0                | 0               | -                 |
| 2. Vibrant communities     | 0                | 0               | 0                 |
| 3. Health                  | +                | +               | +                 |
| 4. Housing                 | ++               | ++              | ++                |
| 5. Crime                   | 0                | 0               | 0                 |
| 6. Recreation              | +                | -?              | +                 |
| 7. Landscape               | --?              | --?             | --?               |
| 8. Cultural heritage       | -                | ?               | 0                 |
| 9. Biodiversity            | --               | 0?              | -?                |
| 10. Efficient land use     | --               | --              | --                |
| 11. Pollution              | --?              | -?              | -/?               |
| 12. Climate change         | 0                | --?             | 0                 |
| 13. Energy efficiency      | 0                | 0               | 0                 |
| 14. Natural resources      | -                | -               | -                 |
| 15. Sustainable transport  | +                | -               | +                 |
| 16. Waste                  | --               | --              | --                |
| 17. Local sourcing         | 0                | 0               | 0                 |
| 18. Economy                | 0                | 0               | 0                 |
| 19. Employment             | +                | -               | +                 |
| 20. Skills                 | -?               | -               | -?                |

1.20 In RPS Regulation 19 Representations, a further assessment table has been produced which demonstrates that the Unallocated Site (DLP329) performs better overall against the 20 SA Objectives compared with the two allocated sites. Therefore, site DLP329 is a reasonable alternative that should have been fully considered and indeed the SA demonstrates is preferable to the two allocated sites.

### **Proposed Resolution of the Situation**

- 1.21 RPS refers the Authority to the Forest Heath Judgement (2011) in proposing a solution to the current position. This clarifies that consultees should be able to find, in the Final SA Report, clear explanation of the reasonable alternatives considered within the preparation of a Plan, and the reason for their inclusion or exclusion from the proposals. It states (paragraph 15 refers) that the Environmental Report may rely on earlier material published but must bring it together so that it is identifiable in that report and that those affected should not have to read all previous reports to ascertain the current position.
- 1.22 This is further clarified in paragraph 40 of the Forest Heath Judgement that states “it was not possible for the consultees to know from it what were the reasons for rejecting any alternatives to the urban development where it was proposed or to know why the increase in the residential development made no difference. The previous reports did not properly give the necessary explanations and reasons and in any event were not sufficiently summarised nor were the relevant passages identified in the final report. There was thus a failure to comply with the requirements of the Directive and so relief must be given to the claimants”.
- 1.23 In *Calverton Parish Council v Nottingham City Council* [2015] EWHC 1078 (Admin) at [67], Jay J summarised the principles regarding the application of Regulation 12 and the requirement to assess reasonable alternatives. In a similar view to that made in the Forest Heath Judgement he set out that “the earlier documents must be organised and presented in such a way that it may be readily be ascertained, without any paper chase being required, what options were considered and why they had been rejected”
- 1.24 Under UK legislation, further work on SEA/SA may be undertaken prior to the submission of a Plan to examination, and it is not until the Council formally submits the Final SA Report as part of Regulation 23 of The Town and Country Planning (Local Planning) (England) Regulations 2012 that the Environmental Assessment Report is finalised. In this context and given the failures outlined above, the Council still has the opportunity to rectify the deficiencies in its process ahead of the submission and subsequent examination of the Plan. However, it cannot proceed on the current basis.
- 1.25 The deficiencies in the SEA can be addressed by demonstrating how the reasonable alternatives have been considered for the distribution of growth and site selection, through an additional public consultation on to the current development strategy and individual site selection process accompanied by a full SA/SEA Report. Importantly, this cannot be applied retrospectively and must be conducted fairly, equitably and by public scrutiny through a further stage of consultation. As it current stands, the SA/SEA is not currently considered to be legally compliant.

## **Settlement Hierarchy and Policy LP2**

***4.6 Policy LP2 sets out the settlement hierarchy for the Borough, which seeks to broadly define where development should be located relative to the scale and role of settlements. It appears that the primary changes to the settlement hierarchy since the CS are the inclusion of Coleshill within the Green Belt as a market town, and allowing the expansion of towns abutting the boundary of NWBC's administrative areas. Is the settlement hierarchy justified and consistent with national policy? 9 (a) I note examination document CD0/2A states that the hierarchy was effectively 'established through previous Local Plans and the adopted Core Strategy'. Is that accurate? (b) NWBC set out in examination document CD0/2A that alternatives to the scale of housing growth proposed via the LPSP have been considered. Where has such consideration been undertaken? Have other options for levels of employment space also been assessed?***

***4.7 LP paragraph 1.7 explains that the settlement hierarchy is based on 'an assessment of the services, facilities and sustainability of the various assessments'. (a) Where is that assessment set out specifically? (b) Is each settlement correctly categorised? (c) Should Polesworth and Dordon be identified as separate settlements? (d) Should Lea Marston be within category 4?***

***4.8 Is policy LP2 sufficient clear to guide decision-taking as to the quantity of development that each settlement is apportioned?***

***4.9 Is the approach to site allocations overly reliant on the allocation of larger sites to the detriment of supporting thriving rural communities?***

- 1.26 Policy LP2 is proposed to update and replace the Council's existing policy NW2 of the 2014 Core Strategy. The two policies are largely similar, presenting a hierarchy of locations which direct the majority of development to the largest, most sustainable locations in order to promote positive patterns of growth.
- 1.27 One of the key changes promoted by the Council is the inclusion of a new category for development (Category 2) which supports development for housing and employment in settlements adjoining the outer boundary of the Borough.
- 1.28 This is an appropriate and generally sound addition to the settlement hierarchy which is lacking from the existing policy, however RPS consider that this can be refined further in order to be more effective at delivering growth to the most sustainable locations.
- 1.29 This issue was debated as part of the Examination of the 2014 Core Strategy, however, at that time there was uncertainty over the extent of the unmet need arising from Birmingham. There was, however, greater certainty over the unmet need arising from Tamworth. The Inspector noted (paragraph 17 refers) that whilst the Core Strategy did not identify a location for the 500 dwellings from Tamworth, the closer a development is to Tamworth, the more likely that it is to serve the needs arising from the Borough.

- 1.30 As stated in response to RPS Matter 2 (DtC) there is a continued and increased need for housing at Tamworth and it is considered that this gives further support to the edge of Tamworth as an appropriate location for future growth.
- 1.31 There is limited clarity on the settlements that the Council considers appropriate for expansion under this policy. Though the supporting text to this policy makes reference to the sustainable settlements of both Tamworth and Nuneaton (paragraph 7.7 refers), the policy as currently drafted could equally apply to smaller settlements around the fringe of the Borough boundary. In order to clarify this, policy specific reference to Tamworth and Nuneaton should be made which will firmly establish these locations within the settlement hierarchy as sustainable locations for future development.
- 1.32 Whilst RPS supports Policy LP2 Settlement Hierarchy, the policy should be altered to make specific reference to Tamworth and Nuneaton.