

NORTH WARWICKSHIRE BOROUGH COUNCIL
LOCAL PLAN EXAMINATION

UPDATED DRAFT HEARING MATTERS, ISSUES AND QUESTIONS

Notes

1. As set out in INSP13 and timetabled in the updated programme [INSP4B], the matters, issues and questions ('MIQs') below form the structure for the examination and now relate to site allocations and development management policies (matters 9 and 10 respectively). MIQs for strategic matters 1 to 8 are, aside from occasional corrections or cross-references, unchanged from the previous iteration [INSP5]. I have, however, added some further questions to agendas as prompts for discussion during hearing sessions.
2. What opportunity exists to make further observations, the timings and arrangements for doing so, are set out in INSP13. Where necessary agendas for hearing sessions will be published in advance of each. Certain Local Plan policies contain both overarching requirements and elements related to the management of development in practice (including LP1 and LP2). The appropriateness of site allocations is also intertwined with strategic policies and evidence in respect of planning and environmental constraints, infrastructure provision and viability. Therefore whilst it is my intention that discussion proceeds in order of the MIQs set out below, there is some need for flexibility.
3. If new material or circumstances arise that justify additional consideration to that set out below, I will make separate arrangements for that in the interests of fairness. There is some flexibility in the programme, this document is in draft and may be subject to change, and the examination does not conclude until my report is with the Council.
4. For brevity and ease of reference I have included a list of abbreviations used in this and other examination documents. Introductions to each matter below and references to relevant policies or guidance are not intended to be comprehensive, but rather as context to help focus position statements and discussion during hearings.

Abbreviations

CIL	Community Infrastructure Levy
CWHMA	Coventry and Warwickshire Housing Market Area
DtC	Duty to Cooperate
5YHLS	Five year housing land supply of deliverable sites
GBHMA	Greater Birmingham Housing Market Area
LDS	Local Development Scheme
Local Plan	North Warwickshire Borough Council Local Plan, Regulation 19 version [CD1/1]
NPPF2012	National Planning Policy Framework, published March 2012
NWBC	North Warwickshire Borough Council
OAHN	Objectively assessed housing need
PCPA	Planning and Compulsory Purchase Act 2004 as amended
PPG	Planning Practice Guidance
PPTS2015	Planning policy for traveller sites, published August 2015
Regulations	The Town and Country Planning (Local Planning) (England) Regulations 2012 as amended
SA	Sustainability Appraisal
SCI	Statement of Community Involvement
SGS	Greater Birmingham Strategic Growth Study, published in February 2018 [CD8/23]

Schedule of MIQs

EXAMINATION HEARINGS, PHASE 1

Matter 1, The Duty to Co-operate ('DtC')

Week 1, Day 1, position statements due by 1700 on 31 August 2018

Introduction

Section 33A of the PCPA requires that local planning authorities and other prescribed bodies engage constructively, actively and on an ongoing basis to maximise the effectiveness of plan-making in the context of strategic cross boundary matters.¹

The DtC is both a general principle and relates to specific issues with the aim of achieving effective outcomes. I will therefore reflect on representations in respect of other matters in assessing whether the DtC has been complied with in substance. The DtC must be met during the preparation of plans; there is no provision to remedy non-compliance at examination.

Issues and questions

- 1.1 Has the LP been prepared in accordance with the DtC?
- 1.2 Have appropriate strategic cross boundary matters been identified?
- 1.3 Have relevant local planning authorities and bodies prescribed in Regulation 4 engaged constructively, actively and on an ongoing basis?
- 1.4 What are the remaining areas of dispute between relevant bodies?²
- 1.5 What outcomes have resulted from the DtC?
- 1.6 Has exercising the DtC maximised the effectiveness of addressing strategic cross boundary matters?

¹ PPG Reference ID: 9-001-20140306.

² Noting in particular the representations of SLP302 (the Environment Agency) SLP324 (Tamworth Borough Council), SLP341 (Historic England) SLP385 (Staffordshire County Council).

Matter 2, Other legal compliance

Week 1, Day 1, position statements due by 1700 on 31 August 2018

Introduction

Various legal requirements apply to the development plan documents. Some of those set out below have not been the focus of significant representations, and there may therefore be no need for extensive discussion on them. As with the DtC, I will reflect on representations in relation to other matters in so far they have a bearing on legal compliance. Sustainability Appraisal ('SA') will be addressed primarily under matter 4.

Issues and questions

- 2.1 Has the LP been prepared in accordance with the Statement of Community Involvement ('SCI')[CD5/2]?
- 2.2 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)?
- 2.3 Have all interested parties had appropriate opportunity to comment on evidence supporting the LP?³
- 2.4 Is the LP compatible with the Public Sector Equality Duty?⁴
- 2.5 Have the requirements of HRA (the Conservation of Habitats and Species Regulations 2010 as amended) been satisfied, including with regard to recent case-law? [CD1/7, INSP2].
- 2.6 Is it clear how the findings of the HRA have influenced the LP?⁵
- 2.7 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?
- 2.8 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)?

³ Noting in particular concerns aired by representors that the Council's Leisure Facilities Strategy [CD7/5], SA [CD1/2] and Infrastructure Delivery Plan [CD0/4] were unavailable during initial stages of consultation on the Regulation 19 version of the LP.

⁴ Equality Act 2010 (see LP paragraph 6.5).

⁵ Both Natural England (SLP314) and the Environment Agency (SLP302) suggest changes to the LP, which may be incorporated in NWBC8. Some representors have expressed concern that the HRA does not refer to the Whitacre Heath Nature Reserve Site of Special Scientific Interest.

Matter 3, Housing needs and requirements

Week 1, Day 2, position statements due by 1700 on 31 August 2018

Introduction

Examination documents INSP1 and INSP2 have covered the policy context for establishing objectively assessed housing needs ('OAHN') and housing requirements including that for a five year land supply ('5YHLS'). In those documents, which should be considered in conjunction with MIQs, I ask several questions and identify some areas of concern.

Matter 3 will cover establishing OAHN, the LP housing requirement, traveller site requirements, and what the 5YHLS requirement should be. Whether requirements would be achieved by site allocations, or a 5YHLS demonstrated, will be for subsequent consideration.

Issues and questions

- 3.1 Is LP strategic objective 2 consistent with policy LP6 and the NPPF 2012 in seeking to provide for the housing needs of the Borough?
- 3.2 In respect of OAHN the LP is based primarily on a Strategic Housing Market Assessment covering CWHMA authorities (the 'SHMA')[CD8/10]. Is the SHMA an appropriate evidence base?
 - (a) what is the effect of 2014-based household projections?
 - (b) are the findings of the SHMA consistent with those of the GBHMA Strategic Growth Study published in February 2018 ('SGS')[CD8/13A, INSP2]. If not, what are the reasons for any differences?
 - (c) are student numbers appropriately assessed in the SHMA?
- 3.3 LP table 2, consistent with the SHMA, sets out that the overall OAHN for NWBC is 237 homes annually to 2031. Is that robust?
 - (a) With reference to INSP2, does that figure take account of local planning authorities' or Local Enterprise Partnership economic policies?
 - (b) Has that figure been suitably adjusted to reflect local circumstances, including demographics, headship rates, employment trends, and market signals in accordance with the PPG?⁶
 - (c) what is the precise basis for the uplift to OAHN proposed on account of forecast economic growth and improving housing affordability?
- 3.4 Have the housing needs of all members of the community, including for affordable housing, been robustly assessed and translated into policy?

⁶ In accordance with PPG Reference ID: 2a-017-20140306, 2a-018-20140306, 2a-019-20140306.

- (a) Does the forecast level of affordable housing need in LP paragraph 8.10 accord with that of the SHMA? If not, why not?
 - (b) What is the total quantity of affordable housing predicted to be delivered over the plan period relative to needs?
- 3.5 Are traveller needs based on robust evidence in accordance with the PPTS 2015, namely the Accommodation Assessment of June 2013? [CD8/14]?
- 3.6 LP table 1 indicates that 940 homes of the proposed LP housing requirement are attributable to 'economic uplift' from the CWHMA and GBHMA in a 35%/65% split (320 and 620 homes). With reference to INSP2, is that approach consistent with the approach to establishing OAHN set out in the NPPF 2012 and PPG?
- (a) what is the basis for the relative apportionment between the CWHMA and GBHMA?
 - (b) Is it accurate to describe 500 of those 940 homes as 'redistributed' from Tamworth Borough Council ('TBC')? If not, how should any previous and future housing delivery in NWBC relate to unmet needs of TBC within the context of the GBHMA and the previous commitment in the CS?
- 3.7 The LP housing requirement includes 540 homes redistributed from other authorities within the CWHMA in accordance with a Memorandum of Understanding to that effect (the 'CWHMA MoU')[NWBC4]. The LP also aspires to deliver 3,790 homes redistributed from the GBHMA, 10% of the level of anticipated undershoot over the plan period relative to needs (as established in Birmingham City Council's Local Plan). Is that justified?
- (a) Is accommodating an additional 540 homes redistributed from the CWHMA justified and appropriate, including in terms of the exercise of the DtC?
 - (b) I note that LP paragraph 7.36 explains that Nuneaton and Bedworth Borough Council, within the CWHMA, are updating their Strategic Housing Land Availability Assessment to establish whether or not they will be able to accommodate the level agreed in the CWHMA memorandum of understanding. Is there yet an outcome? Does that have any meaningful effect for the LP?
 - (c) Is the level of unmet need predicted to arise in the GBHMA to 2031 evidenced via the SGS consistent with that in the LP and SHMA? If not, why not? What is a robust assessment of likely housing needs arising in the GBHMA that would be unmet by 2031/2033?
 - (d) What is the justification for the LP seeking to provide redistributed housing from the CWHMA and GBHMA in a 12.5%/ 87.5% proportion (540 and 3,790 homes respectively) compared to the 35%/65% split indicated in LP table 1?
- 3.8 In establishing the overall housing requirement, has appropriate account been taken of the wider economic context to NWBC, including HS2?

3.9 With regard to INSP2, is the LP policy aspiration to deliver 3,790 homes redistributed from the GBHMA robustly evidenced and consistent with the NPPF 2012? If not, how should it be modified?

3.10 As set out in NWBC2, the LP plan period is intended to be 2011 to 2033. Examination document CD8/13A sets out annual completions since 2011. The CS target was 175 dwellings annually (excluding 500 from TBC). INSP2 asks that NWBC produce a table setting out annual housing delivery over the last 15 years relative to the development plan target that applied in each. In that context what should the 5YHLS requirement be?

(a) Is the shortfall of 593 dwellings in the LP accurate?

(b) LP paragraph 7.34 states that as the SHMA 'is based on up-to-date demographic evidence it takes account of need arising from shortfalls in delivery against previous targets'. That conflicts with the approach in examination document CD8/13A, where the accrued shortfall in delivery since 2011 is added to the baseline OAHN. Which approach accords with the PPG?

(c) Is there the need to take account of any 'backlog', i.e. under-delivery from earlier plan periods, or is that accounted for in OAHN?

(d) Has there been persistent under-delivery of housing to justify a 20% 5YHLS buffer in addition to addressing any shortfall?

(e) Is there any evidence to indicate that household formation rates may have been constrained by supply across the HMAs previously?

(f) Should any shortfall be addressed within the first five years of the plan in accordance with the PPG,⁷ i.e. as part of the 5YHLS?

3.11 Is the windfall allowance of 60 dwellings a year set out in policy LP8 justified? Why does LP table 6 refer to planning applications rather than consents or completions?

3.12 What is the relevance of paragraph 9.67 of the Greater Birmingham Strategic Growth Study [CD8/23] which sets out that there is 'no effective potential' for additional housing supply beyond housing growth of 1.8% per annum? What is 1.8% per annum?

3.13 Are housing delivery monitoring arrangements in LP chapter 15 suitably detailed and robust?

⁷ Reference ID: 3-035-20140306.

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

Week 1, Day 3, position statements due by 1700 on 31 August 2018

Introduction

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

- 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?
- 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?
- 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?

- (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?

Matter 5, Employment needs and requirements

*Week 2, 26 February (AM), position statements due by 1700 on 31 August 2018
NB refer to agenda INSP14, which may contain additional detail to that below*

Introduction

As with matter 3, this matter will cover establishing objectively assessed needs for employment space, including office, industrial and retail, and associated LP requirements. Development management elements of policies and the appropriateness of particular sites will fall to subsequent matters, although there will inevitably be some overlap given that the principal evidence in respect of matter 5 is from employment land reviews [CD8/6, CD8/7, CD8/8].

In a similar manner to housing, the PPG establishes that establishing employment needs should be based on the functional economic market area.⁸ Requirements should be set with regard to such needs, refined via the application of planning policies and exercise of the Duty to Cooperate.

Issues and questions

5.1 How does the LP requirement of providing 60 hectares of employment space to 2033 set out in LP paragraph 7.44 relate to the intended provision of around 100 hectares in policy LP6?

- (a) Is the intended provision of around 100 hectares in policy LP6 an aspiration in the same manner as housing provision related to the GBHMA [INSP2], i.e. that the actual amount is reliant on the provision of infrastructure?
- (b) If so, is that approach justified and consistent with national policy?
- (c) For effectiveness, should employment requirements be expressed in terms of floorspace?

5.2 Is the assessment of employment needs in support of the LP based on robust evidence [CD8/6, CD8/7, CD8/8 in particular]?

- (a) what is the functional market area? How has that influenced the plan's approach to assessing employment needs at a strategic level?
- (b) Is the approach to establishing employment needs in the LP consistent with the Local Enterprise Partnership Strategy?
- (c) Have employment needs been informed by the future influences of HS2 (including the Birmingham Interchange), Birmingham International Airport, and the Horiba MIRA Enterprise Zone?⁹

5.3 My attention has been drawn to various studies related to economic trends and prospective employment needs in the wider area.¹⁰ What account has, or

⁸ Reference ID: 2a-007-20150320.

⁹ I note that LP paragraph 12.18 explains that 'pressure for development around the new HS2 railway station at the NEC will be resisted'.

should, be taken of such studies in establishing employment needs and requirements in North Warwickshire?

5.4 With regard to the economic objectives in LP paragraphs 9.5 to 9.8 and CD8/8, which set out the inter-relationship between jobs and employment space figures, should a job number be set as an LP requirement?

5.5 Has the overall employment requirement in LP6 been established with appropriate regard to the Duty to Cooperate?¹¹

5.6 Are the employment areas identified in policy LP12 'Employment Areas' appropriately evidenced? Are policies LP12 and LP11 'Economic Regeneration', which makes provision for release of employment allocations in certain circumstances, effective and consistent with national policy?

5.7 Are policies LP11 and LP13 'Rural Employment' justified and consistent with national policy which seeks to support a prosperous rural economy?

5.8 Is the approach in the LP to the provision of retail and other main town centre uses based on appropriate evidence, effective and consistent with the NPPF 2012?¹²

5.9 Have alternative levels or distributions of employment space provision been assessed, including any contribution from existing under-used sites or previously developed land?

5.10 Are LP requirements employment and homes suitably correlated? If not, precisely why not?

¹⁰ Including the Greater Birmingham Strategic Growth Study [CD8/23], two studies referenced in LP footnote 5, the West Midlands Combined Authority Strategic Economic Plan, the 'Hub Framework', the Midlands Connect Strategy, the Chamber of Commerce Strategy entitled 'Go for Growth' and the West Midlands Land Commission Report.

¹¹ Noting in particular that 2 hectares of land at Spring Hills has continued to remain in use as opposed to becoming available as previously anticipated, and with particular regard to engagement with Tamworth Borough Council and Lichfield District Council [CD5/3B, CD5/3, paragraph 3.5].

¹² With particular regard to policies LP21, LP22, and LP23, and to the neighbourhood centre of Coleshill (SLP134).

Matter 6, Planning and environmental constraints

*Week 2, 26 February (PM), position statements due by 1700 on 31 August 2018
NB refer to agenda INSP15, which may contain additional detail to that below*

Introduction

This matter will include consideration of landscape character, the Green Belt, Meaningful Gap, heritage, biodiversity, flooding and climate change at a strategic level. Relevant policies are therefore LP3, LP4, LP5 and those in LP chapter 10. The suitability of particular sites, or the application of such policies to managing development as opposed to guiding development strategically across the Borough, will fall to matters 9 and 10.

Issues and questions

6.1 The vision for North Warwickshire in LP paragraph 4.2 includes respecting the rural character of the Borough. The NPPF 2012 sets out that planning should recognise the intrinsic character and beauty of the countryside and seek to protect valued landscapes. Is the North Warwickshire LCA report of August 2010 [CD7/1] an appropriate evidence base for establishing landscape character?

(a) Considered overall, would LP policies including LP14 'Landscape' achieve the LP vision of ensuring that rural character is maintained?

(b) Where are any specific areas of conflict between LP policies?

6.2 Is the Coventry & Warwickshire Green Belt Study [CD6/9] robust evidence?

(a) Have appropriate parcels of land been suitably and consistently assessed relative to the purposes of Green Belt set out in paragraph 80 of the NPPF 2012?

(b) Has CD6/9 has suitable regard to any other, subsequent, or wider strategic Green Belt studies?¹³ Are its findings consistent with them?

(c) Noting LP paragraph 7.14, have exceptional circumstances been demonstrated to justify all alterations to the Green Belt?

(d) Have sustainable patterns of development been considered in the approach taken in the LP?

(e) Is safeguarding of land west of Tamworth Road, Kingsbury, for potential future development suitably justified, including being necessary to meet longer-term development needs well beyond 2033? (noting MM29 and MM29 in INSP20A)

6.3 Noting the interaction with matter 4, have alternatives to release of Green Belt sites been considered, including the capacity of existing urban areas?

¹³ Particular reference has been made by representors to an April 2016 study and to the relationship of CD6/9 to the Greater Birmingham Strategic Growth Study [CD8/23].

- 6.4 Noting the Council's proposal that it should be renamed 'Strategic Gap' and MMs to that effect, and whilst consideration of individual sites will fall to matter 9, is the broad extent of the Meaningful Gap robustly evidenced [CD6/10], and the intended application of associated policy LP5 justified? How does the purpose of the Meaningful Gap differ to that of the Green Belt?
- 6.5 Is the LP based on robust evidence related to heritage, and does it set out an appropriate and positive strategy for the conservation and enjoyment of the historic environment including related to the canal system (chiefly policy LP15)?¹⁴
- 6.6 Is the LP based on appropriate evidence and consistent with elements of the NPPF related to meeting the challenge of climate change, flooding and coastal change?¹⁵
- 6.7 In addition to consideration of the HRA and SA in matters 2 and 4, is the approach in the LP, policies LP16, LP17, LP18 and LP19 in particular, to protecting and enhancing biodiversity justified and consistent with national policy?¹⁶
- 6.8 Is policy LP20, Green Spaces, appropriately justified and effective?
- 6.9 How have planning and environmental constraints affected the level and distribution of development that the LP proposes to enable? Is the evidence for that balancing exercise clear and robust?

¹⁴ Noting in particular examination documents CD8/11, CD8/12, CD7/3, CD7/4, CD1/2 and the representations of Historic England (SLP341), the Lichfield Branch of the Inland Waterways Association (SLP9) and the North Warwickshire Heritage Forum (SLP31).

¹⁵ With particular regard to the Strategic Flood Risk Assessment ('SFRA')[CD8/2] and to the position of the Environment Agency (SLP302).

¹⁶ Representors have raised, in particular, the accuracy of reference to the Crannock Chase Special Area of Conservation and Alvecote Pools Site of Special Scientific Interest, and consistency of LP16 with the wording of the NPPF 2012 (SLP110, SLP314, SLP435).

Matter 7, Infrastructure provision

*Week 2, 27 February (AM), position statements due by 1700 on 31 August 2018
NB refer to agenda INSP16, which may contain additional detail to that below*

Introduction

Consideration will be given in this matter to whether the strategic approach in the LP is supported by robust evidence regarding associated infrastructure to enable timely delivery (including transport, social and green infrastructure). The detail of such provision in respect of individual sites, securing contributions in respect of applications, and localised effects will be for consideration later.

The vision and strategic objectives of the LP, alongside elements of policies LP1, LP6, LP7 underscore the importance of ensuring appropriate infrastructure provision. This matter is closely related to matter 8, viability and delivery (in respect of which examination document INSP2, Q19, asks the Council to clarify when updated viability evidence will be available).

Issues and questions

7.1 Are infrastructure requirements to 2033 suitably evidenced, chiefly with regard to the Infrastructure Delivery Plan ('IDP')[CD0/4]?

- (a) Does the IDP accurately forecast infrastructure necessary to enable development proposed via the LP, including in respect of the timing of projects?
- (b) Are there any areas of uncertainty as to whether infrastructure would be forthcoming for whatever reason? If so, would the effectiveness of the LP be compromised?

7.2 Is the Strategic Transport Assessment ('STA')[CD8/18A] robust?¹⁷

- (a) How has the STA informed the prioritisation, costing and timing of infrastructure project?
- (b) Is the approach in the STA consistent with other strategic transport studies?¹⁸
- (c) Both in respect of the strategic and local highway network, how has the effect of transport infrastructure projects and of the LP in general been modelled? What are the outcomes of that modelling, including in respect of highway capacity and safety?

7.3 Is the LP based on suitable assessment of, and a positive strategy related to, infrastructure provision and timing of delivery in accordance with paragraphs

¹⁷ Noting in particular the representation of Highways England (SLP348), Transport for West Midlands (SLP382), and Warwickshire County Council (SLP319).

¹⁸ Representatives have drawn my attention to Transport for West Midlands' Movement for Growth Strategy and 10 year delivery plan.

157 and 162 of the NPPF? Including in respect of policy LP1 and the following areas:

- (a) utilities and communication provision,
- (b) healthcare and education capacity,¹⁹
- (c) open space and leisure provision.

7.4 Have cross-boundary implication of infrastructure been appropriately considered with regard to NPPF paragraph 31, including roadside facilities for motorists? Are there any uncertainties or unresolved issues?

¹⁹ Noting some concerns from representors regarding the absence of a Health Impact Assessment and existing capacity constraints at George Eliot Hospital.

Matter 8, Viability and delivery

*Week 2, 27 February (PM), position statements due by 1700 on 31 August 2018
NB refer to agenda INSP17, which may contain additional detail to that below*

Introduction

The PPG reinforces that understanding Local Plan viability is critical to the overall assessment of deliverability, and that plan-making should be based on a solid understanding of local economic conditions and market realities.²⁰ As with all other strategic matters, this matter relates to overarching evidence regarding delivery and viability rather than to individual sites.

Via NWBC2, the Council confirmed that the latest viability assessment related to the LP is dated March 2014, pre-dating the adoption of the CS [CD8/22], however that it is their intention to publish an update in July 2018 (Q19 of INSP asks for a precise date).

Issues and questions

- 8.1 Is there appropriate evidence regarding viability, market conditions, and infrastructure funding to indicate that the level of development that the LP intends to enable would be delivered in practice?
- 8.2 What is the relevance of paragraph 9.67 of the Greater Birmingham Strategic Growth Study [CD8/23] which sets out that there is 'no effective potential' for additional housing supply beyond housing growth of 1.8% per annum? (NB this replicates an earlier issue in matter 4).
- 8.3 What is the relevance of paragraph 2.14 of the 2016 Employment Land Review [CD8/7] which sets out 'there are evident questions regarding the scale of development which can realistically be delivered'?
- 8.4 Are anticipated delivery trajectories suitably comprehensive and thorough, including to enable appropriate monitoring [NWBC10, NWBC10a, NWBC10b]? What assumptions have been made in respect of delivery trajectories and are these robust (including in respect of lead-in times, lapse rates, build-out speeds etc.)?
- 8.5 Is viability evidence in support of the plan based on reasonable assumptions reflecting the particular nature of the Borough?
 - (a) Have the full range of expected requirements been taken into account (including developer contributions)?
 - (b) what consideration has been given to mineral resources/ mine working in respect of viability or delivery in practice?
- 8.6 Has all necessary infrastructure provision been costed and timetabled? If not, would that compromise either deliverability or development viability?

²⁰ Reference ID: 10-001-20140306.

8.7 What is the interaction between the Infrastructure Delivery Plan and NWBC's intention to progress Community Infrastructure Levy ('CIL') (LP paragraph 6.18)? What bearing would CIL have on viability and delivery?

EXAMINATION HEARINGS, PHASE 2

Matter 9, Allocations and supply of land for development requirements

(Week 3, 2 to 4 April [INSP4B], position statements due by 1700 on 8 March)

Introduction

Allocations must be sufficient, suitable and deliverable over an appropriate timescale to meet Local Plan requirements, with an appropriate degree of flexibility to respond to change. Those considerations apply to all allocations, irrespective of whether specific issues or questions related to individual sites are set out below. Further detail in that regard is given in the Planning Practice Guidance ('PPG').²¹

In that context the first hearing session on matter 9, 0930 on 2 April, will be an opportunity to review discussions on strategic matters 1 to 8 so far along with any outcomes, additional documents, or changed circumstances [INSP4B]. That session will provide the context for sessions on specific allocations.

The second hearing session on matter 9, 1400 2 April, will relate to overarching issues related to allocations and their justification.²² Consideration will be given to the nature of existing supply, the approach taken to assessing sites and alternatives, and the relationship of allocations to the strategic policies of the Local Plan (notably policy LP2).

The third hearing session on matter 9, 0930 on 3 April, will focus on 'Category 1' settlement allocations including Coleshill (notwithstanding MM23). The fourth, 1400 on 3 April, will look at 'Category 2' settlement allocations and allocations H19 and H20 given their scale and proximity to Nuneaton.

The fifth session, 0930 on 4 April, will focus on remaining allocations in respect of category 3, 4 and 5 settlements; any remaining time that day will be given over to housekeeping and administration. Given the number of sites, and the evidence before me already and that which will be returned via position statements, it may not be necessary to discuss each and every allocation or point below.

²¹ In respect of the assessment of land availability, commencing at Reference ID: 3-001-20140306.

²² It will, to some extent, overlap with issues 3.11 and 4.7 to 4.9 in particular.

2 April (AM) hearing session, administrative session for review of matters 1 to 8

2 April (PM) hearing session, site allocations- overarching issues

- 9.1 NWBC11 gives completions since 2011 as 1,272 homes (superseding table 7 of the plan as submitted [CD0/1]). Table 7 of the plan gives remaining capacity on sites with planning permission as 1,135 homes. Are those figures current and are they supported by suitably detailed evidence?²³
- 9.2 With reference to NWBC18 and policy LP8 subject to MM45, MM46, MM47 [NWBC20A], is an anticipated annual contribution of 60 dwellings a year from windfall development robust with reference to NPPF2012 paragraph 48?
- 9.3 With reference to CD8/13B and PS.M8.01 are allocation yields and delivery trajectories justified and robust, including over the next five years? (*noting some inevitable overlap with strategic matters 7 and 8*)
- 9.4 Has the comparative assessment of sites resulting in those included for allocation in the plan been undertaken in a proportionate and consistent manner? (*with particular regard to the SHLAA [CD8/17] and SA for site allocations, section 2 in particular [CD3/1]*).
- (a) If any allocations have been brought forward from former plans, have they been assessed afresh?²⁴
- 9.5 Local Plan paragraph 8.4 and policy LP7 indicates that the residential density of development should be at least 30 dwellings per hectare ('dph'). The average density for site allocations, excluding H23 Austrey, based on policy LP39 appears to be around 20.5 dph. The lowest densities at allocations H7, H18 and H19 are between 12 and 14 dph. Is the plan's approach to density appropriate?
- 9.6 There are several existing employment sites referred to throughout the plan, the history or status of which is not readily identifiable.²⁵ Local Plan table 8 indicates that since 2011 completions have amounted to 3.22 hectares of some form of employment land, and that extant permissions amount to around 31.58 hectares. However those figures do not readily tally with those in policy LP40 or in NWBC21. Are the figures in respect of employment land delivery and extant consents current and supported by appropriate evidence?
- 9.7 With reference to objective 1 of the Local Plan in particular, which seeks to ensure the effective re-use of brownfield land, which allocations are wholly or partially previously developed land?

²³ Noting that they account for extra care homes at Laurel Gardens Mancetter in 2016/2017.

²⁴ Local Plan paragraph 14.19 in particular explains that the Core Strategy established that, due to constraints around Atherstone, growth would be directed to the north-west of the town.

²⁵ Including at paragraphs 7.45, 14.50, Relay Park, alterations over time to Hams Hall and Birch Coppice, and a commitment to deliver 8.5 hectares of land for Tamworth Borough Council.

9.8 Are the categorisations of settlements in policy LP2 appropriate with regard to the updated Settlement Sustainability Appraisal ('SSA')[CD6/3C]?

(a) Is there a conflict between bullets 3 and 4 which seek to ensure separation and connectivity respectively with peripheral settlements?

(b) Should certain 'category 5' settlements be re-assigned based on their current scoring in CD6/3C?²⁶

(c) Proportionately, are allocations aligned with the scale and function of settlements?²⁷ If not, is there compelling justification for that? *NB. This question will also fall to discussions on individual sites as necessary.*

(d) Is there a tension between LP paragraph 2.22 which, in a similar vein to NPPF2012 paragraphs 28 and 54, indicates that settlements without a development boundary should be able to grow organically, and the restrictions of policy LP2 in respect of category 5?²⁸

9.9 Do allocations for housing and employment, were they to be subject to MM9 and MM39 [NWBC20A], contain sufficient flexibility or contingency for future change and to ensure delivery in line with forecasts?

9.10 Is there a rationale for referencing certain Local Plan requirements inconsistently, such as provision of Sustainable Urban Drainage Systems in certain allocations but not others? Is there a rationale for setting only certain allocations as a minimum number? Should a consistent size threshold be set for terming a site 'strategic' or requiring that masterplans are prepared?

²⁶ It appears that category 5 settlements of Corley, Middleton and Furnace End score more favourably in terms of accessibility of services and facilities than some category 4 settlements (Shustoke and Shuttington).

²⁷ Noting that 4,552 dwellings are allocated via sites H2, H7 and H13, representing 67% of all housing allocations. A 10 unit threshold in category 4 settlements is referenced in Local Plan paragraph 7.10 for retention, which is not consistent with certain allocations.

²⁸ Noting that the consistency or otherwise of the phrasing of policy LP2 in respect of category 5 development and NPPF2012 paragraph 55 which will fall primarily to matter 10, development management policies.

3 April (AM) hearing session, site allocations- 'Category 1' settlement allocations including Coleshill

Atherstone with Mancetter

9.11 Allocation H1, Holly Lane

- (a) Is the allocation consistent with the approach in the Mancetter Neighbourhood Plan (adopted September 2017)?
- (b) As with other substantial allocations, should the allocation refer specifically to other associated uses rather than housing alone?
- (c) Would the scheme be suitable with regards to its effects on Royal Meadow and the Innage Brook?
- (d) The final sentence of allocation policy H1 sets out that development should 'enable and not prevent access opportunities and routes to further potential land to the west..'. Is that a reference to allocation H2? Are allocations and H1 sufficiently closely related that they should be masterplanned collectively?

9.12 Allocation H2, Whittington Lane

- (a) What is the significance of the phrase 'allocated for future growth' in the policy?
- (b) Are the masterplanning requirements in Local Plan paragraph 14.23, 14.14, (and for allocation H7) consistent?
- (c) Is there suitable evidence to indicate the effects of the allocation on heritage assets and their setting, in particularly the incorporation of listed buildings at Whittington into a service centre?
- (d) Notwithstanding discussions on matter 7 and 10, as with other allocations are criteria 2 and 3 sufficiently precise so as to secure appropriate infrastructure provision?
- (e) What effect would allocations H1 and H2 have on local character and distinctiveness?²⁹

9.13 Allocation H3, Sheepy Lane

- (a) Have alternative provision and improvements to sports and leisure facilities referred to in that policy been established in line with Local Plan policy 23 'Loss of services and facilities' and NPPF2012 paragraph 74?³⁰
- (b) Is the requirement for a Strategic Flood Risk Assessment Level 2 in line with NPPF2012 paragraph 102? If the site is more vulnerable to flooding, is its allocation justified with reference to the sequential and exception tests?

²⁹ Raised in particular by representors SLP9 and SLP447.

³⁰ Raised in particular by Representor SLP444.

(c) Is the delivery trajectory clearly enumerated and realistic?³¹

9.14 Allocation E1, Holly Lane

(a) Is the reference in paragraph 14.25 to the site representing a 'long term employment site subject to single user restrictions' consistent with the provisions of allocation policy E1 and appropriate in planning terms?³²

(b) Being 'safeguarded' as a long term employment site, when is delivery intended? Should the site contribute towards anticipated delivery relative to employment requirements in Local Plan policy LP6?

(c) Is the allocation justified via the sequential and exception tests regarding vulnerability to flooding in the NPPF2012? Would the 10 metre semi-natural buffer requirement be sufficient to ensure any development is acceptable in this respect?

Coleshill

(NB, given its location in the Green Belt, discussion in respect of Coleshill allocations will inevitably overlap with strategic matter 6, planning and environmental constraints)

9.15 Local Plan paragraphs 14.32 and 14.29 appear to conflict. Paragraph 14.32 states that 'Due to the Green Belt beyond the development boundary of Coleshill this [the preclusion of development outside of that boundary] will continue during this plan period.' Paragraph 14.29 states 'it is considered necessary to allocate land outside current boundaries and remove land from the Green Belt.' Which is correct?

(a) Are any allocations within the Green Belt justified by exceptional circumstances (NPPF2012 paragraph 83)?

(b) How do any elements of the Green Belt proposed for release perform against the purposes of the Green Belt in NPPF2012 paragraph 80?

9.16 Allocation H4, Former leisure centre site

(a) Would the allocation accord with Local Plan policy LP23 'loss of services and facilities' and NPPF2012 paragraph 74?

(b) Should the allocation refer to the existing leisure centre building along with its land?

9.17, Allocation H5, Land at Blythways

(a) As with certain other allocations, should an anticipated yield from the site be set out in the allocation?

9.18, Allocation H6 and policy C1, Allotments adjacent to Memorial Park

³¹ Raised in particular by Representor SLP330.

³² Noted by SLP111.

- (a) Allocation H6 refers to policy C1 making provision for the loss of allotments. Policy C1, Land off Maxstoke Lane, presumably cross-referenced in paragraph 14.13, however makes no provision for allotments. Should reference be included?

Polesworth with Dordon

*9.19 Allocation H7, land to the east of Polesworth and Dordon*³³

- (a) Reflecting 9.11 (b) are the masterplanning requirements for allocation H7 consistent with the approach set out in paragraph 14.14 (and 14.23)?
- (b) Is it appropriate to allocate the site as for 'a minimum' of 2000 homes?
- (d) Are A5 access arrangements proposed for replacement those referred to in paragraph 14.37? Has that replacement been scoped, costed and included in a list of necessary infrastructure projects?³⁴
- (e) Would any infrastructure provision undermine viability with reference to NPPF2012 paragraph 173?
- (f) Would the effect of the scheme on ecology, the environment, and heritage assets, including ancient woodland and local wildlife sites, be appropriate?

9.20 Allocation H8, Land west of Woodpack Farm

- (a) have access arrangements from the B5000 been assessed such that their resolution would not impede delivery?

9.21 Allocation H10, Former Polesworth Learning Centre

- (a) is the allocation supported by sufficiently robust and proportionate evidence regarding likely effect on nearby heritage assets?

9.22 Allocation E2, Land to the west of Birch Coppice

- (a) Are proposed access arrangements appropriate?³⁵
- (b) Are there sufficient safeguarding for potential effects of development to the occupants of residential properties next to the A5?
- (c) Are the provisions of allocation E2 sufficient to ensure the replacement of allotments in accordance with Local Plan policy 23?³⁶

- 9.23 Other than in relation to the issues and questions set out above, would allocations for category 1 settlements be otherwise suitable in planning

³³ The Council have acknowledge that Polesworth Group Homes Ltd [SLP327] land should be removed from the allocation, which should (if that position remains) be reflected as an MM.

³⁴ Noting the strategic transport concerns of Tamworth Borough Council in that regard [SLP324].

³⁵ Raised by SLP429.

³⁶ With regard to the position of representor SLP112.

terms, and would they be capable of delivering over an appropriate timescale?

3 April (PM) hearing session, site allocations- 'Category 2' settlement allocations including H19 and H20

9.24 Allocation H13, Land west of Robey's Lane, adjacent Tamworth

- (a) What effect would the proposal have on the Meaningful, or Strategic, Gap?³⁷
- (b) Would the proposal have an acceptable effect on Alvecote Priory, Alvecote Woods, and the rural landscape?³⁸
- (c) Would the allocation be appropriate with regards to its effects on the environment and ecology in accordance with NPPF2012 paragraph 109?³⁹
- (d) Has appropriate account been taken of the potential relationship of development here to Tamworth Borough Council, in respect of services and facilities and housing mix in particular?⁴⁰
- (e) Are transport, health, education, infrastructure and open space provision requirements sufficiently clear?
- (f) Are access arrangements and delivery projections robust?⁴¹

9.25 Allocation H14, Site at Lindridge Road, adjacent Langley SUE, Wishaw

(NB, effects of the plan on the Green Belt fall for consideration under matter 6)

- (a) Should the masterplanning requirement ensure a consistent approach with the design of the Langley Sustainable Urban Extension?

9.26 Allocation H19, Land between Church Road and Nuneaton Road Hartshill

- (a) would the allocation integrate appropriately with the setting of nearby heritage and environmental assets, including Holy Trinity Church and local wildlife sites?
- (b) what are the access issues to be addressed? Would their resolution impede delivery?
- (c) should the range of housing types reflect evidence in the Hartshill neighbourhood plan?

³⁷ Raised by Cllr Pugh, SLP147, and Baddesley & Grendon Stop the Build Action Group, SLP449.

³⁸ Noting the comments of Representor SLP359.

³⁹ Raised by SLP314.

⁴⁰ SLP324.

⁴¹ Raised by SLP324 and SLP330.

9.27 Allocation H20, land south of Coleshill Road (Hartshill) or land south of Ansley Common

(a) Local Plan paragraph 14.70 sets out that 'access to site will need to be investigated and solutions implemented comprehensively'. Would that impede delivery?

(b) Should the reference to development taking place 'comprehensively' along with reserve site RH2 be amended given the different timings for delivery of the two allocations?

(c) Should H20, as with H19, refer to the Hartshill neighbourhood plan particularly in respect of demographics? Should the requirements of H20 and H19 be consistent?

(d) notwithstanding discussion on matters 7 and 10, are infrastructure (transport, health, education) requirements sufficiently evidenced and precise?

(e) Are the effects of the allocation appropriate in respect of heritage, drainage, and in relation to Brett's Wood (ancient woodland)?

9.28 Site allocation E4, Land to the south of Horiba MIRA Technology Park & Enterprise Zone (the 'Southern Manufacturing Park')

(a) Are the effects of the allocation appropriate in respect of heritage assets (A5 Roman Road, St Chads Grade II* Listed Church, Caldecote and Watling Street)?

(b) Is the prevention of B8, distribution, uses other than those which are ancillary, justified?

(c) Is the requirement for incubator units suitably evidenced and specific?

9.29 Other than in relation to the issues and questions set out above, would allocations for category 2 settlements, along with H19 and H20, be otherwise suitable in planning terms, and would they be capable of delivering over an appropriate timescale?

4 April (AM) hearing session, Category 3 & 4 settlement allocations and policy LP2 in respect of land outside of settlements

(including reserve sites RH1 and RH2)

9.30 Allocation H15, Land at Church Farm, Baddesley Ensor

(a) Would the effects of the allocation be appropriate in respect of nearby heritage assets and the allocation's 'sensitive landscape edge'?⁴²

(b) Would the allocation be capable of preserving the integrity of neighbouring designated sites for nature conservation?

9.31 Allocation H16, Land north of Grendon Community Hall

No specific questions.

9.32 Allocation H17, Land at Spon Lane, Grendon (former Sparrowdale School and former recycling centre)

(a) with reference to NPPF2012 paragraph 74, would the loss of a playing field be acceptable?⁴³

9.33 Allocation H18, Dairy House Farm (Phase 2) Grendon

(a) are associated infrastructure requirements sufficiently clear so as to be effective in practice (notably there is a reference to 'improved and/ or new recreational facilities')?

(b) could the allocation be brought forward without adversely affecting the safe and efficient operation of the highway network?⁴⁴

9.34 Allocation H21, former school redevelopment site, Water Orton (and linked policy S1)

(a) with regard to AD30, is the relocation of the primary school by consequence of HS2 a certain prospect?

(b) Could suitable living conditions for future occupants be achieved?

9.35 Allocation H23, Land off main road Austrey.

No specific questions as the site benefits from consent.

9.36 Allocation H24, Manor Farm

(a) Would the effects of the allocation be appropriate in respect of nearby heritage assets?

⁴² As raised by CPRE, SLP447.

⁴³ Raised by SLP444, Sport England.

⁴⁴ Raised by SLP114 and SLP311.

9.37 Allocation H25, Land south of Shuttington Village Hall

(a) is the scale of the allocation, for 24 homes compared to a threshold of 10 indicated in Local Plan policy LP2, justified?⁴⁵

(b) would local infrastructure and utilities provision be sufficient to support an additional 24 homes in this location?

9.38 Allocation H26, Land north of Orton Road, Warton

(a) for a category 4 settlement where Local Plan policy LP2 indicates that around 10 homes are appropriate, it appears to be that together allocations H26 and H27 would amount to 8.7 hectares of land and some 168 homes. Is that justified?⁴⁶

(b) would allotments lost by consequence of the allocation be re-provided?

(c) is the allocation capable of being brought forward without undue effects to highway or pedestrian safety?

9.39 Allocation H27, Land off Barn End Road

(a) Would effects on landscape character be acceptable?

(b) Notwithstanding discussion on matter 7, are associated infrastructure provision requirements defined within suitable precision?

9.40 Allocation H28, Land south of Islington Farm

(a) is the allocation for 28 homes appropriate given the provisions of LP policy LP2?

(b) What is the justification in this instance that a range of housing needs should be provided for?

9.41 Other than in relation to the issues and questions set out above, would allocations for category 4 and 5 settlements be otherwise suitable in planning terms, and would they be capable of delivering over an appropriate timescale?

9.42 Notwithstanding discussion under issue 9.8, is the approach to 'category 5' land appropriate?

9.43 Are reserve sites suitable, developable, and is it clear what circumstances or monitoring indicators would result in their being considered for development before 2033?

⁴⁵ Noting the representation of Alvecote & Shuttington Parish Council, SLP301.

⁴⁶ Noting the representations of SLP332, SLP380 and SLP357 (the latter potentially refers to an application having been submitted here).

Matter 10, Development management policies

(Week 4, 7 to 10 April [INSP4B], position statements due by 1700 on 8 March)

Introduction

The overarching issues in respect of matter 10 are (i) whether or not policies are consistent with the objectives and strategic policies of the Local Plan and provide an appropriate basis for the delivery of development including allocations, and (ii) whether or not individual policies are justified, consistent with national policy, and whether they would be effective in practice. NPPF2012 paragraph 154 sets out that only policies which provide a clear indication of how a decision taker should react to a development proposal should be included in plans.

There is inevitably some overlap between development management policies and strategic policies. Certain Local Plan policies include both elements, and therefore this matter is broadly ordered progressing through the Local Plan policy-by-policy. In the light of earlier discussion it may therefore not be necessary to discuss each point set out below. Consideration will also be given under matter 10 to monitoring arrangements, as that relates primarily to development management outcomes.

With reference to MM1 and MM68 in particular [NWBC20A] the Local Plan needs to be legally compliant and sound in and of itself (as referenced in Q9 of INSP1). Noting Local Plan paragraph 13.2, it may therefore be that approaches taken in the existing Core Strategy and 2006 Local Plan to development management are no longer consistent with policy, and that policies may need to clearly explain what they seek to achieve in the absence of that background context.⁴⁷

In that context the bibliography to the plan at appendix 3 will need updating in addition to the Local Development Scheme, including to reference forthcoming documents which are intended to clarify the application of policies.⁴⁸ Certain references to documentation are now out-of-date and should be deleted or replaced.⁴⁹

⁴⁷ Noting Local Plan policy LP21, for example, starts with a description of what town centres are, rather than what that designation means for the management of development.

⁴⁸ Policy LP29, for example, sets out the commitment to bring forward a walking and cycling strategy.

⁴⁹ Including the reference to 'By Design' and 'Better places to live' in Local Plan paragraph 13.3, and the reference to Site Waste Management Plans Regulations 2008 in paragraph 13.12 (revoked by Statutory Instrument 2013/2854).

9 April (AM) hearing session, development management policies-overarching issues (including policies LP1 and LP2)

- 10.1 For effectiveness, with regard to NPPF2018 paragraphs 17 and 18 and to the schedule of MMs [NWBC20A] should all policies, such as LP1, be either 'strategic' or 'development management' rather than a combination of both?
- 10.2 For clarity and consistency with the approach in the NPPF2012 and PPG, should Local Plan policy LP6 'Amount of development' be located before others which seek to protect certain designations (e.g. LP3, LP4, LP5)?
- 10.3 NWBC11 sets out aggregate housing completions since 2011 (as discussed under matter 8, viability and delivery). With reference to Local Plan policy LP9, what is the figure for affordable housing provision of different types over that period?⁵⁰
- 10.4 Should Local Plan paragraph 13.12, which requires land remediation, be a policy rather than supporting text in addition to criterion 13 of policy LP31?
- 10.5 Is a specific policy regarding archaeology necessary to accord with NPPF2012 paragraph 128?
- 10.6 Have any development management policies been consciously omitted in place of relying on the provisions of the NPPF2012?
- 10.7 With reference to MM71, MM72 and MM73, should design guide appendices exist as standalone supplementary planning documents or guidance rather than as integral elements of the Local Plan?
- 10.8 *Policy LP1, Sustainable Development (with regard to MM20).*
- (a) It is necessary to repeat the presumption in favour of sustainable development in the NPPF2012? If so, should policy LP1 and paragraph 6.2 refer to the phrasing of the NPPF2018?
- 10.9 *Policy LP2, Settlement Hierarchy*
- (a) is MM23 necessary for soundness?
- (b) for effectiveness, should LP2 contain a statement as to what is permissible within development boundaries?
- (c) Should indicative scales or proportions of development for each category of settlement be set to provide a clear basis for decision-taking?
- (d) Is the approach outside of settlements, i.e. 'category 5', consistent with paragraph 55 of the NPPF2012? Does it provide suitable flexibility and reflect other types of development that may come forward in rural areas?⁵¹

⁵⁰ I.e. affordable rent compared against intermediate housing.

⁵¹ For example rural exception sites or via permitted development rights.

(e) Is policy LP22 'New Services and Facilities' necessary in addition to LP2?

9 April (PM) hearing session, development management policies LP3 to LP10

10.10 Policy LP3, Green Belt

(a) are MM24 and MM27 necessary to clarify Green Belt policy in accordance with NPPF2012 paragraph 83?

(b) With regard to issue 10.1, for effectiveness should Local Plan paragraphs 7.17 to 7.14 and section 5 of policy LP3 be relocated within the development management section of the Local Plan?

(c) What is the justification for certain settlements being defined by a settlement boundary and others a Green Belt infill boundary?

(d) Case law has established that there is a qualitative element to determining whether extensions to, or replacements of, dwellings are disproportionate or not materially larger with reference to NPPF2012 paragraph 89. In that context are policy LP3 criteria 5)b) and 5)c) justified?

10.11 Policy LP4, Safeguarded Land for Potential Future Development

(a) are MM27 and MM28 necessary to ensure policy LP4 is consistent with NPPF2012 paragraph 85?

(b) is it clear what circumstances would require a review of whether to release land safeguarded in the Green Belt?

10.12 Policy LP5, Meaningful Gap

No specific questions as addressed under strategic matter 6, planning and environmental constraints.

10.13 Policy LP6, Amount of Development

No specific questions as addressed under various other strategic matters.

10.14 Policy LP7, Housing development

(a) for effectiveness, should the evidence underpinning LP7 be referenced, for example in respect of demography or those registered with the Council in relation to the Self-build and Custom Housing Act 2015 (as amended)?

(b) Are policy LP7 requirements in terms of the needs of different members of the community intended to be Borough-wide or location specific?

(c) With regard to the Public Sector Equality Duty, should housing provision related to those with mobility issues or other special needs be defined as a set proportion? Should reference be made in that context to optional technical housing standards as the mechanism for delivery?

(d) What is the justification for requiring that certain types of housing are required only on sites exceeding 100 homes?⁵²

10.15 *Policy LP8, Windfall allowance*

(a) Noting MM45, MM46 and MM47, how should policy LP8 be revised in the light of evidence of windfall evidence presented at examination [NWBC18]?

(b) With regard to NPPF2012 paragraph 154, does policy LP8 give a clear indication of how a decision-taker should respond to a proposal for windfall development? If not, should it instead be treated as a component of housing supply, or referred to in policy LP32 regarding the design principles used to determine the acceptability of development?

10.16 *Policy LP9, Affordable housing provision*

(a) Does policy LP9 require affordable housing provision in accordance with NPPF2018 paragraph 63 with regard to the scale of schemes?⁵³ If not, why not?

(b) should the approach to affordable housing provision and associated contributions be consistent with NPPF2012 paragraph 50?

(c) With reference to MM50 and MM51, are affordable housing and starter home requirements, as set out in Local Plan paragraphs 8.16 and 8.17 in accordance with statutory provisions and the approach in the PPG?⁵⁴

(d) is greater specificity needed in paragraph 8.18 to enable a robust determination to be made as to whether sites coming forward at different times represent part of a larger whole?

10.17 *Policy LP10, Gypsy & Travellers sites*

No specific questions as addressed in earlier sessions.

⁵² Of which there appear to be 8 allocations of this size (H1, H2, H7, H13, H14, H18, H19, H20).

⁵³ Which builds on the Ministerial statement of 28 November 2014 (HCWS50).

⁵⁴ Notably the implications of the Housing and Regeneration Act 2008 in respect of leasehold enfranchisement and PPG Reference ID: 55-005-20150318 regarding starter home provision.

10 April (AM and PM) hearing session, development management policies LP11 to LP30

10.18 *Policy LP11, Economic regeneration*

- (a) is policy LP11 consistent with NPPF2012 paragraph 22?
- (b) is MM53, is the deletion of the third bullet of LP11 necessary for effectiveness?

10.19 *Policy LP12, Employment areas*

- (a) should this policy precede, or be referred to directly, in policy LP11 which includes provision for safeguarding employment land?
- (b) are all sites defined on the policies map?
- (c) are employment areas proposed for safeguarding supported by appropriate evidence regarding their existing use, capacity and ongoing viability?
- (d) why would B8 uses at Colliers' Way, New Arley and Manor Road be prevented?

10.20 *Policy LP13, Rural Employment*

- (a) Is MM54, relocating this policy to the development management section of the plan, necessary?
- (b) Is policy LP13 sufficiently flexible in respect of supporting rural growth with reference to NPPF2012 paragraph 28?
- (c) What is the justification for requiring direct access to the trunk or distributor road network and including elements on heritage to policy LP31?
- (d) should permissible uses be defined more specifically for effectiveness?

10.21 *Policy LP14, Landscape*

- (a) Should specific reference be made to the Landscape Character Assessment for North Warwickshire?

10.22 *Policy LP15, Historic environment*

- (a) how is the Historic Landscape Characterisation document referred to in paragraph 10.10 different from the Landscape Character Assessment referred to in policy LP14?
- (b) Is policy LP15 (and criterion 10 of LP31) consistent with the relevant provisions of the Planning (Listed Buildings and Conservation Areas) Act 1990, specifically the approach to preserving or enhancing heritage assets?
- (c) Are policy requirements regarding traffic and the historic environment justified?

10.23 Policy LP16, Natural Environment

(a) Do the Green Infrastructure Strategy referred to in Local Plan paragraph 10.17 and the Biodiversity Impact Assessment Calculator referred to in policy LP16 provide a clear basis for determining how development may be brought forward with appropriate regard to biodiversity?

(b) Does policy LP16 protect sensitive sites appropriately in accordance with their ecological value and status? With reference to draft MM58, is policy LP16 consistent with the approach to avoiding, mitigating and compensation for ecological effects in accordance with NPPF2012 paragraph 118?

10.24 Policy LP17, Green infrastructure

(a) with reference to MM58, is policy LP17 consistent with NPPF2012 paragraph 118 and does it provide a clear basis for decision-taking? Is associated evidence referenced and accessible?

10.25 Policy LP18, Tame Valley Wetland Nature Improvement Area (NIA)

(a) should the policy require, rather than encourage, maintenance and enhancement of the NIA for effectiveness?

10.26 Policy LP19, Local Nature Reserves

(a) are the Local nature Reserves referred to in paragraph 10.28 defined on the policies map? Is that a comprehensive list including Riverside, Atherstone?

(b) should policy LP19 refer to sites being protected or enhanced, as the two may not be possible simultaneously.

10.27 Policy LP20, green spaces

(a) Is the 2017 version of the Green Space Strategy referred to in Local Plan paragraph 10.34 now available?

(b) Are the Green Spaces identified via policy LP20 local Green Space with reference to NPPF2012 paragraph 76? If so, are they consistent with Local Green Space policy and guidance?⁵⁵

10.28 Policy LP21, Town Centres and Neighbourhood Centres

(a) What is the intended consequence of Local Plan paragraph 11.2 which states that 'existing retail uses will be protected in accordance with the settlement hierarchy and developed further within the site allocations plan'? Is a different approach proposed in settlements of different sizes?

(b) Is policy LP21, and associated mapping, consistent with NPPF2012 paragraph 23? That paragraph sets out that primarily and secondary

⁵⁵ With reference to PPG Reference ID: 37-005-20140306 in particular.

shopping frontages should be clearly identified and used as the basis for defining the extent of town centres and primary shopping areas.

(c) Are restrictions in policy LP21 on changes from retail uses justified, including seeking to prevent a disproportionate concentration of uses? How would compliance with those aspects of policy LP21 be demonstrated in practice?

10.29 Policy LP22, New services and facilities (see also LP2)

(a) What is the justification for a threshold of 15 or 100 units for assessing effects on services and facilities? Should those thresholds be consistent with policy LP23?

10.30 Policy LP23, Loss of services and facilities

(a) How is policy LP23 intended to operate in relation to permitted development rights?⁵⁶

(b) Should elements of policy LP23 related to town centres instead feature in policy LP21?

10.31 Policy LP24, Recreational provision

(a) With reference to Local Plan paragraph 11.7, how does the Council's Open Space, Sport and Recreation Audit relate to the Open Space Study?

(b) Does the methodology for provision need to be set out in further detailed guidance or a Supplementary Planning Document to ensure clarity?

10.32 Policy LP25, Transport assessments

(a) With reference to Local Plan paragraph 12.9, is the Transport Strategy for the Borough now published?

(b) What is the justification for thresholds where transport assessments are required (appendix G to the plan) with reference to NPPF2012 paragraph 32 which refers simply to proposals which 'generate significant amounts of movement'?⁵⁷

10.33 Policy LP26, Stations

No specific questions as considered under matter 7, infrastructure provision.

10.34 Policy LP27, Railway lines

(a) How does policy LP27 relate to HS2 safeguarding directions? Do they have different purposes, i.e. to prevent wider development that may adversely affect ability to deliver HS2 as referred to in Local Plan paragraph 12.18?

⁵⁶ For example Class M permitted development rights which allow for, under certain circumstances, change of use between retail and residential uses.

⁵⁷ With reference to PPG Reference ID: 42-001-20140306 in particular.

10.35 Policy LP28, Strategic Road Improvements

- (a) What is the outcome of the study referred to in the first sentence of that policy, with reference to MM60?
- (b) Is there robust evidence that dualling of the A5 is viable and achievable via reserve allocation RH1?
- (c) What, if any, are the implications of the application by Highways England for a Development Consent Order related to M42 junction 6?

10.36 Policy LP29, Walking and cycling

- (a) should policy LP29 via the bibliography in annex C to the plan, or via the LDS, set out the form and timing of an intended walking and cycling strategy?

10.37 Policy LP30, Level crossings

- (a) Should the requirement be expressed within a policy setting out how appropriate infrastructure contributions will be secured in all respects?

11 April (AM) hearing session, development management policies LP31 to LP38 (including any additional policies advanced during the course of the examination, monitoring arrangements and annexes to the Local Plan)

10.38 How do the references to Building for Life Standards, Secured by Design, and special accommodation in Local Plan paragraphs 6.7 to 6.10 and 8.3 relate to development management policies?

10.39 Policy LP31, Development considerations

- (a) With reference to Local Plan paragraph 13.7, is the reference to NPPF2012 paragraph 66 correct? Should paragraph 17 instead be referenced in respect of amenity?
- (b) With reference to Local Plan paragraph 13.11, for consistency with NPPF2012 paragraph 102 should instead reference be made to a site-specific flood risk assessment?
- (c) Should references in Local Plan paragraphs 6.7 to 6.10, 8.3 and 13.15 and in policy LP31, criterion 2 to Building for Life Standards, Secured by Design, and special accommodation remain in the context of current policy?⁵⁸ Should reference be made to optional building standards where justified?
- (d) Policy LP31, criterion 1, is the reference to the approach being 'targeted at using brownfield' consistent with NPPF2012 paragraph 111 and NPPF2018 paragraph 137?
- (e) Criterion 3 and 8, do those elements of policy LP31 differ from policies LP20/ LP22?
- (f) Should criterion 10 be amended to reflect the provisions of the Planning (Listed Buildings and Conservation Areas) Act 1990 as amended?

10.40 Policy LP32, Built form

- (a) Local Plan paragraph 13.16 refers to not stifling innovative design. Is that consistent with LP32 which requires that proposals are consistent with their surroundings?
- (b) Should criterion j) related to water courses instead be for policy LP35, Water management?
- (c) For clarity, should references to infill development in LP32 define whether that relates to 'limited infilling' within the Green Belt?
- (d) Is preventing replacement of all original rural buildings justified?

10.41 LP33, Shop fronts, signage and external installations

- (a) Should the bulleted list in paragraph 13.21 form part of policy LP33?

⁵⁸ In the light of the Ministerial statement of 25 March 2015, HCWS488 and NPPF2018 paragraph 127.

(b) Why are neighbourhood plans referred to here but not in respect of other design-related policies?

(c) Is the policy consistent with NPPF2012 paragraph 67 regarding controlling advertisements?

10.42 LP34, New agricultural, forestry and equestrian buildings

(a) Is the requirement that new buildings are located within or adjacent to a group of existing buildings justified, particularly as new agricultural buildings may come forward via Part 6 of the Town and Country Planning (General Permitted Development) Order 2015 as amended without such limitation?

(b) Should the policy qualify what degree of 'visual intrusion' would be acceptable as some visual effects are inevitable from erecting new buildings?

10.43 LP35, Water management

(a) With reference to paragraph 13.23, should the policy seek to ensure that development replicates or improves upon existing infiltration or drainage provision?

(b) What does the initial sentence to Local Plan paragraph 13.25 mean? For consistency with NPPF2012 paragraph 103 should the requirement for a site specific flood risk assessment also apply where schemes would be within flood zone 1 but within a critical drainage area?

(c) With reference to Local Plan paragraph 13.26, what is the 'particular issue' identified by the Environment Agency in Atherstone regarding Sustainable Urban Drainage Systems (SUDS)?

(d) Should the policy refer to industry standard technical documentation regarding SUDS (e.g. produced by ICE or CIRIA)?

(e) What does the reference to 'under capacity' in the second paragraph, first sentence, of policy LP35 mean?

(f) Is there a tension between the emphasis in policy LP35 on de-culverting and watercourse re-naturalisation on the one hand and exacerbating the potential for flood risk on the other?

(g) Are the requirements for flood zone 3, as opposed to flood zone 2 or critical drainage areas, justified?

(h) Are principles for sewerage provision consistent with the PPG and provisions of policy LP35 in accordance with Section 106 of the Water Industry Act 1991 regarding combined sewers and a water statement?

10.44 LP36, Parking

(a) With reference to LP paragraph 13.29, are the proposed parking standards justified by appropriate evidence?

(b) Is that policy consistent with NPPF2012 paragraphs 39 and 40 and NPPF2018 paragraphs 105 and 106?⁵⁹

(c) Should all development be required to provide electric vehicle charging points (noting that policy LP38, Information and communication technologies contains a caveat that a connectivity statement need only apply where appropriate)?

10.45 LP37, Renewable energy and energy efficiency?

(a) Has an assessment of locations potentially suitable for renewables facilities been undertaken?

(b) Is the 10% reference to on-site renewables justified?

(c) Should reference be made to the efficiency standards in Building Regulations?

10.46 LP38, Information and communication technologies

No specific questions.

10.47 Are monitoring arrangements sufficiently precise and measurable to enable effective review of the plan's effects?

11 April (PM) administrative hearing session

As set out in INSP4B, the need for further hearing sessions in the light of examination proceedings will be kept under review.

Thomas Bristow

INSPECTOR

8 February 2019

⁵⁹ With regard also to Ministerial Statement HCWS488 which sets out that local parking standards should only be imposed 'where there is clear and compelling justification that it is necessary to manage their local road network'.