



Nuneaton & Bedworth Borough Plan Review Examination

Matter 1: Compliance with statutory procedures and legal matters

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MATTER 1: COMPLIANCE WITH STATUTORY PROCEDURES AND LEGAL MATTERS

Introduction

- 1.1.1 This Hearing Statement sets out submissions made by Gladman in relation to Matter 1: Compliance with Statutory Procedures and Legal Requirements. Not every question has been answered – only those which are relevant to Gladman’s position and interests as well our previous representations.
- 1.1.2 Separate statements have been submitted in respect of Matter 2 (Vision, Strategic Objectives and Development Strategy) and Matter 3 (Housing).
- 1.1.3 For clarity, Gladman is also part of a consortium of housebuilders and land promoters who have instructed Lichfield’s to prepare and submit Hearing Statements in respect of legal compliance and duty to cooperate obligations, housing needs, and associated evidence set out in the evidence base. Where necessary references are made to those Statements (‘Lichfield’s’) within our Hearing Statements.

Issue 1: Has the Council met the statutory duty to co-operate (‘DtC’) as set out under sections 20(5)(c) and 33A of the Planning and Compulsory Purchase Act 2004 as amended?

Q1. Has the Council submitted robust evidence to demonstrate that the duty to co-operate has been met?

- 1.1.4 Despite noting that any evidence of cooperation was only published after the close of the Regulation 19 consultation and at the point of submission to the Secretary of State¹ contrary to the requirements of the PPG², Gladman nonetheless consider that on the basis of the Duty to Cooperate Statement (CD4) there is evidence to

¹ The Council acknowledges in relation to representations 106, 116, 121, 127, 129 and 409, that at the time of the Publication consultation, no Duty to Cooperate evidence was made publicly available, and that it was only published at the point of submission to the Secretary of State. (Para 15.2, CD4)

² Paragraph: 020 Reference ID: 61-020-20190315

demonstrate that cooperation with the relevant authorities and bodies has taken place.

1.1.5 However, and as outlined in our previous representations, we have significant concerns in relation to the outcome of this cooperation. Gladman is firmly of the view that inadequate engagement on key strategic matters has resulted in the submission of a Plan that is fundamentally and fatally flawed, insofar as it actively seeks to defer addressing the critical cross boundary strategic matter of unmet housing needs emanating from the C&WHMA.

1.1.6 Consequently, Gladman submit that Council has failed to pass the Duty to Cooperate in regard to the soundness of the Plan. Whilst some cooperation has taken place, there are significant question marks about the effectiveness of that cooperation for reasons that we summarise in our answers to Q2 and Q3 below, in addition to our Matter 2 Statement. These very issues are also explored in further detail in the Hearing Statements submitted by Lichfield's.

Q2. Has the Council carried out effective engagement with neighbouring local authorities and other prescribed bodies on all relevant strategic matters? In particular has effective engagement taken place in respect of housing and employment needs and provision in a cross-border context?

1.1.7 No.

1.1.8 In our view the engagement with neighbouring local authorities and in particular Coventry City Council has not been effective. This is because the outcome of this engagement has resulted in the submission of an unsound Plan that does not effectively deal with the key strategic matter of future unmet housing needs arising from the city.

1.1.9 Whilst there is a fleeting reference to 'unknown' unmet needs in paragraph 5.3 of CD4, and paragraph 5.7 refers to a draft Memorandum of Understanding (MoU) in circulation that could be amended in the future once unmet needs are identified, this

in no way constitutes effective engagement on what is the primary strategic matter that must be addressed within the C&WHMA.

1.1.10 As set out in more detail in Lichfield's response to Q2, and both our responses to Matter 2, there will continue to be a substantial housing shortfall arising within Coventry, which is unsurprising given the closely bounded nature of the city and that it has historically been unable to meet its needs in full. This is anticipated to be in the magnitude of c.14,100 and c.39,780 dwellings up to 2041. This detailed technical evidence based on up-to-date land supply data has been submitted by Gladman to NBBC at both regulation 18 and 19 stage of this Local Plan Review, as well as to CCC at regulation 18 stage of their respective Local Plan Review process.

1.1.11 The outcome of this ineffective engagement, insofar as it has led to the submission of the Plan, runs contrary to national policy and guidance. This clearly directs the Council to address the strategic priorities of its own area and the unmet housing needs of its neighbours **now**. These matters are discussed in greater detail in our Matter 2 Statement.

Q3. Are there any remaining areas of dispute between relevant authorities and bodies relating to the duty to co-operate and its fulfilment by the Council? If so, please give details? Are they resolvable in terms of soundness?

1.1.12 Quite clearly the C&WHMA authorities have some reservations regarding the Council's approach to addressing unmet housing needs within the housing market area from a soundness perspective. It is also clear from the Duty to Cooperate Statement and associated SoCGs (CD4) that the Council's approach to addressing any emerging shortfall in housing needs in the C&WHMA is through a MoU and although not explicitly stated, a future review of the Plan subject of this examination. Crucially, however, an MoU has not materialised to date and the submitted Plan does not directly address this matter.

1.1.13 Consequently, and as outlined in the Hearing Statement on Matter 1 submitted by Lichfield's, at this stage we state that it remains the case that addressing the unmet needs of the C&WHMA is an area of dispute. In terms of soundness, it is essential

that this matter is addressed **now** in this Plan through an uplifted housing requirement (dealt with in Policy DS3) and identification of further housing allocations (addressed through amendments to Policy DS4).

Issue 2: Does the Sustainability Appraisal (SA) adequately assess the environmental, social and economic effects of the Plan in accordance with the legal and national policy requirements?

Q5. Has the SA properly assessed the likely significant effects of all reasonable alternatives?

Q6. Have all potential site allocations been assessed on a comparable basis? and;

Q7. Is it clear how the SA has influenced the Plan and the choice of spatial strategy? Does it support the spatial strategy or is there anything in the SA which indicates that changes should be made to the Plan?

1.1.14 As part of our representations to the Regulation 19 consultation we raised several concerns over the robustness of the Sustainability Appraisal (SA) (CD7.2) in terms of its assessment of possible scales of growth, potential spatial strategies for growth and appraisal of reasonable site options. These can be summarised as below.

1.1.15 In terms of housing quantum, the SA does not acknowledge the likelihood that a proportion of unmet needs from Coventry will need to be accommodated in the Borough. There is ample up-to-date evidence on both housing need and land supply in Coventry to devise a suitable starting position that can be assessed through the SA process. As a result, the robustness of the process of establishing an appropriate housing target is seriously undermined and is unsound.

1.1.16 In addition, in its assessment of potential alternative options for housing delivery, it is not clear why the SA has ignored the potential for strategic growth to the north-east of Nuneaton³. There is no justification for not assessing this area as a potential

³ Land south of the A47, east of Harrow Brook and north of the Leicester/Birmingham railway line.

alternative option for housing delivery, particularly as it is adjacent to the principal settlement in the Borough and lies outside the Green Belt.

- 1.1.17 Finally, as we commented in our representations to the Regulation 19 consultation⁴, we challenge the conclusions of the SA Site Appraisal Matrix (CD7.3) and SHLAA in respect of our land interests in the Borough. In our view, these have failed to take proper account of the site-specific evidence presented in our submissions throughout the preparation of the Plan, with this resulting in inconsistencies between the comparative assessment of sites.

Issue 4: Has the Plan been prepared in accordance with other legal and procedural requirements?

Q14. The Plan period is 2021-2039. Is this sufficient and in accordance with national policy?

- 1.1.18 Strategic policies should look ahead over a minimum 15-year period from adoption (Paragraph 22 of the NPPF). The term minimum is noticeable as this makes it explicit that the requirement is 15 years or more, not around 15 years which could justify a lower plan-period being advanced.
- 1.1.19 The latest Local Development Scheme (CD17) details that the Council expect the Plan to be adopted by December 2024, subject to no Main Modifications consultation.
- 1.1.20 The current Hearing sessions are not scheduled to close until the 10th October and further Hearing sessions could well be required after this date. A main modifications consultation to address the implications of the Hearing sessions is almost certain.
- 1.1.21 Consequently it is clear that the timetable as set out in the latest LDS will not be met. The earliest the Plan is likely to be adopted, particularly if modifications are made, is after 31 March 2025 (i.e. in the monitoring year 2025/2026).

⁴ Appendix 2 and Appendix 3 to our Regulation 19 representation.

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- 1.1.22 A main modification is therefore required to extend the plan-period for a minimum of 15-years post adoption, to ensure the Plan aligns with this clear requirement of national policy. Gladman contend that extending the plan-period by two monitoring years to 2041 (to account for the possibility of a protracted examination) would be the most appropriate course of action in this instance. Extending the plan-period by two years to 2041 would also bring the Plan in line with the timeframe proposed for the emerging Coventry Local Plan Review, which seems eminently logical given critical cross-boundary strategic matters that need to be addressed.
- 1.1.23 An extended plan-period will result in the need to allocate additional sites to meet an increased housing requirement. There are a range of suitable sites, consistent with the settlement hierarchy set out in Policy DS2, that represent suitable and deliverable opportunities for further allocation through modifications to the Plan.