

Written Statement for Nuneaton & Bedworth Borough Plan Review

Matter 1 – Compliance with statutory procedures and legal matters

Reference: J. Bigham

Date: 16 June 2024

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?

As outlined by government guidance on plan-making, a 'statement of common ground is a written record of the progress made by strategic policy-making authorities during the process of planning for strategic cross-boundary matters.' At the time of submitting representations to the Regulation 19 Consultation, statement of common ground (SoCG) documents were not available to comment on. Therefore, this statement addresses issues that have since come to light.

According to SoCG with Coventry City Council (CCC), 'NBBC has worked collaboratively with CCC to ensure that all cross-boundary strategic issues have been properly considered...' However, within the document itself, there are only two areas of agreement listed, 'Housing Requirements' and 'Employment Requirements'. There seems to be no reference to other strategic matters such as air quality. In other words, it only appears to address provision listed in Paragraph 20 (a) of the NPPF, 'housing (including affordable housing), employment, retail, leisure and other commercial development'. Where are the references to 20 (b), (c) and (d)?

- (b) infrastructure for transport, telecommunications, security, waste management, water supply, wastewater, flood risk and coastal change management, and the provision of minerals and energy (including heat);
- (c) community facilities (such as health, education and cultural infrastructure); and
- (d) conservation and enhancement of the natural, built and historic environment, including landscapes and green infrastructure, and planning measures to address climate change mitigation and adaptation.'

At the Regulation 19 Consultation stage, a number of cross-boundary issues were highlighted. Therefore, considering the proximity of some strategic sites to the administrative boundary of Coventry, it is disappointing to discover that many of these cross-boundary issues have not been referenced within the SoCG. When looking at the overall level of planned development within the northern fringe of Coventry, it could be considered to be equivalent to the size of a sustainable urban extension (SuE). However, the experience, so far, is for strategic sites, on both sides of the boundary, to be treated in a piecemeal fashion so that measures to address the NPPF (economic, social and environmental) objectives are at best ineffective. This is particularly the case for cross-boundary cumulative impacts.

There are West Midlands Combined Authority (WMCA) funded infrastructure projects in the pipeline such as the Keresley Link Road and the Coventry North Package (M6 J3 improvements) which are being led by CCC. Yet, these do not appear to be referenced within the SoCG or NBBC's Infrastructure Delivery Schedule. The phrase, 'improvement works to junction 3 of the M6', only seems to appear within one of NBBC's strategic policies (SHA4). Should they not be referenced within policies for all strategic sites

within the vicinity of M6 J3? Should the delivery of these sites be timed to link with these projects? What happens to the northern fringe of Coventry if these projects are delayed, cut back or cancelled?

How are 'accessible services and open spaces that reflect current and future needs and support communities' health, social and cultural well-being' being addressed? Within Woodshire's Green, neither local authority appears to be meeting their local standards in terms of access to playing pitches and other outdoor provision such as MUGAs. This issue is acknowledged within NBBC's Open Space Strategy, it says,

'...although the northern part of Bedworth has good access, there are clear gaps within the central and southern part of the settlement.'

'...all properties within the borough should have access to a Community Park...'

In the more recent document, Open Space and Green Infrastructure Supplementary Planning Document (SPD) 2021 Part B – Residential developments of 10 or more dwellings', it states,

'All residents in a development should have access to Local Park facilities within a 400m distance and Community Park facilities within a 600m distance...The applicable catchment distances of existing park facilities will be reduced in this assessment wherever impenetrable barriers to access exist...'

From NBBC's Open Space Strategy, it is clear that accessibility distances to their destination (1,000m) or Community/Neighbourhood (600m) sites would not be met for SEA2 Wilsons Lane. Yet, there is no reference to this issue within the SoCG or the Strategic Policy SEA2 Wilsons Lane.

There appears to be inconsistency between policies. In this case, ensuring that the 'standards set out in the Open Space Strategy' referred to in Policy NE2 are reflected within individual policies for strategic allocations. It is essential that overarching principles are applied consistently and that, where relevant, this leads to specific requirements being listed within sections such as the key development principles and form of development. For example, there should be a requirement for either a MUGA and/or playing pitch for SEA2 Wilsons Lane. There is a concern that if needs such as this are not effectively addressed within the Plan, they could remain unresolved at the planning application stage leading to additional pressure being placed on our remaining open spaces to deliver them at some point in the future. In a time when we are facing a biodiversity crisis and environmental inequity, is it not important to protect our designated (and potential) local wildlife sites from the impacts of urbanisation?

Due to the presence of dual carriageways (A444 and Pickard's Way) and the M6, the walking distance (using Google Maps) from Old Farm Lane to Heckley Fields would be 21 minutes. For St. Giles Recreation Ground, it would be even longer, 37 minutes. Even using the local PROWs, such as the B23 and A444 underpass, it would take at least 18 minutes (using Strava) to walk because of the need to use the bridge across the River Sowe. Yet, the walking distance, according to the 'local standards for open space catchments', for community parks should only be 10-12 minutes.

It is common to see cross-boundary figures being used for school places within planning application, e.g. spaces within a Coventry-based school being quoted for a NBBC site and vice versa.

The Infrastructure Delivery Schedule refers to,

'Expansion of Ash Green School. Potential to displace Coventry pupils to accommodate demand...'

How would the 'displacement of Coventry pupils' affect availability of school places within Coventry particularly in areas such as Longford, Holbrooks and Keresley? What evidence is there to show that the local authorities are working effectively, through their Plans, to provide adequate community facilities and address school places in areas close to the administrative boundary?

There is no reference within the SoCG to flood risk or climate change mitigation and adaption. Yet, it clear that there are ongoing issues with flooding at Rowley's Green.



Resident's garden (22nd May 2024) and ongoing flood reduction works at Rowley's Green Lane (17th March 2024)

'In partnership with the Council [Coventry City Council] in 2020, the Environment Agency provided Property Flood Resilience measures to the 5 properties affected by flooding.' Later, the Council explored the 'feasibility of allowing water to return to the river quicker by lowering ground level adjacent to the road and potentially lowering a part of the turning head at the end of this road.' This resulted in a scheme being carried out. However, the flood reduction scheme remains incomplete because of issues with flooding and it has since been reported that 'lowering the ground in this area is a way to reduce some of the flooding but will not remove flooding completely at Rowley's Green Lane.'

Coventry City Council is limited in what it can do to prevent flood events at this location. Therefore, further measures are still required upstream as previously highlighted within the Regulation 19 representation.

In response to Q1, further evidence is required to demonstrate that the duty to co-operate has been met. Should CCC and NBBC be required to update their SoCG to include all relevant provision listed within Paragraph 20 of the NPPF so that it illustrates effective engagement on all strategic matters? In the meantime, is it possible to modify the wording within the Plan so that cross-boundary matters are acknowledged?

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?

Considering the issues with water quality and flood risk (River Sowe and Breach Brook), can it be explained why the SA objectives '18. Water' and '19. Flooding' have not been highlighted in red as a constraint for '3. New sites close to J5 [sic] of the M6'? Should impacts from the M6 J3 Interim Scheme, the Coventry North Package and changes to the Smart Motorway also be considered? For example, how would future increases in surface water run-off from road surfaces be managed?

Why is cultural heritage also not highlighted in red as a constraint? Surely, impacts on the Church of St Giles (Historic England: 1186152, 1365055, 1034989, 1034990, 1319914 and 1116496) and its burial ground, Exhall Hall (Historic England: 1034979, 1185759 and 1365049) and the Moat House should be considered. According to a Birmingham Archaeology report about the Moat House,

'May have been sandstone buildings from inception – if so high status. Large amounts of high-quality roof tile of medieval date found in all areas of the site. Similarly, many large ashlars were noted...Significantly, later map evidence (Martin 2002) shows that the area to the west of Moat House was park, and the retrieval of parkland indicators, such as cypress leaves, from the waterlogged deposit helps to set the park within an early post-medieval context...If the Moat House is the site of a hitherto unidentified high status Arden manor then it could be considered of regional significance. It should also be considered that the moated complex was within the orbit of Coventry, which was a town of national as well as regional importance during the medieval period. One of the ways in which the rich of Coventry might have expressed their prestige and wealth was by the creation of moated country residences and hunting lodges...'

(Martin-Bacon, H. Birmingham Archaeology (2005) *Excavations at Moat House, Chasewood Lodge, Exhall, Warwickshire 2005 (Unfinished Report)*. Report No. 1337 Birmingham Archaeology: Birmingham.)

A section within SEA2 appears to have originally been associated with the Moat House and may even have been part of the Medieval Park referred to within the report.

There is plenty of evidence that links Exhall to Coventry's past, its mayors and MPs. For example, the Nethermill family had a tomb originally erected in the Drapers' Chapel of St. Michael's Church (Coventry Cathedral). According to the 'History of Parliament' John Nethermill (by 1515-59),

'...was a draper, some of whose wealth derived from speculations in chantry lands during Edward VI's reign. Thus he had some interest in the establishment of protestantism and by October 1553 he was radical enough to be classified as one of those who 'stood for the true religion' in the House of Commons. Perhaps it was his religious views that encouraged his fellow burgesses to return him again in 1559 when, in the first Parliament of Queen Elizabeth, radical religious changes were expected...he did not long survive its dissolution, dying 31 Oct. 1559 and being

buried in the drapers' chapel in St. Michael's church 'with such order of funerals as for such men is there accustomed'. He had made his will little more than a month earlier. To his wife he left a life interest in a house at Exhall. Other property in Warwickshire and Staffordshire was to be held by Coventry corporation until his son's majority, and the revenue arising was to be used in loans to drapers, clothiers and cappers of the town. Nethermill's executors were his widow, his son John, and his brother-in-law Sir William Garrard†, alderman of London. One of the overseers was Thomas Dudley. Bridget Nethermill later married Stephen Hales and their heir's wardship was obtained by the Coventry corporation.'

The Church of St. Giles is also the burial place of the Hales family. John Hales purchased 'the former monastery of the Whitefriars in Coventry' and converted part of it 'into a residence, Hales Place' and in '1545 he was granted licence to establish the free school as King Henry VIII School in the former St John's Hospital in Coventry.' According to the 'History of Parliament', John Hales I (d. 1572),

'...was a junior colleague of Sir Ralph Sadler during the reign of Edward VI. Both men gave up their appointments under Mary, and regained them on the accession of Elizabeth, and it was presumably Sadler, a duchy of Lancaster official and soon (1568) to be chancellor, who had Hales returned in 1563 for Lancaster. His name appears only once in the records of this Parliament, when he was appointed to a committee on kerseys (25 Mar. 1563), but it was his membership of the Commons that ruined him. Sometime during the 1563 session he composed a speech on the succession, maintaining, against a declaration by the archbishop of Canterbury, the validity of Lady Katherine Grey's marriage to the Earl of Hertford. Lampooned by a fellow-Member as 'Hales the hottest', he was put first in the Fleet, then the Tower, remaining in prison for a year, and under house arrest until shortly before his death. In January 1566 he asked to be allowed to attend a case brought against him by someone trying to regain the clerkship of the hanaper, and in February 1568, faced with a demand to appear in Chancery, Hales hoped it might lead to his liberty and God's 'divine benefit of the air' to one 'whose foot touched not the ground this three months'. He died 26 Dec. 1572, and his will was proved in the following February. The heir was his nephew John, and property in Coventry went to his brothers Stephen and Bartholomew. A house called Hales Place in Coventry was to be sold by the executors to settle debts and to pay legacies including 500 marks to Hales's niece Lucy, and 100 marks to the overseer, Robert Beale.'

Stephen Hales was also a founder of the Merchant Taylors' School in London. Yet, there appears to be very little attention paid to the association of Exhall with the 'rich of Coventry'.

On using the National Library of Scotland's side-by-side viewer, it would appear as if the field layouts of SEA2 have remained relatively unchanged since the 19th Century and could possibly reflect late 18th Century enclosure. According to NBBC's Heritage and Archaeology Assessment,

'There is an area of well-preserved ridge and furrow earthworks (MWA31959) covering a wide portion of the site...Such features are linked to the older enclosures that date from the medieval period onwards, and are remnants of a now largely lost medieval and post-medieval landscape – as such, these heritage assets are of medium significance.'

Although the 'predominant character-type of the site is the most common in the county', have there been any studies of the extent of well-preserved ridge and furrow earthworks and older enclosures within the northern fringe of Coventry? Is it possible that this locality could lose its last remnants of a historic landscape once associated with key figures from Coventry's past? Could this loss be seen as contributing towards environmental inequity?

Have any of the hedgerows been assessed in terms of their age? Are there any ancient hedgerows? Has the history of the Public Rights of Way (B23 and B25) been investigated? Is it not important to understand what role they may have played in the past? There have been various suggestions such as drovers' roads, corpse roads and routes between Medieval sites. For example, between original Medieval settlement of Foleshill (Coventry HER MCT1020) and the Church of St Laurence (Historic England: 1335825) and the Church of St Giles.

Have there been any archaeological studies focused on the River Sowe and its floodplain? Or research into the possibility that 'a pre-existing Roman-British Christian church' could be in the vicinity of Exhall? According to the 'Warwickshire Historic Landscape Characterisation Project',

'Prehistoric and Roman settlement and features are often close to the present day floodplain...'

'*ecles - as in Exhall - found both near Alcester and Coventry strongly suggests a pre-existing Roman-British Christian church in the vicinity.'

For SEA6 Bowling Green Lane, the Heritage and Archaeology Assessment also states,

'Development within the site has the potential to negatively affect the designated heritage assets associated with Exhall Hall. It is recommended that a full heritage statement assessment be undertaken in advance of development in conjunction with detailed development proposals in order to fully understand the potential impact of the development and to identify suitable mitigation strategies where required. Possible strategies for reducing harm include sensitive design of new structures and associated amenities and their location, implementation of traffic management systems, and introduction of green buffer zones.'

Should this not have been used as a reason to highlight cultural heritage in red as a constraint? It also must be questioned why sites such as SEA2 and SEA6 have not been included in the most recent landscape character assessment.

Why are the timescales for some schemes, such as the widening and cycle route for School Lane (assumed by 2039 in the Infrastructure Delivery Schedule), projected so far into the future? Could strategic employment sites be operating and houses occupied before the infrastructure that is meant to mitigate their impacts are delivered?

Have claims of commercial non-viability been identified as a risk to sustainability? Recently, there was a claim for a strategic site (EMP6 Longford Road) within the adopted Plan. The following is from a Planning Applications Committee agenda (Tuesday 7th September 2021, Item 2, 037021).

'The applicant has undertaken a viability exercise which has been independently scrutinised and verified by the District Valuer. This viability statement and the Valuers assessment showed that the scheme would not be viable with all the contributions asked for. Some contributions can be paid up to £50,000 and these are to be included in a Section 106 legal agreement. This viability statement is considered to be a good justification for not contributing more financially to the planning obligations requested, and as such carries significant weight in the assessment of the application... Whilst it is regrettable that more cannot be sought financially national guidance and case law does allow for schemes which are demonstrated to be non-viable with full contributions to reduce these either partially or completely.'

Could the failure to secure future financial contributions impact the delivery of key infrastructure?

In response to Q8, these issues bring into question whether the SA is sound. Unless cross-boundary matters have been effectively identified and addressed, it is unlikely that the environmental, social and economic effects of the Plan's policies and proposals, as referred to in Q4, will have been adequately assessed within the SA. Therefore, in answer to Q6, it is also unlikely that site allocations near the administrative boundary with Coventry have been assessed on a comparable basis with others elsewhere. Is it possible to modify the SA and wording within policies, such as SEA2 and SEA6, to acknowledge cross-boundary matters?

Issue 3: Has the Habitat Regulations Assessment (HRA) been undertaken in accordance with the Regulations and is it robust?

References to the Severn Estuary SAC and Ramsar site and the hydrologically linked River Sowe are welcome. However, there are concerns as to whether the HRA can be considered robust when there are significant errors made within it. Within Table 2, 'SEA1[sic] – Wilsons Lane' it states,

'No Likely Significant Effect Although allocating employment, this allocation is more than 3km from Ensor's Pool SAC and therefore beyond the groundwater catchment of the site as advised by the Environment Agency'

'Non-Strategic Housing Allocation NSHA-2 and strategic allocation SEA6 (Bowling Green Lane) are both close to the River Sowe, although none are adjacent. These therefore are indirectly connected to the Severn Estuary SAC/Ramsar site.'

Yet, the River Sowe is adjacent to SEA2 Wilsons Lane and part of the site contains its flood zones. Surely, it should be recorded as a 'functionally linked habitat for the Severn Estuary SAC and Ramsar site' and the 'Likely Significant Effects Test (LSE)' at least be identified as amber if not red.

Distribution sites pose risks in terms of impacts on water quality and it is important that protective measures, such as oil/petrol interceptors, are put in place to prevent pollution events. As well as the risks of contamination from spillages (likely to be onsite fuel storage) and run-off from HGV parking areas, warehouse fires are an all-too-common issue. According to a CoventryLive article, a recent blaze at Prologis Park resulted in 'hundreds of dead and dying fish',

'Concerns have been raised after more dead fish were discovered in connection to the devastating fire at Prologis Park last week. Flames tore through RAM Enterprises last Thursday which meant dozens of fire fighters were on site to tackle the blaze which saw plumes of black smoke fill the sky.'

There was an unexpected repercussion of the fire however, when six-foot-high foam bubbles began appearing in the Longford Park section of the River Sowe. Later hundreds of fish were found dead up stream.

'The Environment Agency acknowledged the foam was a result of the fire and said they were working to make the water safe for inhabitants.' (Reach PLC, 26 August 2021)

The risk is not only from contamination through the release of whatever has been stored within a warehouse unit but the use of firefighting foams especially if they contain per- and polyfluoroalkyl substances (PFAS).

After experiencing the devastating impacts of the Prologis fire on our local river, which it is only just beginning to recover, it is understandable why there may be concern over a distribution centre being based at Wilson's Lane.

There are other inaccuracies. It does not appear as if watercourses associated with other sites have been assessed as to whether they are hydrologically linked to the River Sowe. There are at least two strategic sites where this is the case, SHA4 Hospital Lane and SHA6 Former Hawkesbury Golf Course. For example, a recent Hydraulic Modelling Report for SHA4 states,

'Banners Gate Limited has been commissioned by Persimmon Homes Central to undertake a Hydraulic Modelling Study, of an unnamed ordinary watercourse, that crosses their proposed residential development site in Bedworth.'

'The rural catchment of the unnamed ordinary watercourse tributary of the Breach Brook is very small, ungauged and its characteristics are not defined within the Flood Estimation Handbook (FEH).'

If the unnamed ordinary watercourse is a tributary of Breach Brook, then it is also hydrologically linked with the River Sowe. Therefore, should these hydrologically linked strategic sites not also have a reference to the Severn Estuary SAC and Ramsar site? How can a HRA be considered robust if it does not assess whether watercourses are hydrologically linked?

It is also disappointing that the management of sewage discharges by Corley Sewage Treatment Works into Breach Brook and at other sites into the River Sowe has not been looked at as part of a wider Local Nature Recovery Strategy (LNRS) for the River Sowe and its tributaries. The end date for the first reporting period for a Biodiversity Report is not far away (1 January 2026) and this document will need to include details on how the following has been taken into account:

- local nature recovery strategies
- protected site strategies
- species conservation strategies

Has the River Sowe been identified as a possible LNRS project? If not, why?

In response to Q9 and Q10, it is of concern as to whether these errors and omissions within the HRA may have influenced the approach to SEA2 Wilsons Lane within the Plan. In doing so, the requirements of the Conservation of Habitats and Species 2017 as amended may not have been satisfied. Is it possible to modify the HRA and update the SEA2 policy to reflect this?