

# **Nuneaton and Bedworth Borough Council Local Plan Examination**

## **Response to Matter 2: Vision, Strategic Objectives and Development Strategy**

**Land at Whitestone Farm, Nuneaton**

St Philips Land Ltd

10 June 2024

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## 1.0 Introduction

- 1.1 This statement to Matter 2 (Vision, Strategic Objectives and Development Strategy) of the examination of the Nuneaton & Bedworth Borough Plan Review (“the BPR”) is submitted by Lichfields on behalf of St Philips Land Ltd (“St Philips”), in respect of their land interests at Land at Whitestone Farm, Nuneaton. Importantly, this statement is separate to the Matters Statements submitted by a Consortium of developers, of which St Philips is a member, on Matters 1, 2, and 3 and in respect of the unmet housing needs of the Coventry and Warwickshire Housing Market Area [C&W HMA] and how these should be addressed by the constituent authorities within the C&W HMA.
- 1.2 It follows St Philips’ representations to the Regulation 19 Publication draft version of the Borough Plan Review (2021-2039) (September-October 2023) in respect of their land interests. For reference, their representations comprised those identified under the following Representation IDs (see CD14) by the Council: #124.1, #124.2, #124.3, #124.4, and #124.5.
- 1.3 The National Planning Policy Framework [NPPF] outlines that during the examination process, a Local Plan must demonstrate that it has been positively prepared, is justified, is effective and is consistent with national policy. Outlined below are responses to a select number of the Inspector’s questions which set out why the Consortium considers changes to Nuneaton & Bedworth Borough Council’s (“the Council’s”) BPR are necessary to ensure the soundness of the BPR.
- 1.4 Submitted alongside the Plan, the Council has prepared a schedule of proposed modifications that it wishes to make to the BPR. Reference is therefore made to the policies and paragraphs within the BPR version incorporating the schedule of modifications unless otherwise stated. This Statement has been prepared in line with the Guidance Note (EX/3) for the Examination.
- 1.5 The Plan was submitted in February 2024 and thus the September 2023 NPPF is wholly applicable for the purposes of assessing this plan, in accordance with paragraph 230 of the revised December 2023 NPPF.<sup>1</sup> Reference is therefore made to the September 2023 NPPF in response to the Inspector’s questions, unless otherwise stated.

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<sup>1</sup> Paragraph 230 sets out that Plans that reach pre-submission consultation (i.e. Regulation 19) on or before the 19<sup>th</sup> March 2024 will be examined under the relevant previous version of the Framework, rather than the current December 2023 version of the Framework.

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## 2.0 **Response to Inspectors' Matters**

### **Issue 1: Have the vision and strategic objectives been positively prepared, are they justified and consistent with national policy, and can all be realistically achieved?**

#### **20. Does the Plan set out an appropriate vision for the Borough based upon the evidence?**

- 2.1 Based on the evidence, the Plan does not set out a sound vision for the Borough. The vision and strategic objective 4 in particular aims *“to provide steady and adequate level of suitable housing which meets the needs of existing and new residents.”*
- 2.2 In this regard, the Plan is unsound as the proposed requirement of 545 dpa does not provide a sufficient amount of housing to also address the affordable housing needs of the Borough. The Council’s currently proposed housing requirement would only account for c.33% of the identified affordable housing need, which would increase the acute need even further.
- 2.3 On this basis, St Philips considers the vision for the Borough to be unsound and not in line with the NPPF paragraph 20(a) which states that; *“Strategic policies should set out an overall strategy for the pattern, scale and design quality of places (to ensure outcomes support beauty and placemaking), and make sufficient provision for a) housing (including affordable housing), employment, retail, leisure and other commercial development.”*

#### **21. Are the vision and strategic objectives justified, have they been positively prepared, and do they accord with the evidence and national policy?**

- 2.4 The Development Strategy section of the BPR Publication states that; *“The policies will enable the delivery of the overarching vision for the Borough and strategic objectives of the plan.”*
- 2.5 St Philips considers that Policy DS3 is unsound as it is not positively prepared. It does not provide a strategy that is informed by agreements with other authorities so that unmet need from neighbouring areas is accommodated. The policy is not justified as the strategy is not appropriate for meeting the identified affordable housing needs for the Borough. It is also not effective as it is not based on effective joint working on cross-boundary strategic matters that have been dealt with rather than deferred.
- 2.6 Policy DS4 is considered to be unsound, as it is not justified. Based on the evidence, it is not an appropriate strategy and does not seek to meet the needs of the Borough and the unmet housing needs of the C&W HMA, nor does the strategy take into account reasonable alternatives within the Green Belt. The policy is not based on effective joint working on cross-boundary strategic matters that have been dealt with rather than deferred.
- 2.7 As stated in the NPPF paragraph 11(b) *“strategic policies should, as a minimum, provide for objectively assessed needs for housing and other uses, as well as needs that cannot be met within the neighbouring areas”.*

- 2.8 Again, Policy DS6 is considered unsound. It is not justified as the strategy is inappropriate, and no evidence has been provided to support the additional policy tests imposed on appropriate development within the Green Belt, beyond those set out in the NPPF. The policy is not effective and partially duplicates policies within the NPPF, which is contrary to paragraph 16(f) of the NPPF. It is also unclear how these policy tests should be applied.
- 2.9 Overall, St Philips believes that the vision and strategic objectives are not entirely justified, nor have they been positively prepared and therefore are considered unsound.

**23. Do the vision and strategic objectives have regard to and provide for the development needs of the area as well as any identified unmet needs in neighbouring areas?**

- 2.10 Whilst the Council has considered an uplift in the housing figures identified in the HEDNA, from 409 dpa to achieve 545 dpa, to support economic growth, sustainable regeneration of the Borough's Town Centres and the delivery of the affordable housing. St Philips is highly concerned that Social/Affordable Rented Housing need identified within the HEDNA is 407 dpa between 2021 and 2039, which equates to c.75% of the Borough's total housing need figure of 545 dpa. It is noted that the THR Report identified the affordable housing delivery in net terms over the last 5 years has averaged to 141 dpa. The Council's proposed housing requirement of 545 dpa would only deliver c.33% of the Council's identified affordable housing need, increasing the acute need even further.
- 2.11 Presently, the Council's testing of reasonable alternatives to addressing these needs is either to only meet c.33%, or unreasonably and significantly increase the housing needs to align with the affordable housing requirement tested through the viability assessment.
- 2.12 The difference between the two 'options' is 1,083 dpa which brings the total housing development requirement to 1,628 dpa. A lower figure than 1,628 dpa, but higher than the recommended 545 dpa, should be considered to further address the identified affordable housing needs. As it stands, very little regard has been given to addressing reasonable alternatives.
- 2.13 It is evident to St Philips, that within the Council's evidence base, there is a clear and justifiable reason to make provision for greater level of housing than that identified within the HEDNA, to support the economic growth and social needs of the Borough. St Philips strongly believe there is no valid or robust reason to plan for less than this number.
- 2.14 St Philips has major concerns regarding the Council's lack of acknowledgement in respect of the unmet housing need arising in the C&W HMA within the Publication BPR.
- 2.15 If Coventry's identified need of 39,280 dwellings (between 2021 and 2041) in the HEDNA was accepted, the Coventry's proposed land supply shows there would be an unaccounted unmet housing need of c.14,000 dwellings over the plan period.
- 2.16 Moreover, whilst the Council's BPR is at an advanced stage, the Inspector's findings at the Warwick Examination in Public [EiP] remain relevant. In particular, the Council's tacitly implied approach – of seeking to defer the unmet need issue rather than deal with it – was lambasted by the Inspector for the Warwick District Local Plan
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- 2.17 St Philips strongly believe that Coventry will struggle to fully address its housing needs within its boundaries and should consider distributing the C&W HMA's unmet needs between the authorities.
- 2.18 It is noted that historically, the C&W HMA has sought to take a collaborative and 'evidence-led' approach to address the HMA's housing needs. There is currently however, no ongoing commitment from the C&W HMA authorities to identify where these housing needs should be delivered.
- 2.19 Importantly, the Council appears to have elected to defer dealing with this important cross-boundary matter rather than seeking to address such needs through the BPR. In this respect, St Philips considers that any identified shortfall should be dealt with now rather than through a future review of the BPR, as required by the Duty to Cooperate (Paras 24 and 27 of the NPPF).
- 2.20 On behalf of St Philips, Lichfields has prepared the Functional Relationship Analysis which indicates how the C&W HMA's needs could sustainably be distributed amongst neighbouring authorities based upon the functional relationships between those authorities. Lichfields' model indicates that to address the unmet housing needs of Coventry, Nuneaton and Bedworth would take 40% of the Coventry's unmet needs up to 2041, on top of the Borough's own housing needs, equating to a contribution between c.5,650 and c.15,910 dwellings.
- 2.21 Based on the above, it is considered the BPR clearly fails to provide for the development needs of the HMA and would not satisfy the test of soundness.

**25. Is it necessary for the Plan to consider the release of Green Belt land to meet identified development needs?**

- 2.22 St Philips strongly believes that the Council will not have sufficient land to meet the Borough's own housing need, in addition to the unmet housing need arising from Coventry.
- 2.23 When read as a whole, one of the core components of the NPPF is that the Council should seek to promote sustainable patterns of development. It is entirely possible for Green Belt land to provide a more sustainable location for development, even if other sources of greenfield land potentially being available.
- 2.24 Accordingly, St Philips considers that there is a cogent need to review the Green Belt across the Borough area. The NPPF is clear on the weight to be attached to the Green Belt by the Government, and that "*once established, there is no requirement for Green Belt boundaries to be reviewed or changed when plans are being prepared or updated. Authorities may choose to review and alter Green Belt boundaries where exceptional circumstances are fully evidenced and justified, in which case proposals for changes should be made only through the plan-making process.*" (Para 145).
- 2.25 St Philips considers that the Council should have a regard to the significant and acute unmet housing need arising across C&W HMA, which in this instance should constitute 'exceptional circumstance' necessary to justify alteration to the Green Belt boundary. In this respect, in the *Calverton Parish Council v Nottingham City Council* High Court Judgment<sup>2</sup>,

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<sup>2</sup> Calverton Parish Council v Nottingham City Council & Ors [2015] EWHC 1078 (Admin) (21 April 2015)



the Judge pointed to the acuteness of the objectively assessed housing needs when considering whether housing need should be considered an exceptional circumstance (Para 51)<sup>3</sup>.

- 2.26 It is therefore entirely reasonable, and indeed necessary, for the Council to review the Green Belt, to establish whether parcels of land could be released to assist in meeting the Council's housing needs and the unmet housing needs of others. It is also entirely consistent with the approach required by the NPPF.

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<sup>3</sup> It is noted that this Judgment is set within the context of the 2012 NPPF. However, whilst the 2019 NPPF, and subsequent versions, marginally amended national Green Belt policy, it can be adjudged that the definition and tests for exceptional circumstances have not changed under the 2019 NPPF and subsequent versions. Therefore, definitions and tests established under the 2012 NPPF through case law can be considered relevant and instructive in respect of the current context.

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## **Issue 2: Has the development strategy and the overall distribution of development been positively prepared, is it justified by a robust and credible evidence base, and is it consistent with national policy?**

### **30. Has the development strategy been fully informed by the SA and other evidence? Is it soundly based? Does it accord with the Framework?**

- 2.27 There is a requirement for the Council to test reasonable alternatives.<sup>4</sup> To test Green Belt sites in the SA (i.e. Reasonable Alternatives), the Council would have needed to undertake a Green Belt Assessment and conclude that 'exceptional circumstances' do exist however, the Council has not undertaken this review. In St Philips view, the Council should have regarded the significant and acute unmet housing need which is arising across the C&W HMA and should have considered it as 'exceptional circumstance' as previously considered in the *Calverton Parish Council v Nottingham City Council* High Court Judgment (mentioned earlier in this statement).
- 2.28 Furthermore, the development strategy has not been fully informed by the SA and other evidence and is not consistent with national policy. For instance, the Council has not re-tested alternative housing requirements within the SA report to enable it to conclude whether the currently proposed housing requirement is a sustainable option.
- 2.29 St Philips considers that Council should have prepared a robust and evidence-led approach to distributing the unmet housing needs of the C&W HMA and tested the outcome of this through the SA process.
- 2.30 In this regard, it is considered that the development strategy has not been fully informed by the SA and other evidence and is not sound.

### **Is the site selection process clear and suitably robust, supported by the SA and other evidence, with particular regard to the proposal to not allocate some sites that are allocated in the adopted Plan?**

- 2.31 St Philips view is that all Green Belt sites should have been reviewed through the SA process. This includes the site at Bulkington Lane, Whitestone Farm, Nuneaton, which is considered to present an excellent location to deliver approximately 500 dwellings. Release of this site from the Green Belt would deliver an accessible development that benefits from easy links to facilities in Whitestone and Nuneaton, and would include creation of a new country park which would assist in facilitation leisure based access to the countryside and compensatory improvements in the context of NPPF paragraph 142.
- 2.32 On this basis, St Philips considers that the site selection process is not suitably robust or clear.

### **32. Have reasonable alternatives been considered and clearly discounted on the evidence?**

- 2.33 Whilst it is noted that the Council's current testing of reasonable alternatives to addressing these needs is either to only meet the approximately c.33% of the affordable housing

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<sup>4</sup> PPG ID: 11-018

requirement (545 dpa), or unreasonably and significantly increase the housing needs to align with the affordable housing requirement tested through the viability assessment (1,628 dpa) – the Council presents little to no consideration to an ‘in-between’ option.

- 2.34 The approach taken by the Council has not enabled the assessment of reasonable alternatives and the associated impact to be assessed.
- 2.35 St Philips considers that the Council should have regard to the significant and acute unmet housing need arising across C&W HMA, in testing a range of housing growth option on a “policy off” position.
- 2.36 The consequence is that the Council has therefore failed to allocate sufficient housing sites to address the housing needs of the Borough and the C&W HMA.
- 2.37 St Philips considers that this position is unsound and considers that the site at Whitestone Farm, Nuneaton presents a clear and logical opportunity to address part of these housing needs, in a sustainable location that can offer compensatory improvements to the Borough’s Green Belt.

**33. Would the policies in the Plan, taken as a whole, effectively implement the vision and strategic objectives?**

- 2.38 The policies in the Plan, taken as a whole, would not effectively implement the vision and strategic objectives.
- 2.39 As previously explained, the policies do not sufficiently address the housing requirement accounting for affordable housing need. Moreover, the policies do not provide a clear strategy for meeting the unmet needs from the C&W HMA within the Borough now, nor does the strategy takes into account the consideration of reasonable alternatives, including release of land from the Green Belt.
- 2.40 St Philips believes that some policies are not based on effective joint working on cross-boundary strategic matters that have been dealt with rather than deferred. St Philips therefore considers that the policies would not effectively implement the vision and the strategic objectives of the Plan aimed at ensuring sufficient new homes are delivered to meet the identified needs of the Borough and the C&W HMA.
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