

## **APPENDIX 1**

### **EXCEPTIONAL CIRCUMSTANCES AND THE ACHIEVEMENT OF SUSTAINABLE DEVELOPMENT**



Richborough  
Estates

EXCEPTIONAL CIRCUMSTANCES AND THE  
ACHIEVEMENT OF SUSTAINABLE DEVELOPMENT

January 2018

## Contents

Introduction and purpose of this paper	2
National Policy Position	3
Case Studies	5
Conclusion	8

**Appendix 1** - Excerpts of R. (Luton Borough Council) v Central Bedfordshire [2015] EWCA Civ 537 (Longmore, Tomlinson, Sales LJJ)

**Appendix 2** - Excerpts of IM Properties Development Ltd v Lichfield DC [2014] EWHC 2440 (Admin)

**Appendix 3** - Excerpts of Warwick Local Plan Inspector's Report (28/7/17)

**Appendix 4** - Excerpts of Cheshire East Local Plan Inspector's Report (20/6/17)

**Appendix 5** - Excerpts of Cheshire East Local Plan Inspector's interim views and clarification (6 & 28/11/14)

**Appendix 6** - Excerpts of Cheshire East Local Plan Inspector's further interim views (11/12/15)

**Appendix 7** - Excerpts of Lichfield Local Plan Inspector's Report (16/1/15)

## Introduction and purpose of this paper

- 1.1 This document has been produced by Richborough Estates in order to set out our position on the interpretation of the Government's Green Belt policy in the formulation of new Local Plans across the country.
- 1.2 As a national land promoter, we experience a range of approaches to Green Belt from Local Planning Authorities (LPAs). The variation in approaches to the treatment of Green Belt is as a consequence of it being one of the most emotive and politically-driven aspects of planning.
- 1.3 Indeed, the sensible consideration of Green Belt has been to a degree further hampered by the Government's Housing White Paper (HWP) (February 2017), which stated that: *"Maintaining existing strong protections for the Green Belt, and clarifying that Green Belt boundaries should be amended only in exceptional circumstances when local authorities can demonstrate that they have fully examined all other reasonable options for meeting their identified housing requirements"* (Pg. 18).
- 1.4 The term 'all other reasonable options' has been erroneously interpreted in some quarters as meaning that Green Belt release has become a last resort that should be avoided even if the restriction of Green Belt release will lead to dire outcomes against the achievement of wider sustainability objectives. Such an approach is the antithesis of sound and robust planning, and if we are to tackle the housing crisis in a sustainable manner then it is a mindset and approach that must not be allowed to perpetuate.
- 1.5 This document seeks to set out the policy basis on which judgements should be made in preparing Local Plans in areas effected by Green Belt, and then moves on to set out a number of case studies where the consideration of Green Belt has been appropriate, consistent with national policy and has led to the delivery of sustainable, Plan-led growth.

## National Policy position

- 2.1 Section 9 of the National Planning Policy Framework (NPPF) sets out the Government's full position on Green Belt, which is a designation to which they attach 'great importance'.
- 2.2 Paragraph 80 sets out the five purposes of Green Belt as follows:
- to check the unrestricted sprawl of large built-up areas;
  - to prevent neighbouring towns merging into one another;
  - to assist in safeguarding the countryside from encroachment;
  - to preserve the setting and special character of historic towns; and
  - to assist in urban regeneration, by encouraging the recycling of derelict and other urban land.
- 2.3 Paragraph 83 then sets out that: '*Green Belt boundaries should only be altered in exceptional circumstances, through the preparation or review of the Local Plan.*' Clearly, this sets out that the mechanism to release Green Belt is through the Local Plan process, provided that *exceptional circumstances* are demonstrated.
- 2.4 Furthermore, paragraph 84 of the NPPF says: "*When drawing up or reviewing Green Belt boundaries local planning authorities should take account of the need to promote sustainable patterns of development. They should consider the consequences for sustainable development of channelling development towards urban areas inside the Green Belt boundary, towards towns and villages inset within the Green Belt or towards locations beyond the outer Green Belt boundary.*"
- 2.5 This is clear guidance that adhering to Green Belt boundaries should not be at the expense of sustainable patterns of growth. This should come of no surprise, after all, the opening words of the Ministerial foreword of the NPPF are: '*The purpose of planning is to help achieve sustainable development.*'
- 2.6 These paragraphs have been considered in several judgments.
- 2.7 In ***R. (Luton Borough Council) v Central Bedfordshire*** [2015] EWCA Civ 537 (Longmore, Tomlinson, Sales LJ) (excerpts enclosed at **Appendix 1**), the Court of Appeal held that the demonstration of *exceptional circumstances* is a less rigorous test than the demonstration of *very special circumstances*, stating that "...paras. 87-88 of the NPPF provide guidance regarding the approach to be adopted if there is a proposal for development of an area within the Green Belt set out in a local plan: "very special circumstances" have to be shown. This is a stricter test than that in para. 83 in respect of changing the boundaries of the Green Belt in the local plan." [54]
- 2.8 In ***IM Properties Development Ltd v Lichfield DC*** [2014] EWHC 2440 (Admin) (excerpts enclosed at **Appendix 2**), Patterson J held as follows:

"96. What is clear from the principles distilled in the case of Gallagher is that for revisions to the green belt to be made exceptional circumstances have to be demonstrated. Whether they have been is a matter of planning judgment in a local plan exercise ultimately for the Inspector.

...

98. [Paragraph 84] *is clear advice to decision makers to take into account the consequences for sustainable development of any review of green belt boundaries. As part of that patterns of development and additional travel are clearly relevant.*”

- 2.9 For Local Plans to put the retention of Green Belt above the achievement of sustainable development is therefore contrary to the Government’s guidance and should not be considered ‘*sound*’ in Local Plan Examinations. However, this requires tough and pragmatic decisions to be made at both the officer and political levels during the production of Local Plans; or extensive delays during the Examination process whilst Local Plans are re-engineered so as to be found ‘*sound*’.

## Case studies

### Warwick Local Plan

- 3.1 The Warwick Local Plan was adopted in September 2017; it is a LPA where 80% of the District is covered by Green Belt and thus it is an example where the Council and the Inspector had to wrestle with the release of Green Belt and how significant housing growth, including the meeting of unmet needs from the neighbouring Coventry City Council, could be sustainably distributed; whilst sustainable towns such as Kenilworth which are enclosed by Green Belt could still be allowed to prosper and meet the needs of existing and future residents over the Plan period.
- 3.2 Below we draw out the most pertinent points from the [Inspector's Report](#) (excerpts enclosed at **Appendix 3**) in terms of the conclusions on the approach to Green Belt:
- **Para 92** – the Inspector makes clear here that when there are sustainable opportunities on non-Green Belt sites to meet the needs of a specific settlement, then the exceptional circumstances to meet those needs on Green Belt land are not demonstrated;
  - **Para 97** – here the Inspector refers to the re-distribution of development to meet the unmet needs of Coventry outside of the District. Confirming that the provision of growth that is Coventry-facing, in the Green Belt, is “justified and necessary”;
  - **Para 206-209** – referring to Kenilworth, the Inspector notes that it “provides an appropriate and sustainable location for significant housing growth within the District” but that “*There are very limited opportunities for housing development on any scale within the built up area*”, factors which contribute to him concluding that there are the requisite exceptional circumstances for releasing Green Belt adjacent to Kenilworth; and
  - **Para 316** – the Inspector is at this point considering an additional allocation proposed by the Council at Barford (H47) – a non-Green Belt village. He states that: “*Barford is not affected by the Green Belt and is rightly identified as a Growth Village. Furthermore, as noted above, the indicative capacity should not be seen as a strict limit on the number of dwellings. However, these factors do not mean that there is necessarily potential to accommodate additional housing in Barford and they must be balanced against the need to ensure that development remains in keeping with the scale and character of the village and the impacts of specific sites. The consideration of additional sites also needs to take account of the ability to meet the District's housing requirements at other locations in the District in line with the spatial strategy.*” The Inspector therefore deletes site H47, whilst retaining Green Belt releases so as not to over develop in a non-Green Belt area at the expense of sustainably distributing growth across the District in accordance with the spatial strategy.
- 3.3 The Inspector of the Warwick Local Plan has clearly engaged with the matter fully and demonstrated that Green Belt should not be used as a barrier to providing sustainable patterns of growth, and that releasing Green Belt that is well-related to sustainable settlements, whose needs cannot be met on non-Green Belt land, is a clear demonstration of the requisite exceptional circumstances; and, equally importantly, that unsustainable levels of growth in non-Green Belt areas which fail to conform with the spatial strategy for an area are not to be considered sound – demonstrating clearly that Green Belt release is not a *last resort*.

### Cheshire East Local Plan

- 3.4 In the main [Inspector's Report](#) (excerpts enclosed at **Appendix 4**) at paragraph 94, the Inspector acknowledges that “*proposals for releasing land from the Green Belt for development or Safeguarded Land around the main towns is very contentious.*” However, he found that exceptional circumstances had been demonstrated due in part to “... *the need to allocate*

*sufficient land for market and affordable housing and employment development, combined with the adverse consequences for patterns of sustainable development of not doing so...*"

- 3.5 The final Inspector's report followed two earlier interim views from the Inspector, which are appended to the report. These set out the amendments that were required in order to make the Plan suitable for adoption during the Examination process.
- 3.6 In [appendix 1](#) (excerpts enclosed at **Appendix 5**) – 'Inspector's interim views and clarification (6 & 28/11/14)' we note the following:
- **Para 76 and 80** – The Inspector notes that, *'These settlements are confined by the existing Green Belt, but there is also a need to promote sustainable patterns of development, which address the future housing, employment and other development needs of these settlements... It therefore seems to me that although the settlement hierarchy is appropriate, justified and soundly based, some further work may be required to justify the proposed spatial distribution of development, particularly to address the development needs and opportunities of the Green Belt settlements in the north of the district.'* This again demonstrates that, where Green Belt has been used as a constraint to such a degree that the needs of settlements are not being met, that it is necessary to make additional allocations in order to render the Plan sound.
- 3.7 In [appendix 2](#) (excerpts enclosed at **Appendix 6**) – 'Inspector's further interim views (11/12/15)' – we note that, following amendments to the spatial distribution of development:
- **Para 68** – the reconsideration of the spatial distribution of development, *'considers alternative options, and recognises that channelling too much development to areas beyond the North Cheshire Green Belt to the south of the borough would result in unsustainable patterns of development and commuting, and would not address the development needs of the northern settlements. There is a need for a reasonable balance of development throughout the borough, and the allocation of more development to the northern settlements would almost inevitably result in the loss of some Green Belt land.'* The Inspector here acknowledges that without releasing appropriate levels of Green Belt in sustainable locations and in order to meet the needs of settlements there would be unsustainable patterns of development and that there is a need to balance development across the Borough; even if that necessitates the release of Green Belt land.

### Lichfield Local Plan

- 3.8 The [Inspector's Report](#) (excerpts enclosed at **Appendix 7**) deals expressly with one of our primary concerns with the interpretation of national policy, particularly post-HWP, of Green Belt being a last resort. The Inspector considers this point at paragraph 200, noting that: *"... I can find no justification in the Framework, in Planning Guidance or indeed in the case of I M Properties for the proposition that Green Belt land should be released only as a last resort. This would be to accept that sustainability is the servant of Green Belt designation – which it is not. On the contrary, as has already been established, the duty in determining Green Belt boundaries is to take account of the need to promote sustainable patterns of development."*
- 3.9 The Inspector goes on to note in terms of the demonstration of exceptional circumstances that, *"In my judgement the lack of more sustainable sites outside the Green Belt to meet the identified need for housing in a way that is consistent with the Plan's urban and key centre strategy amounts, in this instance, to the exceptional circumstances that justify the release of Green Belt land..."* [207].



- 3.10 The Inspector has clearly balanced a range of sustainability considerations in forming the view that the demonstration of exceptional circumstance and determination of Green Belt boundaries should take account of the need to promote sustainable patterns of development – to approach this from the alternate perspective that sustainability is secondary to retaining Green Belt boundaries would be wrong and inconsistent with national policy.

## Conclusion

- 4.1 This report sets out the national policy context for the consideration of Green Belt release, including how exceptional circumstances can be demonstrated at a District or settlement-level and how the consideration of Green Belt release should be done to support the overarching purpose of planning: to help to achieve sustainable development.
- 4.2 Government guidance, particularly the wording of the HWP has undoubtedly introduced a degree of confusion and uncertainty in the understanding of how the achievement of sustainable development should be balanced against the consideration of 'all other reasonable options' and the demonstration of exceptional circumstances.
- 4.3 However, the above case studies demonstrate clearly that sustainability is not the servant of Green Belt designation; on the contrary, the duty in determining Green Belt boundaries is to take account of the need to promote sustainable patterns of development.
- 4.4 Consequently, whilst we appreciate that the decision to release Green Belt is often controversial politically and with local communities, to avoid significant delays during the Examination of Local Plans it is imperative that LPAs do not shy away from considering the need to release Green Belt in order to deliver a sustainable overall distribution of growth or to meet the specific needs of individual settlements, and the consequences of delivering a lack of growth in settlements that are constrained by the Green Belt.

**Appendix 1 –**

Excerpts of R. (Luton Borough Council) v Central Bedfordshire [2015]  
EWCA Civ 537 (Longmore, Tomlinson, Sales LJJ)

**The Queen on the application of Luton Borough Council v Central Bedfordshire Council v Houghton Regis Development Consortium, Lands Improvement Holdings Limited, Landmatch Limited, Friends Life Limited, St Albans Diocesan Property Company Limited**

Case No: C1/2015/0091

Court of Appeal (Civil Division)

20 May 2015

**[2015] EWCA Civ 537**

**2015 WL 2369975**

Before: Lord Justice Longmore Lord Justice Tomlinson and Lord Justice Sales

Date: Wednesday 20th May 2015

On Appeal from the Queens Bench Division Administrative Court

Mr Justice Holgate

Hearing date: 6 May 2015

## **Representation**

Mr Peter Village QC & Mr Andrew Tabachnik (instructed by Winckworth Sherwood LLP ) for the Appellant.

Ms Saira Sheikh QC (instructed by Central Bedfordshire Council ) for the Respondent.

Mr Martin Kingston QC & Mr Hugh Richards (instructed by King & Wood Mallesons LLP ) for the Interested Parties.

## **Judgment**

Lord Justice Sales:

### **Introduction**

1 This is an appeal in relation to a judgment of *Holgate J – [2014] EWHC 4325 (Admin)* (“the judgment”) – in which he refused an application by the appellant (“Luton BC”) for judicial review of a grant of planning permission by Central Bedfordshire Council (“CBC”). The planning permission was formally granted by CBC on 2 June 2014, pursuant to a decision made by its planning committee at a meeting on 4 September 2013.

2 The permission granted by CBC is for outline planning permission for a major development on 262 ha of open fields immediately to the north of the Luton/Dunstable/Houghton Regis conurbation, lying between the existing conurbation and a major road, the M1-A5 link road. The grant of planning permission was conditional on, and accompanied by, an agreement with the interested party developers under section 106 of the Town and Country Planning Act 1990 (“the section 106 agreement”) in which the developers agreed, among other things, to make financial contributions to the infrastructure in respect of the development and to provide a degree of affordable housing within the development. It is because Luton BC is concerned that the amount of affordable housing agreed to be provided is too low that these judicial review proceedings have been brought.

weight to be attached to such policies depends upon the stage of preparation or review, increasing as successive stages are reached. For example:

- Where a DPD is at the consultation stage, with no early prospect of submission for examination, then refusal on prematurity grounds would seldom be justified because of the delay which this would impose in determining the future use of the land in question.
- Where a DPD has been submitted for examination but no representations have been made in respect of relevant policies, then considerable weight may be attached to those policies because of the strong possibility that they will be adopted. The converse may apply if there have been representations which oppose the policy. However, much will depend on the nature of those representations and whether there are representations in support of particular policies.

19. Where planning permission is refused on grounds of prematurity, the planning authority will need to demonstrate clearly how the grant of permission for the development concerned would prejudice the outcome of the DPD process.”

49 This was the relevant guidance at the time of the meeting of CBC's planning committee on 4 September 2013, as set out in Luton BC's letter of 27 August 2013. This guidance has since been replaced by “The Planning System: General Principles”, which was the guidance in place when the planning permission for development of HRN1 was granted in June 2014. But there has been no material change in the guidance on the question of prematurity in deciding applications for planning permission.

50 It was common ground that a planning authority may refer to emerging development plans as material considerations relevant to determination of applications for planning permission, within the meaning of section 38(6) of the 2004 Act.

## Discussion

### *Ground 1: paragraph 83 of the NPPF*

51 By Ground 1, Luton BC submits that CBC failed properly to take into account para. 83 of the NPPF when deciding to proceed to grant planning permission and in rejecting Luton BC's contention that it was premature for it to do so. The judge rejected this ground of challenge at paras. [100]-[110] of the judgment. In my view, he was right to do so.

52 Mr Village submitted that the judge erred, because he failed to give proper weight to what he described as “the injunction” in para. 83 of the NPPF that Green Belt boundaries should only be altered in exceptional circumstances, through the preparation or review of the Local Plan. According to Mr Village, para. 83 gives clear priority to the process for development and adoption of local plans when issues of changing Green Belt boundaries arise; the practical effect of a grant of planning permission in this case was to change the boundary of the Green Belt; and so it was premature for CBC to grant planning permission before the designation of the Green Belt in the relevant local plan had been changed (if that ever happened) through the adoption of the Development Strategy to amend the local plan. Or, at the very least, if the planning committee wished to depart from the guidance in para. 83 it should have considered that paragraph directly and identified good reasons for doing so. But the August 2013 OR did not advise committee members of the injunction in para. 83, and did not identify any good reason for departing from it. Mr Village says that CBC's officers should have drawn the attention of committee members to para. 83 even though at the time of the meeting on 4 September 2013 no-one, including Luton BC, had referred to it in representations made in relation to CBC's consideration of the application; alternatively, once CBC's officers saw para. 83 referred to in support of Luton BC's prematurity argument in its letter dated 7 October 2013 to the Secretary of State, they had a duty to draw the attention of the planning committee to it before planning permission was formally granted on 2 June 2014 (and in that regard he relied upon *Kides v South Cambridgeshire DC* [2002] EWCA Civ 1370; [2003] 1 P&CR 19).

53 In my judgment, Mr Village's submission confuses two different processes and seeks to attach

greater weight to para. 83 than it can bear in the present context.

54 The second sentence of para. 83 of the NPPF provides guidance regarding the approach to be adopted if there is a proposal to alter the boundaries of the Green Belt in a local plan: exceptional circumstances have to be shown to justify such a course. But paras. 87-88 of the NPPF provide guidance regarding the approach to be adopted if there is a proposal for development of an area within the Green Belt set out in a local plan: “very special circumstances” have to be shown. This is a stricter test than that in para. 83 in respect of changing the boundaries of the Green Belt in the local plan.

55 Paragraph 83 does not lay down a presumption or create a requirement that the boundaries of the Green Belt must first be altered via the process for changing a local plan before development may take place on the area in question. Paragraphs 87-88 plainly contemplate that development may be permitted on land within the Green Belt, without the need to change its boundaries in the local plan, provided “very special circumstances” exist.

56 Nor does para. 83 somehow create a presumption that the boundaries of the Green Belt must first be altered by changes to the local plan (effected through the local plan development process, which includes independent examination by an inspector) before permission for development can be given, in a case where (as here) there is a parallel proposal to alter the boundaries of the Green Belt set out in the local plan. Whilst it may be easier to proceed in stages, by changing the local plan to take a site out of the Green Belt (according to the less demanding “exceptional circumstances” test) and then granting permission for development without having to satisfy the more demanding “very special circumstances” test, there is nothing in para. 83 (read in the context of the entirety of section 9 of the NPPF) to prevent a planning authority from proceeding to consider and grant permission for development on the land in question while it remains within the designated Green Belt, provided the stringent “very special circumstances” test is satisfied.

57 The August 2013 OR properly emphasised to members of the planning committee that they could only grant planning permission for development of HRN1 if they were satisfied that the “very special circumstances” test was satisfied. There was no misdirection or material error as a result of the omission of a reference to para. 83 of the NPPF in the officer's report. In the particular circumstances of this case, there was a proper basis on which the planning committee could lawfully and rationally conclude that “very special circumstances” existed to the requisite standard to justify the grant of planning permission for development of HRN1.

58 There was, of course, an issue regarding the interaction of the local plan development process and the application for planning permission which required consideration, namely whether it would be premature to grant planning permission in respect of the development of HRN1 in a manner which might well in practice pre-empt (by development on the ground) the decision to be taken in the context of the development of the local plan through review of the Development Strategy proposals to alter the boundary of the Green Belt so as to remove HRN1 from it. However, this issue was properly drawn to the attention of the committee and discussed in the August 2013 OR and the September 2013 OR. Their attention was drawn to the relevant policy guidance in paras. 17-19 of the “Planning System General Principles” and para. 216 of the NPPF. As the judge correctly held, the prematurity issue was addressed in sufficient depth in the reports before them: paras. [109]-[110] of the judgment. The planning committee were lawfully and rationally entitled to decide, in the particular circumstances of the case, that there was no sound prematurity objection to the grant of planning permission.

*Ground 3: challenge to paragraph 5.35 of the August 2013 OR and the weight given to CBC's pre-submission draft Development Strategy*

59 Under this Ground, Mr Village argues that CBC's planning committee failed to take into account and apply para. 216 of the NPPF, set out above. In particular, he says that the August 2013 OR failed to draw attention to the fact that there were significant unresolved objections by Luton BC to the draft Development Strategy which remained for examination through the independent review process pursuant to section 20 of the 2004 Act. The committee were misled into attaching too much weight to the draft Development Strategy and/or reached an irrational view as to the weight to be attached to it.

60 The judge dismissed this ground of challenge at paras. [120]-[136]. In my view, he was right to

**Appendix 2 –**  
Excerpts of IM Properties Development Ltd v Lichfield DC  
[2014] EWHC 2440 (Admin)

**I.M. Properties Development Limited v Lichfield District Council v Taylor Wimpey (UK) Limited, Persimmon Homes Limited**

Case No: CO/1049/2014

High Court of Justice Queen's Bench Division Planning Court Birmingham District Registry

18 July 2014

**[2014] EWHC 2440 (Admin)**

**2014 WL 3535440**

Before: Mrs Justice Patterson

Date: Friday 18th July 2014

Hearing dates: 1st and 2nd July 2014

**Representation**

Anthony Crean QC (instructed by Shoosmiths LLP ) for the Claimant.

Gary Grant (instructed by Democratic, Development and Legal Services ) for the Defendant.

Morag Ellis QC and Hereward Phillpot (instructed by Berwin Leighton Paisner LLP ) for the First Interested Party.

Jeremy Cahill QC , Satnam Choongh and James Corbet Butcher (instructed by Squire Patton Boggs (UK) LLP ) for the Second Interested Party.

**Judgment**

Mrs Justice Patterson:

**Introduction**

1 This is an application by the claimant for judicial review of a decision by the defendant dated 28th January 2014 to endorse the main modifications to the draft Lichfield Local Plan Strategy. The claimant seeks a quashing order of the decision.

2 The main modifications endorsed by the defendant include proposals to release areas of land known as Deans Slade Farm and Cricket Lane from the Green Belt. The former site is subject to an interest by Taylor Wimpey UK Limited, the first interested party, and the latter site is subject to an interest by Persimmon Homes Limited, the second interested party. Both Deans Slade Farm and Cricket Lane lie to the south of Lichfield and are close to the urban area.

3 Throughout the local plan process the claimant has been interested in, and has promoted, a new village concept on land to the North East of Lichfield known as land to the north east of Watery Lane, Curborough. In January 2014 the claimant submitted a planning application for up to 750 dwellings, primary school, care village, local neighbourhood facilities to facilitate retail development, community building, parking, comprehensive green infrastructure and landscaping, new access points to Watery Lane and Netherstone lane and improvements to Netherstone Lane. That was refused by the defendant, the Local Planning Authority on the 20th May 2014 for seven reasons (including one that referred to the site being outside the settlement boundaries and not being allocated in the emerging local plan strategy). The Watery Lane site is not within



a Green Belt has been established and approved, it requires more than general planning concepts to justify an alteration.”

91 From that review it can be seen that there is no test that green belt land is to be released as a last resort. It is an exercise of planning judgment as to whether exceptional circumstances necessitating revision have been demonstrated.

92 The interested parties emphasise the importance of section 39 of the Planning and Compulsory Purchase Act 2004 which imposes a duty upon the defendant and the inspector when exercising their functions under part 2 of the Act in relation to local development documents. The section demonstrates that the achievement of sustainable development is an ongoing duty upon any body exercising its function under part 2 of the Act. Sustainable development is a concept which is an archetypal example of planning judgment.

93 The duty to contribute to sustainable development imports a concept which embraces strategic consideration about how best to shape development in a district to ensure that proper provision is made for the needs of the 21st century in terms of housing and economic growth and for mitigating the effects of climate change. Inevitably, travel patterns are important. Both the SEA and the sustainability appraisal are important components in forming a judgment to be made under Section 39(2) .

94 As a result it is submitted that the green belt designation is a servant of sustainable development.

## **Discussion and conclusions**

95 In my judgement to refer to a falsification doctrine is to take the words of Simon Brown LJ out of context. To elevate the words that he used into a doctrine is to overstate their significance.

96 What is clear from the principles distilled in the case of Gallagher is that for revisions to the green belt to be made exceptional circumstances have to be demonstrated. Whether they have been is a matter of planning judgment in a local plan exercise ultimately for the inspector. It is of note that in setting out the principles in Gallagher there is no reference to a falsification doctrine or that any release of green belt land has to be seen as a last resort.

97 The only statutory duty is that in Section 39 (2) (supra). In that regard the contents of paragraph 84 of the NPPF are relevant. That says,

“84. When drawing up or reviewing Green Belt boundaries local planning authorities should take account of the need to promote sustainable patterns of development. They should consider the consequences for sustainable development of channelling development towards urban areas inside the Green Belt boundary, towards towns and villages inset within the Green Belt or towards locations beyond the outer Green Belt boundary.”

98 That is clear advice to decision makers to take into account the consequences for sustainable development of any review of green belt boundaries. As part of that patterns of development and additional travel are clearly relevant.

99 Here, the release from the green belt is proposed in Lichfield which is seen by the defendant as consistent with the town focused spatial strategy. The further releases have been the subject of a revised sustainability appraisal by the defendant. That found that no more suitable alternatives existed for development.

100 The principal main modifications endorsed by the defendant expressly referred to the green belt review and to the supplementary green belt review as informing the release of green belt sites. They contained advice as to the relevant tests that members needed to apply. Both documents were available to the decision making committees and were public documents. Ultimately, the matter was one of planning judgment where the members had to consider whether release of green belt land was necessary and, in so determining, had to be guided by their statutory duty to achieve sustainable development.

101 The members were aware that they had originally been presented with the Deans Slade and Cricket Lane sites as directions of growth at a much earlier stage of the local plan development. As the sites were to the south of Lichfield members were advised that development there would have little impact on the setting of the city overall and there were few limitations beyond the policy constraint of green belt. However, the extent of concern about loss of green belt at that time meant that the plan was revised to reduce the amount of growth in that direction. The inspector had found that the defendant had failed to produce a sound plan with that approach. An alternative strategy of a new village had been considered by the inspector as a first stage of the examination process and he had found that that failed to outperform the council's preferred strategy. The members were entitled to take all of those factors into account in concluding whether there was a necessity to propose to release sites from the green belt.

102 In my judgment, the members were aware of the test which they had to apply through the content of the documents before them together with their experience and knowledge as members of a council where a significant amount of its land was within the green belt. They were entitled to take into account the genesis of the plan and the inspector's findings in concluding that in their view there were exceptional circumstances for a green belt revision. The main modifications endorsed show, in my judgment, that the defendant grappled with matters set out in the NPPF, their duty under Section 39 and the request by the Inspector to remedy shortcomings in their Development Plan.

103 Further, the letter from Deloitte of the 6th January 2014 which was sent to members of the Environment and Development (Overview and Scrutiny) Committee, albeit on the part of the claimants, was absolutely clear as to the correct approach to adopt. It rightly said that exceptional circumstances had to be demonstrated. It is odd, in those circumstances, for the claimant to make the submission that the defendant throughout misunderstood, misinterpreted and/or was misled as to the relevant test to apply. This ground fails.

#### *Issue Four – Fairness of the process adopted by the defendant*

104 The claimant submits that deliverability of a development site is a central concern. The process that the defendant has embarked upon is geared up to the resolution of a housing shortfall identified by the inspector in the order of 900 units. It is clearly material for the local authority, in those circumstances, to have regard to land outside the green belt. That is especially the case when such land as is suggested is supported by experienced developers.

105 It was unfair, therefore, in the circumstances, to tell the members of the defendant that the information on the claimant's proposal was too vague. That is especially the case as a planning permission was submitted accompanied by an EIA. That members were not informed was as a result of the guillotine on receipt of information after the 10th July 2013. It is contended that that is an unfair approach especially as that date has been applied selectively. It is apparent from the supplementary sustainability appraisal and the habitats regulations assessment that information has been provided after the 10th of July which is favourable for other sites, in particular, to Deans Slade Farm and Cricket Lane.

106 Further, the Parliamentary Statement of the 17th January 2014 should have been brought to members attention. That is a further example of unlawfulness. There was no attempt to bring it to the notice of the relevant decision making committee. The statement made it clear that unmet housing need could not amount to an exceptional circumstance.

107 The defendant submits that the guillotine was applied ruthlessly in relation to all prospective development sites. There was no unfairness as it applied to all of those who were promoting a site. It was the logical place to apply a guillotine as the defendant had thought that was the end of the evidence process. It did not know when the date was set about the contents of the interim report on the part of the inspector.

108 The progress of the claimant's planning application was entirely a matter for the claimant. The claimant wanted to rely on later information from December 2013 and January 2014. It would not be fair to take that into account for the claimant's site but not for others.

109 The Ministerial Statement was directed towards decision taking as opposed to plan making. The defendant was engaged in the process of plan making. The statement was, in any event, primarily directed towards traveller sites.

**Appendix 3 –**

Excerpts of Warwick Local Plan Inspector's Report (28/7/17)



The Planning Inspectorate

---

# Report to Warwick District Council

by Kevin Ward BA (Hons) MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Date 28 July 2017

---

Planning and Compulsory Purchase Act 2004

(as amended)

Section 20

## Report on the Examination of the Warwick District Local Plan

The Plan was submitted for examination on 28 January 2015

The examination hearings were held between 6 and 12 May 2015 and between 27 September and 15 December 2016

File Ref: PINS/T3725/429/5

## Abbreviations used in this report

CE	Cambridge Econometrics
CWLEP	Coventry and Warwickshire Local Enterprise Partnership
HMA	Housing Market Area
LDS	Local Development Scheme
MM	Main Modification
MoU	Memorandum of Understanding
NPPF	National Planning Policy Framework
OAN	Objectively assessed need
ONS	Office for National Statistics
PPG	Planning Practice Guidance
SA	Sustainability Appraisal
SCI	Statement of Community Involvement
SEP	Strategic Economic Plan
SHLAA	Strategic Housing Land Availability Assessment
SHMA	Strategic Housing Market Assessment

## Non-Technical Summary

This report concludes that the Warwick District Local Plan provides an appropriate basis for the planning of the District, provided that a number of main modifications are made to it. Warwick District Council has specifically requested me to recommend any main modifications necessary to enable the Local Plan to be adopted.

The main modifications all concern matters that were discussed at the examination hearings. The Council has provided the detailed wording for the main modifications, many of which are based on suggestions it put forward during the examination. Following the hearings, the Council carried out sustainability appraisal of the main modifications and they were subject to public consultation over a seven-week period. I have recommended their inclusion in the Local Plan after considering all the representations made in response to consultation on them and the sustainability appraisal.

The main modifications can be summarised as follows:

- Increase the housing requirement for the plan period to 16,776 dwellings (an average of 932 per year), clarify that this is to be regarded as a minimum and make clear that this includes a commitment to meet unmet needs from Coventry (an average of 332 dwellings per year);
- Establish an annual average housing requirement of 600 dwellings per year between 2011/12 and 2016/17 and 1,098 dwellings per year from 2017/18 onwards;
- Amend the spatial strategy to also focus growth on the southern edge of Coventry in addition to the urban areas of Warwick, Leamington Spa, Whitnash and Kenilworth;
- Add a number of additional housing site allocations to ensure sufficient housing land is available;
- Add an area of safeguarded land at Westwood Heath on the edge of Coventry;
- Delete the housing site allocation at Red House Farm, Lillington;
- Delete a number of housing site allocations where development is already well progressed and amend the estimated capacity on a number of others to reflect up to date evidence;
- Set out a realistic and justified housing trajectory including a significantly reduced windfall allowance;
- Include clear commitments to review the Local Plan;
- Add site allocations for outdoor sports at Kenilworth;
- Add new policies in relation to self-build housing and electronic communications;
- Delete a number of policies that are not effective, justified or consistent with national policy or are unnecessary;
- Amend the wording of a number of policies to ensure that they are effective by providing necessary clarity and/or flexibility, that they are justified and are consistent with national policy; and
- Include a list of policies in the extant Warwick District Local Plan that will be superseded by policies in this Local Plan.

geographical area would also raise concerns over deliverability, given potential competition between sites. There are also environmental constraints, not least the potential effect on the significance of heritage assets. In addition there is a need to avoid coalescence with the villages of Bishop's Tachbrook and Radford Semele.

91. In other directions the built up area of Warwick and Leamington Spa is bounded by the Green Belt. To the west and north-west of Warwick is the strong physical barrier of the A46. There is also a need to maintain the separate identity of surrounding villages such as Leek Wootton and Cubbington and avoid significant reductions in the gap to Kenilworth.
92. I return to the issue of specific site allocations and exceptional circumstances for altering the Green Belt in more detail later in my report. However, given the significant scale of committed and proposed housing sites within the urban areas of Leamington Spa, Warwick and Whitnash and to the south of the urban areas outside of the Green Belt, along with the constraints identified above, I do not consider that it is appropriate or indeed necessary to allocate housing sites on land which is currently in the Green Belt around these urban areas. Exceptional circumstances for altering the Green Belt in this part of the District do not exist.
93. Compared with other parts of the District, Kenilworth has seen limited new development in recent years and in principle it provides the opportunity to accommodate further growth given that it is well related to Coventry in terms of accessibility and functional links. However, in addition to being surrounded by the Green Belt, the capacity to accommodate growth is also affected by the need to retain a distinct identity for the town with a clear gap to the edge of the urban area of Coventry to the north. There is also a need to maintain the separate identity of Leek Wootton to the south and to avoid significant reductions in the gap to Warwick and Leamington Spa. The potential for the expansion of the urban area is also affected by the strong physical barrier provided by the A46, the proposed route of HS2 and environmental constraints to the west of the town including the potential effect on the significance of Kenilworth Castle.
94. Whilst the Growth Villages offer scope for some additional development, above that proposed in the submitted Local Plan, the amount of growth needs to take account of existing commitments, reflect the level of services available and consider the potential impact on the scale and character of the villages concerned. Seven of the Growth Villages are within that part of the District covered by Green Belt. The three that are not, Barford, Bishop's Tachbrook and Radford Semele are in the south of the District and the functional relationship with Coventry is clearly affected by this.
95. The Council put forward the concept of a direction for growth in an area of Green Belt land immediately to the south of the urban area of Coventry but within Warwick District as part of its suggested modifications during the suspension of the examination. This included two substantial housing site allocations and an area of safeguarded land. These were alongside other additional suggested site allocations at Leamington Spa, Warwick and Whitnash, Kenilworth and a number of the Growth Villages. The Council's approach is supported by Coventry City Council and there have been

considerable efforts to co-ordinate work on the respective Local Plans and continue co-operation to address the strategic issue of housing needs and related infrastructure provision.

96. I discuss the merits of individual site allocations and alterations to the Green Belt in detail below. However, taking account of the above analysis, the scale of additional housing sites required and the agreement to contribute towards meeting housing needs from Coventry, I consider that the Council's suggested strategic approach in relation to the edge of Coventry is appropriate and justified.
97. However, the submitted Local Plan was not prepared on the basis of significant growth on the edge of Coventry and as noted above it did not contain an explicit commitment to addressing some of Coventry's unmet housing needs. Whilst I consider that the proposed direction for growth is justified and necessary to ensure that the Local Plan is effective and consistent with national policy in terms of meeting housing needs, it would involve a change to the spatial strategy.
98. Main modification **MM2** is necessary to ensure that Policy DS4 sets out an effective and justified revised spatial strategy and to make clear the approach of focussing significant growth on the urban areas and the southern edge of Coventry whilst promoting some development in Growth Villages. It is also necessary to clarify the approach to the development of greenfield sites and to ensure that the detailed wording in relation to heritage assets and to the Green Belt is fully consistent with national policy.
99. In relation to Policy DS19, main modification **MM15** is required to ensure clarity on the application of national policy to development within the Green Belt and to reflect other modifications in terms of site allocations. Main modification **MM17** would introduce a new policy (DSNEW1) which is necessary to provide clarity on the scope, purpose and policy approach to the direction for growth south of Coventry. Main modification **MM34** is required to ensure that Policy H1 effectively reflects the spatial strategy and provides sufficient clarity, flexibility and consistency with national policy with regard to the approach towards housing development within and adjacent to settlements and in the open countryside.
100. Subject to these main modifications the spatial strategy is justified, effective and consistent with national policy.

### **Issue 3 – Whether the proposed housing site allocations are justified, effective and consistent with national policy**

101. Before dealing with individual settlements and housing site allocations, it is appropriate for me to address the overall scale of allocations needed across the District and the approach to annual average housing requirements including the calculation of a five year housing requirement. Along with the context provided by the modified spatial strategy discussed above, these are key factors which influence my consideration of housing site allocations across the District and in addressing them first I aim to avoid undue repetition.



205. The three sites put forward at Blackdown, at Loes Farm and on additional land at Red House Farm are all in the Green Belt. For the reasons set out above exceptional circumstances to justify altering the boundary of the Green Belt in these locations do not exist. The site at Goggsbridge Lane, although not in the Green Belt, forms part of the supply of identified employment land. It is a narrow site adjacent to the A46 which is elevated on this stretch and housing on the site would be affected by noise from the road. There may be some potential for development on land at Asps Cottage (adjacent to the larger Asps site) although this is affected by the presence of the listed building. In any case the potential capacity of the site is below that suitable for an allocation in the Local Plan.

### ***Housing site allocations – Kenilworth***

206. Although Kenilworth is smaller than the combined urban area of Leamington Spa, Warwick and Whitnash it provides employment opportunities and a range of retail and other main town centre uses and social and community facilities. It is well connected to the wider road network, has good public transport links and is well related to Coventry in terms of accessibility and functional links.
207. Kenilworth therefore provides an appropriate and sustainable location for significant housing growth within the District including meeting some of Coventry's unmet housing needs.
208. There are very limited opportunities for housing development on any scale within the built up area. Other than one area of land at Crackley (see below), there is no potential to allocate housing sites on the edge of the urban area without altering the boundary of the Green Belt.
209. These factors, along with the scale of housing requirements and limited opportunities outside of the Green Belt elsewhere in the District, amount to exceptional circumstances which justify altering the boundaries of the Green Belt around Kenilworth.
210. As discussed in relation to the spatial strategy, there are physical and environmental constraints which affect the options for growth on the edge of the town.
211. The submitted Local Plan proposed four housing site allocations at Kenilworth. These included land currently in the Green Belt at Thickthorn (H06) and land partly in the Green Belt at Kenilworth Sixth Form College (H12). During the suspension of the examination the Council proposed two additional housing site allocations on land east of Kenilworth (H40) and East of Warwick Road (H41). In both cases the land is currently in the Green Belt. It included these proposals in its suggested modifications.
212. Along with the sites proposed in the submitted Local Plan, I consider these additional proposals from the Council in the context of the need for further site allocations to ensure an adequate supply of housing land.
213. The development of the proposed housing site allocations in Kenilworth would significantly increase traffic volumes and impact on the transport network in the immediate locality and further afield. The Council, along with the County Council is again taking a holistic and comprehensive approach and has set out

315. Taking account of completions, existing commitments and the other proposed site allocations referred to above, the supply of housing land in Barford would total some 177 dwellings. This would be only just below the indicative capacity of 181 dwellings and represents an increase of nearly 30% in the number of dwellings in the village (606 in 2011).
316. Barford is not affected by the Green Belt and is rightly identified as a Growth Village. Furthermore, as noted above, the indicative capacity should not be seen as a strict limit on the number of dwellings. However, these factors do not mean that there is necessarily potential to accommodate additional housing in Barford and they must be balanced against the need to ensure that development remains in keeping with the scale and character of the village and the impacts of specific sites. The consideration of additional sites also needs to take account of the ability to meet the District's housing requirements at other locations in the District in line with the spatial strategy.
317. It is not necessary to allocate the site south of Wasperton Lane (H47) in order to ensure sufficient housing growth in the village or to meet the overall housing requirements for the District. The adverse impacts of development would outweigh the benefits.
318. For the above reasons the proposed site allocations south of Barford House (H20) and on land off Bremridge Close (H22) are justified, effective and consistent with national policy. Also for these reasons the proposed further site allocation on land south of Westham Lane (H48) put forward by the Council is required to ensure that the Local Plan is justified, effective and consistent with national policy.
319. To ensure that the Local Plan is effective in reflecting the progress with planning permission and development, the proposed site allocation at the former Sherbourne Nursery (H21) should be deleted.

*Other housing sites put forward in Barford*

320. Other potential housing sites were put forward in representations and discussed at the hearing sessions. There is no need to allocate sites in addition to the three referred to above in order to ensure sufficient housing growth in the village or to meet the overall housing requirements for the District.
321. Land east of Wellesbourne Road and south of Barford House was subject to appeals in 2013 and 2014 which were both dismissed due to the impacts on the significance of the listed building at Barford House, its setting and the Conservation Area. Notwithstanding the lack of need for additional sites, the allocation of this land would be inappropriate for this reason.
322. Whilst development on additional land south of Westham Lane (to the west of site H48) would sit within the area contained by the bypass and would be seen in the context of the recent development on the former Sherbourne Nursery site, there is insufficient evidence to suggest that it could be accessed satisfactorily. The promoter of the site also accepts that there are still land ownership issues to resolve and the site is not currently available.

**Appendix 4 –**

Excerpts of Cheshire East Local Plan Inspector's Report (20/6/17)



The Planning Inspectorate

---

# **Report to Cheshire East Council**

**by Stephen J Pratt BA (Hons) MRTPI**

**an Inspector appointed by the Secretary of State for Communities and Local Government  
20 June 2017**

---

Planning and Compulsory Purchase Act 2004

(as amended)

Section 20

## **Report on the Examination of the Cheshire East Local Plan Strategy Development Plan Document**

The Plan was submitted for examination on 20 May 2014

The examination hearings were held between 16 October – 3 November 2014,  
20-30 October 2015 & 13 September - 20 October 2016

File Ref: PINS/R0660/429/3

## Abbreviations used in this report

A6MAAR	A6 Manchester Airport Relief Road
CBLP	Congleton Borough Local Plan
CSC	Cheshire Science Corridor
CEC	Cheshire East Council
CELPS	Cheshire East Local Plan Strategy
CELPS-SD	Cheshire East Local Plan Strategy – Submission Draft (May 2014)
CELPS-PC	Cheshire East Local Plan Strategy – Proposed Changes (March 2016)
CIL	Community Infrastructure Levy
CLR	Congleton Link Road
C&NLP	Borough of Crewe & Nantwich Local Plan
CW&CLP	Cheshire West & Chester Local Plan
DCLG	Department for Communities & Local Government
DPD	Development Plan Document
DtC	Duty to Co-operate
dw; dw/yr	dwellings; dwellings/year
EA	Environment Agency
EZ	Enterprise Zone
GBAU	Green Belt Assessment Update
GMCA	Greater Manchester Combined Authority
GMSF	Greater Manchester Spatial Framework
GTAA	Gypsy & Travellers Accommodation Assessment
ha	hectares
HDS	Housing Development Study
HRA	Habitats Regulations Assessment
IDP/IDPU	Infrastructure Delivery Plan/Infrastructure Delivery Plan Update
HS2	High Speed 2 rail proposal
KSC	Key Service Centre
LDS	Local Development Scheme
LEP	Local Enterprise Partnership
LSC	Local Service Centre
LTP	Local Transport Plan
LWS	Local Wildlife Site
MBLP	Macclesfield Borough Local Plan
MEB	Middlewich Eastern By-Pass
MM	Main Modification
MOU	Memorandum of Understanding
MSA	Mineral Safeguarding Area
MWMS	Municipal Waste Management Strategy
NCGV	North Cheshire Growth Village
NPA	National Park Authority
NPPF	National Planning Policy Framework
NPPW	National Planning Policy for Waste
OAN	Objective Assessment of Housing Need
¶/para	paragraph
PPG	Planning Practice Guidance
PPTS	Planning Policy for Traveller Sites
PRR	Poynton Relief Road
SA; SIA	Sustainability Appraisal; Sustainability (Integrated) Appraisal
SAC	Special Area of Conservation
SADPPDP	Site Allocations & Development Policies DPD
SCGV	South Cheshire Growth Village
SDUR	Spatial Distribution Update Report
SEA	Strategic Environmental Assessment
SEMMMS	South East Manchester Multi-Modal Study
SEP	Strategic Economic Plan
SHMA	Strategic Housing Market Assessment
SLTA	Safeguarded Land Technical Appendix
SMBC	Stockport Metropolitan Borough Council
SMDA	South Macclesfield Development Area
SOCG	Statement of Common Ground
SSSI	Site of Special Scientific Interest
SWMDA	South West Macclesfield Development Area
UPS	Urban Potential Study

## **Non-Technical Summary**

This report concludes that the Cheshire East Local Plan Strategy provides an appropriate basis for the planning of the Borough providing a number of Main Modifications are made to the Plan. Cheshire East Council (CEC) has specifically requested me to recommend any Main Modifications necessary to enable the Plan to be adopted. All the Main Modifications to address this were proposed by the Council, and were subject to public consultation over a 6-week period. I have recommended their inclusion after considering all the representations made in response to consultation on them.

The Main Modifications can be summarised as follows:

- Replace the Submitted Plan with the Proposed Changes (March 2016) version;
- Amend the Vision to refer to “identified” housing and employment needs;
- Amend Policy PG1 and the accompanying text and tables to refer to the 2014-based DCLG household projections and update the components of housing supply, including windfall allowance;
- Amend the Vision and strategy for Local Service Centres and the status of North Cheshire Growth Village in Policy PG2;
- Update the list of sites released from the Green Belt and Safeguarded Land in Policies PG3 & PG4 and in the accompanying figures;
- Clarify the criteria for development in the Strategic Green Gaps in Policy PG4A and amend the accompanying figure showing the broad extent of such areas;
- Clarify the strategy for development in the open countryside in Policy PG5;
- Confirm that the figure for Local Service Centres will be disaggregated in the Site Allocations & Development Policies DPD in Policy PG6;
- Update and clarify the strategy for sustainable development in Policies SD1 & SD2;
- Delete Figures 11.1 & 11.2 showing the High Growth City Concept Plan and the Science & Technology Corridor; update the strategy for Alderley Park set out in Policy EG3, and confirm that the sequential approach will not be applied to small-scale developments in Policy EG5;
- Clarify and update the policy for leisure and recreation in Policies SC1 & SC2; include a reference to the role of Neighbourhood Plans in Policy SC4; and amend and clarify the threshold for seeking affordable housing in Policy SC5;
- Add a reference to Sport England’s Active Design principles in Policy SE1; redraft the policy for protecting biodiversity and geodiversity in Policy SE3; clarify and update the policy for trees, hedgerows and green infrastructure in Policies SE5 & SE6; update the policy for renewable and low-carbon energy and energy efficient development in Policies SE8 & SE9; and update the evidence base for waste management in Policy SE11;
- Update and clarify the policy for enabling business growth through transport infrastructure by referring to the HS2 Safeguarding Directions and the SEMMMS study refresh in Policy CO2;
- Amend and update the Crewe Town Map and refer to the HS2 Safeguarding Directions, including at Site CS2;
- Update the individual Town Maps for Macclesfield and the Key Service Centres, as a result of amendments to the scale and location of proposed development;
- Confirm the role, status, purpose and funding of the Congleton Link Road;
- Update and clarify the criteria and principles of development, the amount of development, development and infrastructure requirements and planning status, where necessary, in the strategic site allocations and strategic locations;
- Amend the strategic site allocations, including amended site extent and areas (Sites CS32, CS50) and deletion of Site CS64 (Cheshire Gateway);
- Make consequential amendments to the text, tables, figures and diagrams resulting from the Main Modifications;
- Update and amend the content of the appendices, including monitoring and implementation, housing distribution, amended housing trajectory, components of housing supply (including windfalls), and 5-year housing land supply (including the “Sedgepool 8” approach).

*Other Settlements and Rural Areas*

91. The CELPS-PC allocates 2,950 new homes and 69ha of new employment land to the Other Settlements and Rural Areas, including development at the Alderley Park Opportunity Site and Wardle Employment Improvement Site, which I deal with later in my report. In terms of the number (110+) and small size of these rural settlements, this seems to be a reasonable and proportionate allocation, which accords with CEC’s SDUR and reflects the need to provide some homes and jobs to meet local needs, as well as their lower position in the hierarchy and local constraints. Since some new development has occurred in the recent past, the balance of development (1,250 homes and 4ha of employment land) would be identified in the SADPPDP and forthcoming Neighbourhood Plans. No further modifications are therefore needed to settlements in this category of the hierarchy.
92. Consequently, with the recommended modification, I conclude that the Spatial Distribution of Development and Growth to the various towns and settlements is appropriate, effective, sustainable, justified with robust evidence and soundly based, and fully reflects the overall strategy of the Plan. I deal with specific issues relating to particular settlements on a town-by-town basis, later in my report.

**MATTER 2.4: PLANNING FOR GROWTH – GREEN BELT, SAFEGUARDED LAND, STRATEGIC GREEN GAPS AND OPEN COUNTRYSIDE**

**Key issue:**

***Is the approach to the Green Belt, Safeguarded Land, Strategic Green Gaps and the Open Countryside appropriate, effective, positively prepared, justified, soundly based and consistent with national policy?***

*Green Belt*

93. Policy PG3 sets out the purposes of the Green Belt and the approach to development within it, and also lists the sites which are proposed to be removed from the Green Belt for development or Safeguarded Land. The general policy is unchanged from that included in the CELPS-SD, other than updating the list of sites and deleting the reference to a new Green Belt around Crewe as a result of new evidence and in response to my Interim Views (Appendix 1). The general approach to the Green Belt reflects current national policy (NPPF; ¶ 79-92), but the outcome of more recent consultations on proposed amendments to the NPPF relating to the Green Belt and the implications of the recent Housing White Paper are not yet known; it will be for CEC to consider the implications of any changes to national planning policy, including the Green Belt, in future reviews of the CELPS and in preparing the SADPPDP.
94. CEC’s proposals for releasing land from the Green Belt for development or Safeguarded Land around the main towns is very contentious, especially for many local communities. However, in my earlier Interim Views, I considered that CEC has provided sufficient evidence to establish the exceptional circumstances needed to justify altering Green Belt boundaries; this is essentially based on the need to allocate sufficient land for market and affordable housing and employment development, combined with the adverse consequences for patterns of sustainable development of not doing so, since it is not practicable to fully meet the assessed development needs of the area without amending Green Belt boundaries.
95. At submission stage, there was some concern that the justification for releasing land from the Green Belt was inadequate and inconsistent. In my initial Interim Views (Appendix 1), I considered that the process and evidence relating to the proposed amendments to the Green Belt boundary in the north of the district

seemed flawed, particularly the release of sites from the Green Belt and the provision of Safeguarded Land; there was also insufficient justification for the proposed new area of Green Belt around Crewe. However, during the suspension of the examination, CEC undertook more work to address these matters.

96. In my Further Interim Views (Appendix 2), I considered that the approach and content of CEC’s updated Site-Selection Methodology and Green Belt Assessment (GBAU) [RE/F010; PS/E034] reflected national policy and other guidance in the NPPF & PPG; it provided a set of objective, comprehensive and proportionate evidence to inform CEC’s selection of Green Belt land, which addressed most of the earlier shortcomings of the previous Green Belt assessment without “retro-fitting” the evidence. It not only addressed the need to demonstrate exceptional circumstances, but also considered alternative options to releasing Green Belt land, assessed sites against the purposes of the Green Belt, and considered the selection of sites in a sequential manner, prioritising non-Green Belt sites before considering Green Belt sites based on their contribution to Green Belt purposes; this included assessing their contribution to urban regeneration and took account of the assessment of the potential of brownfield/windfall sites likely to come forward within the urban areas [PS/E039].
97. The GBAU included a strategic assessment of 44 general areas in the Green Belt throughout Cheshire East, as well as a more detailed assessment of over 400 smaller parcels of land, to provide a key input into the site-selection process. CEC also updated and clarified the final assessment of some sites in response to criticisms of others. No other evidence has comprehensively assessed the opportunities for releasing Green Belt land and no new evidence or information was presented at the later hearings or in further representations to alter these conclusions. I deal with the site-specific aspects of proposed releases of land from the Green Belt on a general and town-by-town basis, later in my report; I also understand that the SADDPDP will consider the possibility of identifying further smaller scale releases of land from the Green Belt, if exceptional circumstances can be demonstrated, in line with the site-selection methodology. I deal with the issue of the new Green Belt originally proposed around Crewe later.
98. Consequently, and having considered all the evidence and discussions on the Green Belt issue, I consider that CEC’s general approach to the Green Belt and the selection of sites is appropriate, fully justified, effective, soundly based and consistent with national policy. However, the list of sites in the policy and the general extent of the existing Green Belt (Fig 8.1) need to be amended to reflect CEC’s latest proposals, including the deletion of Sites CS51 & 64 **[MM05]**. With these recommended modifications, the overall approach to the Green Belt set out in Policy PG3 is soundly based and consistent with national policy.

#### *Safeguarded Land*

99. Policy PG4 sets out CEC’s approach to identifying Safeguarded Land, confirming that development will not be permitted in such areas unless it is justified through a review of the CELPS, and designating the sites identified as Safeguarded Land. The Policy remains unchanged from that in the CELPS-SD, apart from updating the list of sites and deleting the reference to identifying further Safeguarded Land in Poynton, and its approach is consistent with national policy (NPPF; ¶ 85). The CELPS-PC proposes to release some 200ha of land from the Green Belt for Safeguarded Land in the north of the Borough, which is justified in the supporting evidence (SLTA) [PS/E031a.5]; various options for the distribution of Safeguarded Land were also considered by CEC [RE/F010; Appx 2]. The overall amount of



**Appendix 5 –**

Excerpts of Cheshire East Local Plan Inspector's interim  
views and clarification (6 & 28/11/14)

## **APPENDIX 1 – INSPECTOR’S INTERIM VIEWS & CLARIFICATION (6 & 28/11/14)**

### **CHESHIRE EAST COUNCIL EXAMINATION OF THE CHESHIRE EAST LOCAL PLAN STRATEGY INSPECTOR’S INTERIM VIEWS ON THE LEGAL COMPLIANCE AND SOUNDNESS OF THE SUBMITTED LOCAL PLAN STRATEGY**

1. Following the adjournment of the hearing sessions on 3 October 2014, I confirmed that I would inform Cheshire East Council (CEC) about the future progress of the examination. On 22 October 2014, I indicated that I would let CEC have my interim views on the legal compliance and soundness of the submitted Cheshire East Local Plan Strategy (LPS) on the basis of the evidence and discussions so far during the examination. CEC has confirmed that it would welcome such communications with the Inspector.
2. Having considered the submitted LPS, the representations, submission documents, background evidence, hearing statements, legal submissions and the discussions and material submitted so far during the course of the examination, I outline my interim views on the legal compliance and soundness of the submitted plan below. These views are without prejudice to any final conclusions on the legal compliance and soundness of the submitted plan when the examination is completed.
3. The purpose of these interim views is to inform CEC about whether they have met the legal requirements, including the Duty to Co-operate, and whether the approach to the overall strategy, including the economic and housing strategy, objective assessment of housing needs, settlement hierarchy and spatial distribution of development, approach to the Green Belt and Safeguarded Land, and other strategic policies, seems soundly based. These interim views also identify those matters of soundness on which further assessment and evidence is needed before the examination can continue.

#### **A. Summary of interim views**

4. In summary, my interim views are that:
  - The Council has met the minimum legal requirements of the Duty to Co-operate;
  - The economic strategy is unduly pessimistic, including the assumptions about economic growth and jobs growth, and does not seem to fully reflect the proposals and initiatives of other agencies and the extent of site allocations proposed in the submitted plan;
  - There is a serious mismatch between the economic strategy and the housing strategy of the submitted plan, particularly in the constrained relationship between the proposed level of jobs and the amount of new housing;
  - There are shortcomings in the Council’s objective assessment of housing needs, both in terms of establishing an appropriate baseline figure and failing to specifically take into account and quantify all relevant economic and housing factors, including market signals and the need for affordable housing;
  - The proposed level of future housing provision seems inadequate to ensure the success of the overall economic, employment and housing strategy;
  - The proposed settlement hierarchy seems to be justified, effective and soundly based, but further work is needed to justify the spatial distribution of development, including addressing the development needs of settlements in the north of the district;
  - The process and evidence relating to the proposed amendments to the Green Belt boundary in the north of the district seem flawed, particularly the release of sites from the Green Belt and the provision of Safeguarded Land, and there seems to be insufficient justification for establishing a new Green Belt in the south of the district;
  - Most of the concerns about the content and soundness of other strategic policies can probably be overcome by detailed amendments to the wording of the policies and accompanying text.

#### **B. Legal and Procedural requirements, including the Duty to Co-operate**

5. Section 19 of the Planning & Compulsory Purchase Act 2004 (as amended) requires development plans to be prepared in accordance with the Local Development Scheme, to have regard to national policies and guidance and to the Sustainable Community Strategy, and to comply with the Statement of Community Involvement. It also requires the Council to carry out a sustainability appraisal of the proposals in the plan and prepare a report of the findings of the appraisal.

### *Settlement hierarchy and spatial distribution of development*

70. The settlement hierarchy set out in Policy PG2 comprises Principal Towns, Key Service Centres, Local Service Centres and other rural settlements, and is largely justified in the supporting evidence<sup>58</sup>. The determining factors include population, the number of households and retail units and amount of employment, along with services, transport and accessibility, reflecting the existing role and function of the centre; these factors have been tested and updated. Minor changes to the text of the policy and the accompanying text, as suggested<sup>59</sup>, including more accurately reflecting the growth strategy for individual settlements, would clarify the situation.
71. There is no dispute that the largest towns in Cheshire East, Crewe and Macclesfield, are appropriately designated as Principal Towns in the hierarchy. Similarly, most of the towns designated as Key Service Centres (KSC) and Local Service Centres (LSC) are appropriate and justified. Some parties consider Congleton should be elevated to the status of a principal town, but it is considerably smaller than Crewe and Macclesfield and has fewer retail units and employment. Others consider there should be an upper tier of KSCs, including the larger towns of Congleton, Wilmslow, Sandbach & Nantwich, but there is no clear differentiation in the role and function of these settlements and this would unduly complicate the hierarchy.
72. Some question whether Handforth should be designated as a KSC, but given the range of existing facilities, this is the function it performs (which has little to do with the proposals for the NCGV). Others consider settlements such as Alderley Edge and Holmes Chapel should be KSCs, but these are smaller in size and do not have the full range of facilities. Similar factors apply to smaller settlements, such as Wybunbury and Rode Heath, which some contend should be designated as LSCs. Earlier versions of the plan had a separate category of "sustainable rural villages", but it is difficult to differentiate between these smaller settlements and it makes the hierarchy too complicated<sup>60</sup>. These settlements contain few services, with limited access to public transport and few employment opportunities; their ability to accommodate further development will be considered at the Site Allocations stage. Consequently, the settlement hierarchy seems to be justified, effective and soundly based.
73. The proposed spatial distribution of development set out in Policy PG6 is justified with a range of evidence<sup>61</sup>, and has evolved during the preparation of the plan. Various alternative spatial options and levels of development were considered when the Issues & Options, Town Strategies and Development Strategy were prepared and assessed through the SA process, and the allocation of development to specific towns was a major feature at the consultation stage of the Town Strategies. The main factors influencing the spatial distribution of development include the settlement hierarchy, development opportunities, infrastructure capacity, policy constraints (including Green Belt), physical constraints, sustainable development, deliverability and viability, sustainability appraisal, vision and strategic priorities, consultation responses and other material factors. The main issue is whether the proposed distribution of development properly reflects these factors.
74. There is little dispute about directing most new development to the principal towns of Crewe and Macclesfield; indeed, some suggest that more development should be directed to these towns. Crewe has the lion's share of new development, but any greater amounts could raise deliverability issues given the infrastructure constraints, particularly access and roads; although the inclusion of site allocations outside Crewe at Shavington within the figures for Crewe is questionable. Further development at Macclesfield could be limited by Green Belt and infrastructure constraints. Higher levels of development are generally directed to those towns which are unaffected by Green Belt constraints, and some imbalances between new housing and employment allocations are mainly explained by existing development opportunities/commitments.
75. The main concern is the limited amount of development which is directed to the towns in the north of the area, particularly Handforth, Poynton, Knutsford and Wilmslow, but this is largely explained by Green Belt constraints; but even here, there are significant

---

<sup>58</sup> BE046; PS B006b

<sup>59</sup> PS D003.012

<sup>60</sup> PS D003.013

<sup>61</sup> including PS B006b; SD003; SD015; SD18-19; SD007; BE005; BE046; BE054; BE056-76; BE083-099; BE100

releases of land from the Green Belt (including the NCGV). Development in other Green Belt settlements (like Congleton and Alsager) is largely directed away from the Green Belt. However, although an almost endless list of permutations of the spatial distribution of development could be drawn up, I am concerned that the proposed distribution may not fully address the development needs and opportunities at all the towns and settlements, particularly those in the north of the district.

76. These settlements are confined by the existing Green Belt, but there is also a need to promote sustainable patterns of development<sup>62</sup>, which address the future housing, employment and other development needs of these settlements. The limited amount of new housing proposed in Green Belt settlements such as Poynton, Knutsford and Wilmslow is very contentious; the proposed levels of housing at these settlements will not meet their needs, and insufficient consideration seems to have been given to how these needs will be met. Many potential sites were assessed during the preparation of the LPS, but specific options which envisage the development of smaller sites within the built-up area or on the fringes of these settlements do not seem to have been fully considered. Whilst this could be reconsidered at the Site Allocations stage, it may have unduly influenced decisions to release larger Green Belt sites in the LPS.
77. It is also unclear as to whether CEC considered a spatial distribution option related to the existing population distribution and future housing needs of each settlement. Moreover, in some cases, the total amount of housing development proposed at some settlements has already been exceeded by existing commitments and proposals in the LPS, leaving little room to make further allocations at the Site Allocations stage<sup>63</sup>.
78. Consequently, some further work may need to be undertaken to review and fully justify the proposed spatial distribution of development. Although the LPS is essentially a strategic plan, focusing on strategic allocations, such work may need to examine the possibility of releasing smaller-scale sites in and around the fringes of existing towns and settlements, including those in the Green Belt, to inform further work at the Site Allocations stage.
79. Some parties consider that the overall amount of development for the LSCs should be apportioned between each of the settlements. However, this is a matter more appropriately considered in greater detail at the Site Allocations stage, particularly given the relatively limited amount of development which is likely to occur at these smaller centres. Others consider that higher levels of development should be directed to the smaller rural settlements, and possibly disaggregated to each of these settlements. However, some of these settlements are very small, there are many of them, and they will probably only accommodate a limited amount of development; these matters are best considered at the Site Allocations stage.
80. It therefore seems to me that although the settlement hierarchy is appropriate, justified and soundly based, some further work may be required to justify the proposed spatial distribution of development, particularly to address the development needs and opportunities of the Green Belt settlements in the north of the district.

#### *Green Belt & Safeguarded Land*

81. The approach to the Green Belt and Safeguarded Land, particularly the release of such land to accommodate new development, is a contentious element of the LPS. The submitted plan proposes to release 16 sites, mainly in the north of the district, from the Green Belt, either for housing and/or employment development (over 200ha) or as Safeguarded Land (over 130ha), as well as establishing a new area of Green Belt to the west, east and south of Crewe. Detailed Green Belt boundaries will be defined on the Local Plan Policies Map, either in the LPS or the Site Allocations Local Plan.
82. The NPPF (¶ 82-85) confirms that once established, Green Belt boundaries should only be altered in exceptional circumstances, through the preparation and review of the Local Plan; it also advises that new Green Belts should only be established in exceptional circumstances and sets out the factors to be considered. CEC has provided evidence to justify its approach<sup>64</sup>; this identifies that the exceptional circumstances needed to justify altering Green Belt boundaries are essentially the

---

<sup>62</sup> NPPF (¶ 84)

<sup>63</sup> PS B025c

<sup>64</sup> SD015; BE011; BE012; PS B006b

**Appendix 6 –**  
Excerpts of Cheshire East Local Plan Inspector's  
further interim views(11/12/15)

**APPENDIX 2 – INSPECTOR’S FURTHER INTERIM VIEWS (11/12/15)**  
**CHESHIRE EAST COUNCIL**  
**EXAMINATION OF THE CHESHIRE EAST LOCAL PLAN STRATEGY**  
**INSPECTOR’S FURTHER INTERIM VIEWS ON THE ADDITIONAL EVIDENCE**  
**PRODUCED BY THE COUNCIL DURING THE SUSPENSION OF THE EXAMINATION**  
**AND ITS IMPLICATIONS FOR THE SUBMITTED LOCAL PLAN STRATEGY**

1. Following the first round of hearings of the Cheshire East Local Plan Strategy examination in September-October 2014, I published my Interim Views on the legal compliance and soundness of the submitted Plan<sup>1</sup>. Cheshire East Council (CEC) then asked me to formally suspend the examination to enable further work to be undertaken<sup>2</sup>. This involved reassessing the economic strategy, housing need and employment land requirements, aligning the economic and housing strategy, updating the Green Belt Assessment, reviewing the amount of Safeguarded Land and the need for a new Green Belt in the south of the borough, and revising the Spatial Distribution of Development. CEC also undertook Urban Potential/Edge of Settlement Assessments and set out a Site-Selection Methodology, commissioned further highway studies, outlined suggested revisions to the submitted Plan and updated the Sustainability Appraisal and Habitats Regulations Assessment. During this period, technical workshops and meetings with stakeholders and other interested parties were held to discuss the additional evidence.
2. On 21 July 2015, CEC’s Cabinet<sup>3</sup> endorsed the additional evidence and suggested revisions to the submitted Plan for publication, additional stakeholder engagement and submission to the examination. On 31 July 2015, CEC asked me to formally resume the examination<sup>4</sup>, which I confirmed on 14 August 2015<sup>5</sup>, and later invited participants to submit brief statements addressing the main matters and issues raised by the additional evidence.
3. Following a Procedural Meeting on 6 October 2015, I resumed the hearing sessions of the examination on 21-30 October 2015. The purpose of these hearings was to review the additional evidence produced during the suspension period, assess its implications for the submitted Local Plan Strategy, and consider whether it had addressed the concerns set out in my earlier Interim Views. Following these hearings, CEC asked me to set out my Further Interim Views on these matters.
4. CEC would undoubtedly wish me to fully endorse the key elements and conclusions of the additional evidence produced during the suspension of the examination. However, this is not possible for several reasons. Firstly, the scope, nature and content of the additional evidence has significant and wide-ranging implications for the submitted Local Plan Strategy (LPS), not only for the overall amount of housing, the economic strategy and employment land requirements, but also the replacement of a proposed new area of Green Belt in the south of the borough with a Strategic Green Gaps policy and a reassessment of the amount of Safeguarded Land. In addition, it will require the identification of additional or amended strategic site allocations to meet the revised development requirements, which will probably include releasing land from the Green Belt, particularly in the north of the borough; CEC has not yet made any decisions on the revised selection of strategic sites to meet these needs.
5. Furthermore, although CEC has informed and engaged with stakeholders and other interested parties about the additional evidence during the suspension period, this evidence has not been subject to wider-ranging formal public consultation. Many divergent views were expressed during the engagement process and at the resumed hearings, but there is little common ground, and there may be other views expressed by those outside the current examination process. I would not wish to pre-judge, pre-empt or circumscribe any further views expressed as a result of any future public consultation about the amendments to the submitted LPS and the supporting evidence.  
**Any views given in this interim report are entirely without prejudice to my final conclusions on the soundness and legal compliance of the submitted or any amended Plan.**

---

<sup>1</sup> PS/A017a/b-A018

<sup>2</sup> PS/B033

<sup>3</sup> PS/E031/a.1-6 & PS/E032-E043

<sup>4</sup> PS/E030

<sup>5</sup> PS/A037

of the borough. However, CEC may wish to consider publicising the final list of selected site allocations before public consultation, so that stakeholders and local communities can provide up-to-date information on availability and deliverability and ensure that all other potential sites have been assessed; this may help to reduce the time spent at any further hearing sessions considering the delivery of these and other “omission” sites. Both the key stages of the SSM and the approach and methodology of the UPA & ESA for assessing urban potential were presented and discussed at the technical workshops during the suspension period and there is no dispute or lack of agreement with neighbouring local authorities about the methodology.

64. On this basis, the UPA & ESA seem to adequately consider the potential for development within and around the existing towns and settlements within Cheshire East, including settlements in the north of the borough, in a consistent, transparent, objective and comprehensive manner, with a reasonable balance between brownfield and greenfield sites, having regard to the GBAU. The SSM formalises the site-selection process and, subject to further detail about the later stages of the process, seems to represent a reasonably consistent, objective and comprehensive methodology to identify and select strategic and other site allocations without retro-fitting the evidence. As such, this evidence seems to be appropriate, consistent, objective, comprehensive, justified and effective, providing a soundly based framework of evidence for identifying and selecting strategic and other site allocations, in line with the guidance in the NPPF and PPG [ID-3].

#### **v. Revised Spatial Distribution of Development**

65. CEC appointed consultants to identify and assess various options for reviewing the *Spatial Distribution of Development* required as a result of the proposed increase in the amount of housing and employment development<sup>42</sup> (SDUR). The consultants drew up profiles for each of the 24 major settlements identified in LPS Policy PG6, analysing key demographic, housing and employment data, took account of the findings of the UPA, EPA & GBUA, identified and tested 5 options for distributing growth and selected Option 6 after earlier options had been assessed by SA & HRA; the methodology is set out in the study and in CEC’s hearing statements<sup>43</sup>. As I said in my earlier Interim Views<sup>44</sup>, there are almost endless permutations for the spatial distribution of development; the key issue is whether CEC’s preferred option is coherent, comprehensive, rational, logical and supported by proportionate and available evidence, having regard to physical and policy constraints.
66. The SDUR finds that the spatial distribution set out in Policy PG6 of the submitted LPS is broadly justified, and focuses on distributing the additional development needed as a result of the increased housing and employment requirements. It also addresses the need to contribute to sustainable development, explore alternative options, and address the spatial implications of economic, social and environmental change, using a proportionate and up-to-date evidence base, in line with the NPPF (¶ 151-154; 158) and PPG [ID-12]. It is a comprehensive and thorough report which addresses all stages of the methodology in a logical and coherent manner. It not only takes account of the additional studies produced during the suspension period, but also considers factors such as infrastructure requirements, highways/traffic implications, economic strategies, development needs, deliverability and viability, Green Belt and sustainability. The broad range of options are plausible, based on proportionate growth, employment-led and constraint-led approaches, with a hybrid option; the preferred Option 6 emerged only after further SA/HRA work had been undertaken and the results of other studies, including the UPA, ESA & GBUA, had been incorporated.
67. The most contentious issue is the balance of development between the north and south of the borough, and whether sufficient development would be allocated to the northern settlements, particularly those lying within the Green Belt. The preferred option directs most of the additional employment development to Macclesfield and settlements in the north of the borough, and increases the allocation of housing growth to these settlements from 23-25%, reducing the share to Crewe and the southern settlements from 61-57%; this represents a 7% swing to the north, whilst increasing the overall amount of housing at the principal towns of Crewe and Macclesfield. It takes account

---

<sup>42</sup> PS/E035

<sup>43</sup> RM4.001-001a; RE/B011

<sup>44</sup> PS/A017b

of the particular characteristics and needs of each settlement, Green Belt constraints around the northern settlements and the results of the UPA, EPA & GBAU. It reflects the shortage of housing and employment opportunities in the northern settlements and recognises the particular shortage of employment land at Macclesfield, Congleton, Middlewich, Sandbach and Alsager, as well as the need for more housing at Poynton, Knutsford, Handforth, Wilmslow and Nantwich. In some cases, the additional amounts of housing are significant, and will bring challenges when selecting the specific strategic site allocations, but the levels of new development seem to reflect the development needs, constraints and opportunities at these settlements.

68. The SDUR considers alternative options, and recognises that channelling too much development to areas beyond the North Cheshire Green Belt to the south of the borough would result in unsustainable patterns of development and commuting, and would not address the development needs of the northern settlements. There is a need for a reasonable balance of development throughout the borough, and the allocation of more development to the northern settlements would almost inevitably result in the loss of some Green Belt land. The UPA & EPA identify a large "pool" of sites from which strategic site allocations could be made to meet the development needs of each settlement, and issues about specific sites will be addressed later in the examination. There is also a need for a transparent and consistent judgement based on the available evidence, which is reflected in the SDUR study.
69. Some participants contend that an objective assessment of housing need should have been undertaken for each of the settlements, or at least for the northern and southern settlements. However, this approach is not required by either the NPPF or the PPGs, and the SDUR has taken into account market signals and housing need in the housing sub-markets for each of the settlements when establishing the preferred spatial distribution of development. Some participants would prefer a more proportionate distribution based on the population or size of each settlement, but this would fail to reflect the characteristics, needs and constraints of each settlement; others would prefer less development distributed to the northern settlements, but this would not address their particular development needs.
70. Whilst some participants press the case for more or less development at particular settlements, the SDUR is the only evidence that comprehensively addresses all the relevant factors for all of the towns and settlements in Cheshire East and undertakes a comprehensive spatial distribution across the borough. Furthermore, the presence of long-established Green Belt around the northern settlements is an important factor; it is a key national constraint policy in terms of considering the spatial distribution of development, as the NPPF (¶ 79) confirms. The revised spatial distribution of development was discussed at the technical workshops and meetings, and although a wide range of views was expressed, there seemed to be little common ground. Clearly, the revised spatial distribution of development is likely to be a key consideration when further public consultation takes place on the amended LPS.
71. Much will depend on the final selection of strategic sites, but at this stage and on the basis of the evidence and discussions at the resumed hearings, the additional evidence supporting the revised spatial distribution of development seems to represent a realistic, rational and soundly-based starting point for the spatial distribution of development; it is justified by a proportionate evidence base and takes account of the relevant factors, including the crucial importance of the Green Belt and the outcome of the other studies undertaken during the suspension period. It also seems to be based on sound technical and professional judgements and a balancing exercise, which reflects a comprehensive and coherent understanding of the characteristics, development needs, opportunities and constraints of each settlement. However, until the final distribution of development is determined, including the specific site allocations to be made, I cannot firmly endorse the revised spatial distribution of development, particularly since new or site/area specific issues may be raised relating to the revised spatial distribution of development during the forthcoming public consultation period.



**Appendix 7 –**

Excerpts of Lichfield Local Plan Inspector's Report (16/1/15)

---

# Report to Lichfield District Council

by **Robert Yuille Msc DipTP MRTPI**

an Inspector appointed by the Secretary of State for Communities and Local Government

16 January 2015

---

PLANNING AND COMPULSORY PURCHASE ACT 2004 (AS AMENDED)

SECTION 20

## **REPORT ON THE EXAMINATION INTO THE LICHFIELD DISTRICT LOCAL PLAN: STRATEGY**

Document submitted for examination on 22 March 2013

Examination hearings held between 24 June and 10 July 2013 and between 9 October and 17 October 2014

File Ref: PINS/K3415/429/5

## Non-Technical Summary

This report concludes that the Lichfield District Local Plan: Strategy provides an appropriate basis for the planning of the District, as long as a number of modifications are made. Lichfield District Council has specifically requested me to recommend any modifications necessary to enable this plan to be adopted.

All of the necessary modifications were proposed by the Council.

The Main Modifications can be summarised as follows:

- That the Council will carry out an early review or partial review of the plan if further housing provision is needed to meet the needs of Birmingham or Tamworth. Alternatively, in the case of Tamworth, the need for further housing provision could be dealt with through the Lichfield District Local Plan: Allocations document **(MM1)**;
- That the housing requirement is expressed as a minimum **(MM2)**;
- That the role of the sites identified as having the greatest opportunity for wind energy development be clarified **(MM3)**;
- That phasing restrictions be removed from the Strategic Development Allocations and the Broad Development Location identified in the plan **(MM4- MM8)**;
- That the extent of the zone of influence of the Cannock Chase Special Area of Conservation be defined **(MM9)**;
- That the end date of the plan be extended from 2028 to 2029 **(MM10)**;
- That the minimum housing requirement for the period 2008 – 2029 be increased to 10,030 dwellings **(MM11)**;
- That additional Strategic Development Allocations at Cricket Lane, Deanslade Farm and Fradley East be identified **(MM12 – MM24)**; and
- That Policy H2 be amended to bring it in line with nationally set thresholds **(MM25)**.

Council also, in effect, took account of the fact that these sites were in Green Belt. So, although the exceptional circumstances test is not specifically referred to in the Supplementary Green Belt Review, the Sustainability Appraisal or the Plan, I am satisfied that the Council had it in mind when it made its decision to remove two sites from Green Belt.

*Too Much Credence Given to Strategy*

195. It was argued that the Council gave too much credence to an urban/key centre focussed strategy in the submitted Plan. The point being made was that the Council should have looked afresh at where the increased number of houses, in total, should be located. It could, for example, have looked again at the merits of a new settlement as a way of accommodating some or all of the total number of houses needed rather than take the approach that it did of appraising new settlements only as a way of accommodating the additional houses.

196. While such an approach was open to the Council I do not consider that the Council was bound to take it. It is entirely legitimate for the Council to seek to find additional sites that are consistent with the strategy of the submitted Plan, particularly as I had already endorsed that strategy in my Interim Findings.

*Too Little Credence Given to Strategy*

197. It was argued that by taking land out of Green Belt the Council gave too little credence to the Plan's strategy as this sought to minimise Green Belt releases. When assessing ways of accommodating the additional housing land required the Council should have adopted a sequential approach and looked first at alternatives which conformed with all aspects of the strategy.

198. However, while the strategy seeks to minimise Green Belt releases it has never ruled them out in the longer term. The submitted version of Core Policy 1 made clear that changes to Green Belt boundaries around the edge of Lichfield city to meet longer term needs would be considered. The need to find additional housing sites has simply brought the process forward. I see no reason, therefore, why the Council should have adopted the sequential approach suggested.

*Green Belt as a Last Resort*

199. The fact that land is in Green Belt should not be taken lightly, it should be released only in exceptional circumstances. So, for example, it would be legitimate for the Council, as it has done elsewhere, to select a site although it was somewhat less sustainable in other respects than alternative sites but which avoided developing in Green Belt.

200. However, I can find no justification in the Framework, in Planning Guidance or indeed in the case of I M Properties<sup>96</sup> for the proposition that Green Belt land should be released only as a last resort. This would be to accept that sustainability is the servant of Green Belt designation - which

---

<sup>96</sup> CD 5-26. I M Properties v Lichfield District Council. Paragraph 96.

it is not. On the contrary, as has already been established, the duty in determining Green Belt boundaries is to take account of the need to promote sustainable patterns of development.

*Suitability of Deanslade Farm and Cricket Lane for Green Belt Release*

201. The Council, on the basis of information contained in its Supplementary Green Belt Review and Sustainability Appraisal, has concluded that the release of the sites at Cricket Lane and Deanslade Farm would not cause unacceptable harm to the purposes of including land in Green Belt. Both sites obviously have a role to play in safeguarding the countryside from encroachment and the higher portions of Deanslade Farm form part of the landscape around the city of Lichfield which in its undeveloped state helps preserve the historic character and setting of that city.
202. However it is proposed that the upper part of Deanslade Farm would remain in Green Belt and be incorporated into a District Park. The lower part of the site could be developed without having a major impact on the open aspect of views towards the city. The provision of the Country Park would help provide a strong defensible boundary to the Green Belt at Deanslade Farm. Cricket Lane already has such boundaries, being contained within the A38, London Road and Cricket Lane.
203. Having visited these sites and examined the evidence I agree with the Council's conclusion that their deletion from Green Belt would not cause unacceptable harm to the purposes of including land in Green Belt.

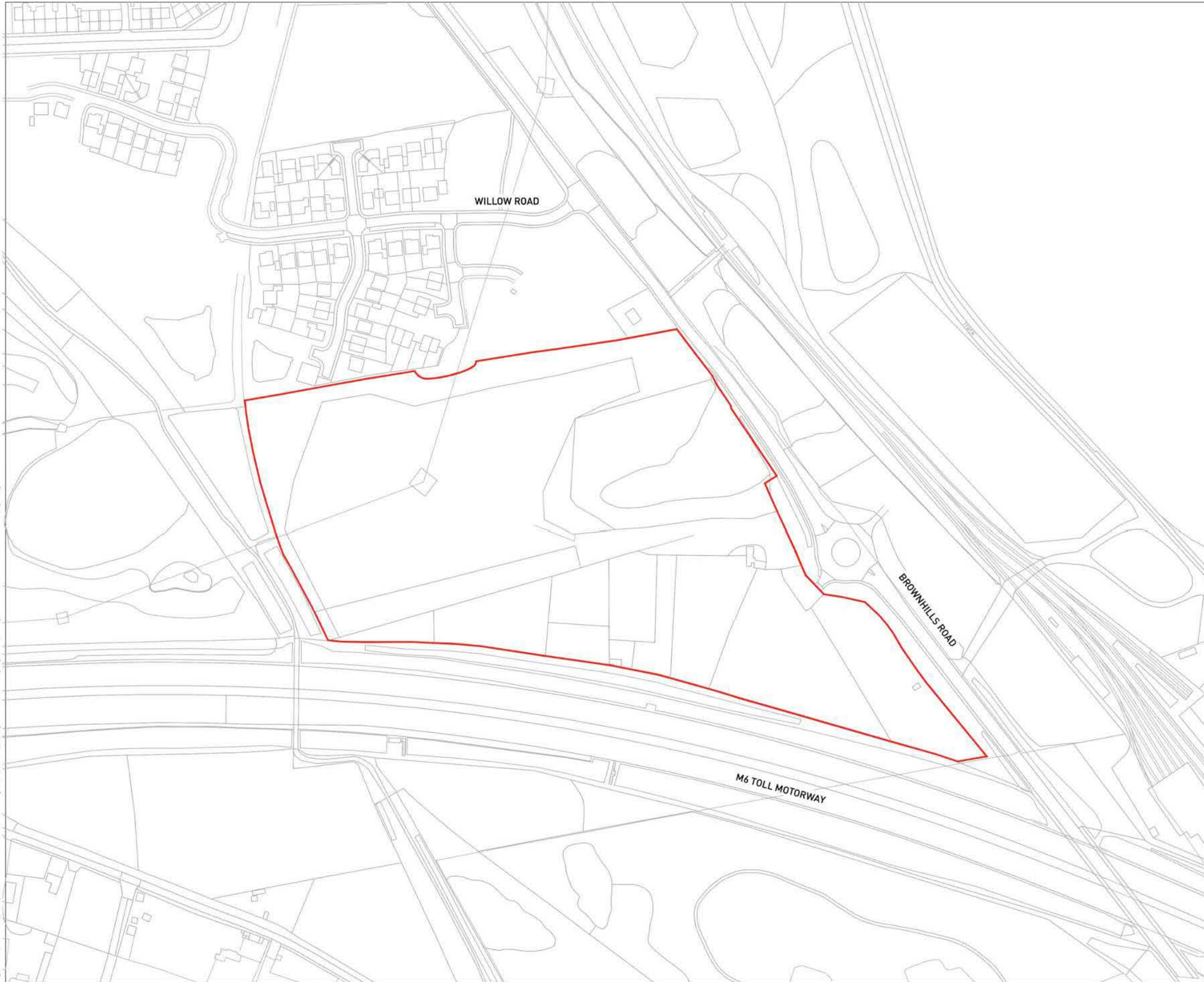
*Conclusions on Additional Sites*

204. The focus of concern at the resumed hearings was not so much that Cricket Lane and Deanslade Farm were unsuitable, undeliverable, undevelopable or unviable but rather that there were better sites which should have been selected. This argument was put forward in favour of Brookhay Villages, of sites at Burntwood, of various sites in the rural area including sites at Fazeley, Armitage and Stonnall, of the site at Watery Lane and of the site at Fradley West. These arguments are not, however borne out by the findings of the Sustainability Appraisal which I have examined at length and have concluded are reliable. These findings indicate that the additional sites selected by the Council are the most suitable.
205. I have already considered a number of these alternative sites earlier in this report and concluded that they were not more suitable than the sites allocated in the submitted version of the Plan. A number of the comments which I made about Brookhay Villages (Paragraphs 178-187), about sites at Burntwood (paragraph 131) and about sites in the rural area (paragraph 164) hold good when comparing these sites to the additional sites selected by the Council.
206. New information was submitted in support of the site at Watery Lane but as I have concluded earlier in this report (paragraph 99) I see no reason to dispute the judgement that this site is less sustainable than the

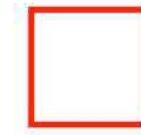
## **APPENDIX 2**

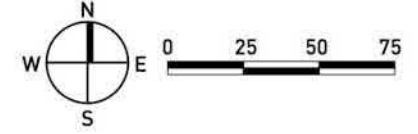
### **SITE LOCATION PLAN**

Copyright Pegasus Planning Group Ltd. Crown copyright. All rights reserved. Ordnance Survey Copyright. Licence number: 100042993. Pegasus. Licence number: 0100031627. Standard OS licence rights conditions apply. Pegasus accepts no liability for any use of this document other than for its original purpose, or by the original client, or following Pegasus' express agreement to such use. T: 01292 647177 www.pegasuspg.co.uk



### KEY

 SITE LOCATION  
6.65 HECTARES  
16.433 ACRES



# LAND OFF BROWNHILLS ROAD, NORTON CANES - CONCEPT PLAN



## **APPENDIX 3**

### **ILLUSTRATIVE SITE LAYOUT PLAN**





- KEY**
- SITE LOCATION (TBC)  
16.43 ACRES / 6.65 HECTARES
  - PROPOSED BUILT FORM.  
CIRCA 140 DWELLINGS @ 35 DPH
  - 40M ACOUSTIC OFFSET  
FROM M6 TOLL ROAD (TBC)
  - 30M EASEMENT FOR  
OVERHEAD POWER LINES
  - 15M ODOUR OFFSET FROM  
TW FOUL PUMPING STATION (TBC)
  - ① SITE ACCESS VIA ROUND-A-BOUT  
ON BROWNHILLS ROAD
  - ② FEATURE SQUARE AT ENTRANCE  
TO THE DEVELOPMENT
  - ③ RETAINED EXISTING ON-SITE POND  
WITH 15M ECOLOGY OFFSET (TBC)
  - ④ POTENTIAL EQUIPPED  
PLAY SPACE
  - ⑤ ON-SITE ELECTRICITY PYLON
  - ⑥ POTENTIAL LOCATION FOR  
ATTENUATION PONDS
  - ⑦ DEVELOPMENT SET BACK FROM M6 TOLL ROAD  
WITH STRONG FRONTAGE TO MITIGATE ACOUST  
PENETRATION
  - ⑧ APPROVED TAYLOR WIMPEY DEVELOPMENT

Copyright Pegasus Planning Group Ltd. Crown copyright. All rights reserved. Ordnance Survey Copyright License number 100042021. Pegasus License number 100020445. Emphasis License number 100021073. Standard OS licence rights conditions apply. Pegasus accepts no liability for any use of this document other than for its original purpose, or by the original client, or following Pegasus' express agreement in writing to: 12326, 41 777, www.pegasuspg.co.uk

# LAND OFF BROWNHILLS ROAD, NORTON CANES - CONCEPT PLAN

