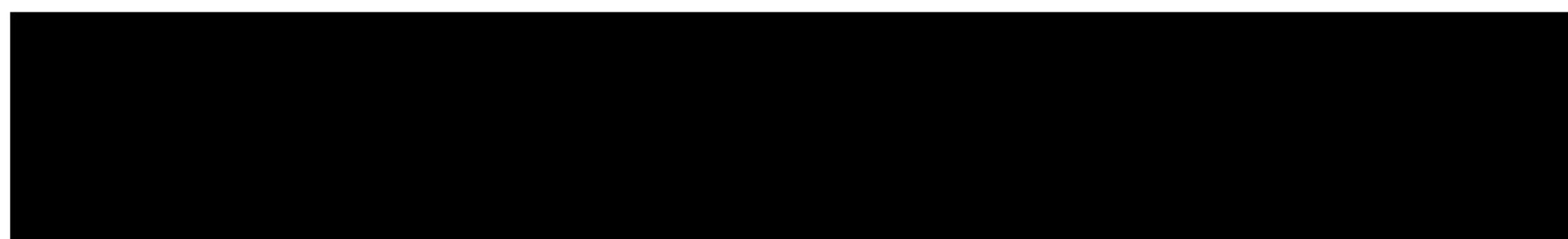


Representations to Warwick District

Local Plan

Publication Draft

On behalf of Mr H. E. Johnson in respect of



June 2014

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1. **INTRODUCTION**

Bond Dickinson is instructed on behalf of Mr H. E. Johnson to submit representations to the Publication Draft of Warwick District Council's Local Plan.

Mr H. E. Johnson is the owner of land at Red House Farm and he has actively engaged with the Council to promote this land for residential development to aid with the Council's regeneration of Lillington. This has included submitting representations to various draft Local Plan documents and evidence base documents issued by the Council in recent years.

On behalf of our client we support the Council's continued identification of some of the Red House Farm land for residential development and wish to continue our constructive dialogue with the Council regarding the regeneration of Lillington. We therefore wish to provide support for various policies within the Publication Draft Local Plan. However, it is our firm view that additional land at this site should be allocated to maximise the regeneration of Lillington, in line with the Council's aspirations, and to support the Council in delivering their housing requirements. Furthermore, we believe that the Red House Farm land should come forward for development ahead of any Glebe Farm land, if considered necessary, for reasons discussed in this report. As a result we also wish to object to various draft policies.

This report will demonstrate that the plan as proposed is unsound as currently drafted because:

- the proposed housing requirement is not the objectively assessed housing need;
- it provides insufficient housing site allocations (and associated removal of land from the green belt) to genuinely deliver the objectively assessed housing need;
- it provides insufficient housing site allocations (and associated removal of land from the Green Belt) to extend the range of regeneration options so as to assist in meeting the Council's regeneration aspirations for Lillington and maximise regenerative benefits; and
- it risks not being able to deliver the identified housing need in the plan period if there are problems or delays in delivering the two largest housing site allocations or if the housing requirement is increased.

Representations are provided below, with direct reference to draft policies from the Publication Draft Local Plan, which cover the above issues.

2. **RED HOUSE FARM REPRESENTATION LAND**

2.1 **Identification and Context**

Attached at Appendix A are three maps identifying the location and context of the Red House Farm land:

- Location Plan (showing the Council's Proposed allocation at Red House Farm, and our proposed extension to this allocation);
- Development Concept Plan for Red House Farm; and
- Indicative Masterplan for Red House Farm development.

2.2 **Red House Farm Objectives**

The objectives of promoting the extended Red House Farm site and of these representations are to:

- support the Council's proposed allocation of some of the Red House Farm land;
- support the regeneration of Lillington;
- promote sustainable development to achieve this regeneration;
- create an easily defined, defensible green belt boundary beyond the Red House Farm land; and
- promote an extension to the Red House Farm proposed allocation. It is clear that to maximise the above aims more adjoining land should be allocated in this location. Furthermore, the development of the wider Red House Farm site makes it unnecessary to allocate the more prominent Glebe Farm land.

3. **REPRESENTATIONS TO DATE**

Representations have been made to the following stages of the Local Plan review and evidence base:

- Revised Development Strategy (July 2013). Comments were submitted supporting the proposed allocation of Red House Farm land, and seeking to extend this allocation. A number of supporting documents were also submitted as follows:
 - Landscape and Visual Assessment (FPCR Environment & Design Ltd., July 2013)

- Ecological Appraisal (FPCR Environment & Design Ltd., 2013)
- Archaeological Desk Based Assessment (CgMs Ltd., July 2013)
- Agricultural Land Use & Quality (Land Research Associates, July 2013)

Copies of the representations regarding the Revised Development Strategy and the four supporting reports listed above are submitted with these Publication Draft representations at Appendix B for ease of reference.

- Preliminary Draft Charging Schedule (June 2013). Detailed representations were submitted in support of the regeneration of Lillington and the delivery of new homes on the Red House Farm land.

The extended site is shown on the plans at Appendix A. The reports and information previously submitted demonstrate that both the draft allocation site and the proposed extension land would assist the Council in delivering their housing need with an acceptable form of development with no significant detrimental impact upon the landscape or Green Belt.

4. **TESTS OF SOUNDNESS**

National Planning Policy Framework Performance

- **Positively prepared** – the plan should be prepared based on a strategy which seeks to meet objectively assessed development and infrastructure requirements, including unmet requirements from neighbouring authorities where it is reasonable to do so and consistent with achieving sustainable development;
- **Justified** – the plan should be the most appropriate strategy, when considered against the reasonable alternatives, based on robust and credible evidence;
- **Effective** – the plan should be deliverable over its period and based on effective joint working on cross-boundary strategic priorities and be sufficiently flexible to accommodate unexpected changes in circumstances; and
- **Consistent with national policy** - the plan should enable the delivery of sustainable development in accordance with the policies in the Framework.

Section 5 below sets out the performance of the Publication Draft Local Plan against these criteria, with reference to specific draft policies.

5. **PERFORMANCE OF THE PLAN**

5.1 **Policy DS2**

We support the Council's stated aim to provide in full for the Objectively Assessed Housing Need in accordance with paragraph 47 of the NPPF.

5.2 **Policy DS3**

We support the Council's aim of supporting sustainable communities by providing high quality new development.

5.3 **Policy DS4**

We support the overall spatial strategy for new development identified by the Council. In particular we agree that it is clear from the joint SHMA that the level of new housing required to meet identified need provides the exceptional circumstance to justify some removal of land from the Green Belt. We support this view. It is clear from the recent case *Gallagher Homes Limited Lioncourt Homes Limited v Solihull Metropolitan Borough Council* [2014] EWHC 1283 (Admin) (30 April 2014) that the 'radical policy change in respect of housing provision effected by the NPPF' (para. 98 of Gallagher Homes decision) makes the NPPF requirement to ensure Local Plans meet their full, objectively assessed need 'not just a material consideration, but a consideration of particular standing' (para. 31ii of Gallagher Homes decision). Furthermore, the Gallagher Homes decision made it clear that 'the NPPF requires plan-makers to focus on full objectively assessed need for housing, and to meet that need unless (and only to the extent that) other policy factors within the NPPF dictate otherwise' (para. 97 of the Gallagher Homes decision). This provides clear justification for a balanced assessment and release of Green Belt land in order that Warwick District's full objectively assessed housing need (identified by the SHMA) can be delivered.

We support the Council in identifying the Red House Farm land as a Green Belt release: the reasons for the exceptional circumstances required to support such a release are to meet the identified housing need and to support the regeneration of a deprived area (Lillington). The five tests of the Green Belt (set out in paragraph 80 of the NPPF) can be adequately met in this location with the inclusion of the wider Red House Farm land.

5.4 **Policy DS5**

We support the presumption in favour of sustainable development and the commitment that planning applications which accord with the policies in this Local Plan will be approved without delay.

5.5 **Policy DS6**

We welcome the increase in the overall housing numbers compared with the Revised Development Strategy. However, we object to the level of housing growth identified in this policy for the following reasons:

- The joint SHMA sets out the housing need for Warwick District, along with the adjoining authorities. It does not make policy suggestions; it merely sets out the existing and projected housing needs for this area. It is for the Local Plan to then use this evidence base to draft policies which will deliver the required housing. The proposed requirement must be in line with the other Local Plan targets, such as jobs and economic growth targets. The Council appears to have taken the figures from the 2011 CLG Interim Housing Projections and inserted them into the Local Plan without aligning these figures with other aspirations of the Plan. The housing requirement proposed is therefore not the full objectively assessed housing need. This does not accord with the NPPF and is therefore unsound as it fails to be consistent with national policy. The recent Gallagher Homes case referred to above (see para. 5.3 of this report) further justifies this point. The NPPF's considerable emphasis on the policy imperative of increasing the supply of housing and its resulting requirement to meet the full objectively assessed needs for housing (see para. 31ii) of the Gallagher Homes decision) is a material consideration 'of particular standing' (para. 31ii)).
- The result of not increasing the housing numbers to meet the full Objectively Assessed Housing Need will be continued under-delivery of homes against the identified need. This is likely to be particularly acute in this area of high population growth: paragraph 1.10 of the Local Plan confirms the population growth is expected to be 17% over the next 15 years. In relation to housing supply, the NPPF requires (at paragraph 47) an additional buffer of at least 5% of the housing need to ensure choice and competition in the market for land. Where there has been persistent under-delivery (as is the case here), the NPPF requires this buffer to increase to 20%. Bearing in mind the historic under-delivery of homes together with the likely requirement to deliver homes in the district to meet identified need in other local authority areas, it is clear that the Council will find themselves having to bring forward housing from the later plan periods to meet the NPPF requirements for housing delivery and supply, and consequently fall short in the later plan period unless they increase the overall housing numbers. This is not justified or effective and can be reasonably foreseen.
- The Council has ignored the advice within its SHMA which recommends a housing requirement of 720 dwellings per annum. Paragraph 7.79 of the SHMA states

‘Overall the evidence points to a need for a minimum of 660 homes per year. However the evidence does point towards this resulting in some suppression of household formation. We consider that an appropriate level of provision based on the evidence presented thus far in the report would be around 720 homes a year, representing 1.2% growth per annum in housing stock.’ The Council has adopted the 660 dwellings per annum figure taken from the 2011 CLG Interim Housing Projections which were collated over a period of limited growth due to recession and thus if extrapolated to suggest future growth would result in the suppression of household formation. As such, the Council should be using the advised 720 dwellings, per annum as the starting point for the housing requirement, which acknowledges that towards the end of the Plan period, rates may increase to be more in line with the 2008 projections which would equate to 772 homes per annum. This concern in relation to relying upon the 2011 projections and scenarios based on household formation rates returning to 2008 based trends after 2021 have been recognised by recent Examinations in Public (for example, South Worcestershire Development Plan), as a sound basis on which to establish future housing need.

- Furthermore, we note the Council’s intention to review the Local Plan early if it is found that there is an under-delivery in one of the adjoining authority areas and additional housing is required in Warwick District. It is clear in the SHMA that the Local Authority should be engaging with the adjoining Authorities, not only those within the HMA, but also those in adjoining HMAs, in relation to the housing needs and supply. Paragraph 11.32 of the SHMA states *‘In moving forward it will be important that the Local Authorities continue to collaborate in considering how the housing need identified for the HMA can be addressed and if there is a need to consider any unmet need from adjoining HMAs.’* Paragraph 11.34 continues, *‘The Duty to Cooperate does not end at the boundaries of the HMA and there are relationships to adjoining areas. Against this context continuing engagement with adjoining authorities and housing market areas will be important. In particular the current evidence suggests that there may be a need to engage with the Birmingham HMA and to consider the implications of any residual shortfall in housing provision within the Greater Birmingham and Solihull LEP Area should this remain following work on the Joint Strategic Housing Needs Study.’* Although there is some uncertainty in this regard, it is clear that there is a realistic prospect that additional housing will be required in Warwick District, particularly due to the historic under-provision. Additional land should be identified for safeguarding should the need arise (in accordance with NPPF paragraph 85). Whilst the Council has clearly worked with its neighbouring authorities to assess the housing market needs across the housing market area, this has not yet led to an identification of whether housing needs can be met elsewhere in the HMA and hence whether additional housing

delivery will be required within Warwick District. It appears to be very likely that additional housing will be required within Warwick District, and this should be included within this Local Plan in order to meet the tests of soundness (be positively prepared) and to comply with NPPF housing delivery requirements (para. 47). Furthermore, the Council needs to be satisfied that it has met its duty to co-operate in this regard (set out in section 33A of the 2004 Planning and Compulsory Purchase Act). We are concerned that the Council has not sufficiently discharged its duty to cooperate with neighbouring local authorities, given that there does not appear to be any evidence on this issue, other than the joint appointment of the SHMA. We understand that the Council will be issuing a statement on how it has cooperated with adjoining local authorities and HMAs in advance of the Examination in Public and we reserve the right to comment on this in due course. It is critical that the approach the Council has taken to cooperating with neighbouring authorities and HMAs is robust, to ensure that the Duty to Cooperate has been met and as such the plan is not found to be unsound.

- The recent Gallagher Homes case referred to above (see para. 5.3 of this report) further justifies this point. The NPPF's considerable emphasis on the policy imperative of increasing the supply of housing and its resulting requirement to meet the full objectively assessed needs for housing (see para. 31ii) of the Gallagher Homes decision) is a material consideration 'of particular standing' (para. 31ii)). It is particularly important to ensure that the Objectively Assessed Housing Need is met where there has been consistent under-provision of housing both in Warwick and its surrounding areas: the NPPF places providing sufficient housing at its heart and it is essential for the policy to comply with this in order for it to be sound.

It is therefore considered that the proposed housing requirement should be increased to reflect the points we have raised above and therefore further land should be allocated for housing. The proposed extension to Red House Farm which could provide a further 150 units should be removed from the Green Belt and allocated for housing to contribute to delivering this further requirement.

5.6 **Policy DS7**

We welcome the increase in overall housing numbers compared with the Revised Development Strategy.

However, we object to the proposed spread of numbers between different sources of housing delivery, and we object to the limited overall housing numbers proposed.

Over half of the overall housing delivery is identified as being delivered from existing committed sites with planning consent. This is risky as there are many reasons why sites which already have planning permission / windfall sites / small urban sites do not come forward for development and generate new housing. (Ownership / site assembly issues, viability, delays due to associated infrastructure requirements, to name but a few.) There appears to be a vast over-reliance on assumed delivery from these sources (over 50%). This is unsound as it is not justified or effective: it can be reasonably foreseen that there will be insufficient housing delivery. A buffer should be included for non-delivery and additional allocations should therefore be identified in order to make this policy sound.

Within the site allocations currently identified, there is too much reliance on two large sites (HO1 and HO2) which puts successful housing delivery at further risk. For more on this please see comments below regarding Policy DS11.

5.7 **Policy DS11**

We support the proposed allocation of Site HO4 – Red House Farm. It will assist in the Council's aim of regenerating Lillington – a very deprived locality as acknowledged by the Council in paragraphs 1.17 and 2.51 of the draft Local Plan. Lillington is one of the most deprived neighbourhoods in Warwickshire.

However, we object to the proposed number of dwellings on this site, i.e. 250. The net developable area of the existing proposed allocation at Red House Farm, excluding the Glebe Farm land which currently forms part of this allocation, is nearer 300.

Whilst allocating 250 houses on the Red House Farm site (including the Glebe Farm land) assists in the delivery of much needed housing and contributes towards the regeneration of Lillington, increasing the number of houses will maximise and enhance the regenerative benefits that can be provided. The Council's uncertainty as to the appropriate scale of housing to meet these aims is demonstrated by the proposed allocation for 50 dwellings on a site to the west of Red House Farm and very much removed from Lillington at Campion Hills (HO5) in the publication draft submitted to the full Council meeting on 23 April 2014. The site, which is owned by the Council and is well used for public recreation, was removed from the publication draft at the meeting with no consequential increase in the Red House allocation. We propose that excluding the Glebe Farm allocation, which is not necessary or desirable given its more prominent position and extending the Red House Farm allocation can deliver a total of around 450 dwellings. This includes an additional 150 dwellings on the proposed extension site which, as demonstrated in the LVIA which was submitted with our representations to the Revised Development Strategy (July 2013), has no greater impact on the landscape than the existing proposed allocation. The additional housing together with the allocated housing all on one consolidated site greatly enhance the scope for a high quality

regeneration scheme and contributes to housing delivery. The extended site also provides additional benefits including good quality public open space, a new defensible Green Belt boundary, increased scope for public transport to service the development, and importantly, more options for walking and cycling, not only on roadways and footpaths to town centre services, but also for new public foot paths and cycle ways, together with a bridge over the River Leam/Grand Union canal, to connect to the Tow Path, all within the ownership of Mr H Johnson.

We also object to the reliance on two large sites (namely HO1 and HO2) for a significant proportion of the site allocation's housing delivery (around 43.5%). This is a very risky strategy: if either of these sites is delayed or falls through for any reason, there will be a very significant shortfall of housing delivery.

The Gallagher Homes decision referred to above at paragraphs 5.3 and 5.5 provides very useful guidance as to the importance of providing enough homes to meet the full objectively assessed housing need set out in the NPPF. The extended Red House Farm site would assist the Council in meeting this NPPF requirement, in addition to the regeneration benefits it would provide.

For the above reasons, this policy is unsound as it is not justified or effective, nor is it positively prepared. To make this policy sound, the Red House Farm site allocation should be increased in size and number. There should also be less reliance on two sites and a broader baseline for meeting the housing need.

5.8 **Policy DS15**

We support and welcome the opportunity to provide a development brief or masterplan for the proposed development at Red House Farm.

However, we would caution that this requirement should not preclude development and should not prevent the initial phases of development coming forward in advance of such a document being agreed with the Council. As drafted, this policy is unsound as it may cause unnecessary delay to housing delivery and it is therefore not positively prepared. To make it sound the policy should include some flexibility about the timing of the production of a development brief or masterplan.

Furthermore, any development brief or masterplan should be considered acceptable for the Red House Farm site if it excludes the Glebe Farm land.

5.9 **Policy DS18**

We support the regeneration of Lillington, including its Local Shopping Centre.

5.10 **Policy DS19**

We support the confirmation that Green Belt policy will follow that set out in national policy. On that basis, the Green Belt boundary should be long term and defensible, and safeguarded land should be identified in this Local Plan in accordance with NPPF paragraph 85.

5.11 **Policy DS20**

It appears from the joint SHMA that there is a reasonable likelihood that additional housing will be required in Warwick District as a result of needs arising outside the District requiring to be met within the District. Whilst the approach set out in Policy DS20 is in many ways sensible, it is not sound as it is not positively prepared. This additional need can be reasonably foreseen and allowance should be made for it by way of additional site allocations. At the very least, additional land should be safeguarded for this purpose to provide some certainty, in accordance with NPPF paragraph 85.

5.12 **Policy PC0**

We support the aim set out at part i) which is to support opportunities for regeneration.

5.13 **Policy H0**

We support the **aim** of providing in full for the District's housing need. However, as discussed above, the proposed housing requirement is based on unreliable 2011 Interim Projections and thus is not sound. In addition, these figures do not appear to include an allowance for housing need to be met from other Local Authorities in the HMA, or other neighbouring HMA areas. Accordingly, the requirement proposed is not the objectively assessed housing need and thus does not comply with national policy; nor is it positively prepared.

5.14 **Policy H2**

We support the Council's intention to provide affordable homes.

However, we object to a blanket requirement of 40%: this is too prescriptive. It is not justified or effective and the policy is therefore unsound. The policy should make it clear that the amount of affordable housing will be determined on a site by site basis with an overall aim of achieving 40% where possible and viable, in order to be sound.

5.15 **Policy SC0**

We support the Council's overall aims regarding sustainable communities as summarised in this policy.

However, the policy requires additional flexibility for these requirements to be assessed on a site by site basis at the application stage (or in a masterplan or development brief).

5.16 **Policy BE1**

We support the overall aims for the design of new development.

5.17 **Policies TR1 and TR2**

We support these transport policies, provided that they are flexibly used in the determination of planning applications.

5.18 **Policy TR3**

We object to this policy as drafted. It is unsound as it is not positively prepared, nor justified. To make the policy sound, these transport improvements should only be required where they are necessary and viable, and where they are in accordance with other policies in the Local Plan and / or a CIL charging schedule.

5.19 **Policy HS1**

We support the Council's aims to create healthy, safe and inclusive communities.

5.20 **Policy HS4**

We object to this policy as drafted. In order to be sound, this policy should make reference to the stated contributions being required only where necessary and viable, and in accordance with other policies in the Local Plan and / or a CIL charging schedule.

5.21 **Policy HS7**

We support the use of design to minimise the potential for crime and anti-social behaviour.

5.22 **Policy CC1**

We support these proposed climate change measures only when it is viable to do so.

5.23 **Policy NE4**

We support the Council's protection of areas of important landscape character and value. However, we object to the apparent requirement in this policy that all development should 'positively contribute to landscape character'. This is not justified or effective and is

therefore not sound. There will be occasions where it will not be appropriate or desirable for development proposals to positively contribute to landscape character. In some instances there will be other over-riding material considerations that will take precedence: for example regeneration. The policy should be worded with more flexibility to reflect this in order for it to be sound.

5.24 **Policy DM2**

We support and welcome the Council's practical, pro-active approach to considering and assessing viability, in line with government policy and guidance, and recent rhetoric.

6. **CONCLUSIONS**

The plan as proposed is unsound because of the detailed comments made above, which can be summarised as follows:

- The proposed housing requirement is not the objectively assessed housing need;
- it provides insufficient housing site allocations (and associated removal of land from the Green Belt) to genuinely deliver the objectively assessed housing need;
- it provides insufficient housing site allocations (and associated removal of land from the Green Belt) to extend the range of regeneration options so as to assist in meeting the Council's regeneration aspirations for Lillington and maximise regenerative benefits; and
- it risks not being able to deliver the identified housing need in the plan period if there are problems or delays in delivering the two largest housing site allocations or if the housing requirement is increased.

The above issues of soundness should be addressed before the Plan is formally adopted.

Appendix A

Appendix B