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SENT BY E-MAIL AND POST

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Dear Sir / Madam

## **WARWICK LOCAL PLAN PRE SUBMISSION CONSULTATION**

### **1. Introduction**

1.1 Thank you for consulting with the Home Builders Federation (HBF) on the above mentioned consultation.

1.2 The HBF is the principal representative body of the house-building industry in England and Wales. Our representations reflect the views of our membership, which includes multi-national PLC's, regional developers and small, local builders. In any one year, our members account for over 80% of all new "for sale" market housing built in England and Wales as well as a large proportion of newly built affordable housing.

1.3 We would like to submit the following representations and in due course we would also wish to appear at the Examination in Public (EIP) to debate these matters in greater detail.

### **2. Objectively Assessed Housing Needs & Housing Requirement**

2.1 Paragraph 159 of the National Planning Policy Framework (NPPF) requires a Local Planning Authority (LPA) and where necessary neighbouring authorities working together to prepare a Strategic Housing Market Area Assessment (SHMAA), which assesses housing needs in full across the relevant HMA. Objectively assessing housing needs means meeting the population and household projections provided by Office of National Statistics (ONS) and Department of Communities & Local Government (DCLG) taking into account both migration and demographic change. However the National Planning Practice Guidance (NPPG) identifies that DCLG household

projections are only the starting point for the estimate of overall housing need (ID 2a-015-20140306) because such projections assume that external factors like the economy and land supply, which have influenced past demographic change, remain the same in the future. As a consequence if in the past the economy has been in recession or land use planning policy has been overly restrictive, trend based projections will under-estimate need. For this reason demographic projections should always be used as minimums.

2.2 The NPPG identifies that plan makers should also assess employment trends (ID 2a-018-20140306) and market signals such as land prices, house prices, rents, affordability, rates of development and overcrowding (ID 2a-019-20140306). A worsening trend in any of these indicators will require an upward adjustment to planned housing numbers compared to ones based solely on household projections (ID 2a-020-20140306). The NPPG (ID 2a-004-20140306) explains that *“the assessment of development needs is an objective assessment of need based on facts and unbiased evidence. Plan makers should not apply constraints to the overall assessment of need, such as limitations imposed by the supply of land for new development, historic under performance, viability, infrastructure or environmental constraints”*. The emphasis is that an objective assessment of development needs should be unconstrained. Although there is no one methodological approach to provide a definitive assessment of housing needs, the methodology in the NPPG is strongly recommended. If a LPA departs from this standard methodology the different approach should be explained (ID 2a-005-20140306).

2.3 In Paragraph 37 of the recent case of Gallagher Homes Limited & Lioncourt Homes Limited v Solihull Metropolitan Borough Council [2014] EWHC 1283 (Admin) Mr Justice Hickinbottom sets out the different concepts of a full objective assessment of need for housing and a housing requirement. Mr Justice Hickinbottom confirms that under Paragraph 47 of the NPPF housing needs are *“not just a material consideration, but a consideration of particular standing”* and that in the context of the NPPF it is insufficient for all material considerations including need, demand and other relevant policies simply to be weighed together. This reaffirms the principle from St Albans City and District Council and Secretary of State for Communities and Local Government v Hunston Properties [2013] EWHC 2678 (Admin) that under Paragraph 47 of the NPPF *“in plan-making full objectively assessed housing needs are not only a material consideration but a consideration of particular standing with a particular role to play”*. In Paragraph 73 Mr Justice Hickinbottom also sets out the stepped approach to formulating a housing strategy in a Local Plan as required by the NPPF.

2.4 For Warwick District Council the Coventry & Warwickshire SHMA dated November 2013 by G L Hearn sets out the objective assessment of housing needs for the relevant HMA.

**2.5 Strategic Policy DS2 : Providing the Homes the District Needs and Overarching Policy H0 : Housing** of the Warwick Pre Submission Local Plan state that the Council will provide homes for the District’s needs and meet the objective assessment of these needs in full. **Policy DS6 : Level of Housing Growth** proposes 12,860 new homes (714 dwellings per annum)

between 2011 – 2029. However the Coventry & Warwickshire Joint SHMA Final Report states in Paragraph 7.79 that an appropriate level of provision in Warwick District Council would be 720 dwellings per annum equivalent to 12,960 dwellings over the Local Plan period. Therefore the housing requirement figure in **Policy DS6** is 100 dwellings below the objective assessment of housing need identified in the SHMA so the Council is not meeting its needs in full as stated in **Policies DS2** and **H0**.

2.6 The “*What Homes Where?*” website toolkit based on 2008 household projections and the DCLG 2011 based interim household projections provide useful starting points and baseline figures for referencing and benchmarking purposes. The “*What Homes Where?*” toolkit launched in 2013 by Lord Taylor at the House of Lords and jointly sponsored by the Local Government Association, HBF, Planning Advisory Service, Planning Officers Society and Shelter has been developed as a resource to provide independent and publicly available data on the household and population projections for every LPA in England. The aim of the resource is to assist LPAs understand the drivers of housing need. The use of this toolkit in determining objectively assessed housing need has been endorsed by Inspectors at examinations into the West Northamptonshire’s Joint Core Strategy, the Gravesham Local Plan and most recently the Stroud Core Strategy. The toolkit is also recommended in the Local Government Association Planning Advisory Service document “*Ten Key Principles For Owning Your Housing Number – Finding Your Objectively Assessed Needs*” document published in July 2013.

2.7 For Warwick the “*What Homes Where?*” toolkit identifies household growth of 15,557 (864 per annum) over the plan period whilst the 2011 interim household projections indicate a household growth of only 625 per annum between 2011 – 2021. If the standard National Housing & Planning Advice Unit (NHPAU) methodology for converting household growth into number of dwelling is applied the equivalent figures are 890 and 644 dwellings per annum respectively. The figure of 644 dwellings per annum derived from 2011 based household projection reflects a recessionary trend whilst the 890 dwellings per annum derived from 2008 based data represents a long term trend. It is suggested that the Coventry & Warwickshire SHMA is over stating recent recessionary trends in its future projections of housing needs. The most recent research on household projections is “*Planning for Housing in England : Understanding recent changes in household formation rates and their implications for planning for housing in England*” by Neil McDonald and Peter Williams from University of Cambridge published by the Royal Town Planning Institute (RTPI) as Research Report No. 1 January 2014. This report identifies that “*LPAs in England may be underestimating housing need by up to 30% in some cases due to an over reliance on Government household projection data*”. As illustrated in the Table below household formation across all households in Warwick but especially the 25 – 34 years age group are significantly suppressed in the 2011 based data. The question arises as to the most appropriate data set for post 2021. At recent Local Plan examinations including South Worcestershire and Amber Valley, a hybrid approach has been used whereby 2011-based data is applied up to 2021 and thereafter 2008-based data is used. Such a hybrid approach reflects a gradual return to established long term trends after an extraordinary period of recession. It is

suggested that the midpoint scenario used in the Coventry & Warwickshire SHMA is not a sufficient response to this issue, perhaps a higher upward adjustment is necessary. The Council should consider undertaking further sensitivity testing which may indicate an increase in the objective assessment of housing needs above the proposed housing requirement of 12,860 new homes.

| Headship rates compared: all households  |       |       |       |
|--|-------|-------|-------|
|  | 2011  | 2016  | 2021  |
| 2008-based                               | 0.443 | 0.452 | 0.461 |
| 2011-based                               | 0.436 | 0.441 | 0.447 |
| Headship rates compared: 25-34 year olds |       |       |       |
|  | 2011  | 2016  | 2021  |
| 2008-based                               | 0.497 | 0.504 | 0.513 |
| 2011-based                               | 0.448 | 0.432 | 0.420 |

2.8 Likewise it is doubtful if the response to economic growth is adequate. The Coventry & Warwickshire Local Enterprise Partnership (LEP) Strategic Economic Plan (SEP) dated March 2014 promotes 94,500 jobs however the 75,000 to 76,000 dwellings identified as the objective assessment of housing needs in the Coventry & Warwickshire SHMA delivers only 62,600 jobs. Moreover the SHMA's job led scenario is based on Experian economic forecast data which is more out of date than the data used to inform the LEP SEP. Even more confusing is the use of 2011 headship rates rather than the midpoint figure in the SHMA job led scenario.

2.9 It is also questionable if a sufficient upward adjustment to address affordability has been undertaken. The Local Plan states that *"the SHMA 2013 shows that purchase prices for entry-level homes of all sizes (except 3-bed homes) were highest, or equal highest, in Warwick District compared with all the other local authorities in the HMA. The SHMA also shows that entry-level private rents were highest for all sizes of homes and that the income required to purchase or privately rent an entry-level home, without subsidy, was also the highest of all local authorities in the HMA ... 46.1% of households in the District were unable to afford market housing without subsidy in 2013 ... in Warwick District, the need was assessed to be 268 new affordable homes each year between 2013 and 2031. This is equivalent to a total of 4,288 homes, or 37% of the total, to be provided over the remaining plan period"*. The NPPG advises that Councils should estimate the number of existing and future households without their own home or living in unsuitable accommodation, who cannot afford to meet their housing needs in the open market (ID 2a-022-20140306). This total affordable housing need should be considered in the context of its likely delivery as a proportion of mixed market and affordable housing developments. An increase in the total housing figures included in the Local Plan should be considered where it could help deliver the required number of affordable homes (ID 2a-029-20140306). NPPG ID 2a-020-20140306 advises that the more significant the affordability constraints and the stronger other indicators of high demand, the larger the improvement in affordability needed and therefore the larger the additional supply response should be. The Council should reconsidered its approach to

affordability given the significant level of need for affordable housing in the District.

2.10 If the Warwick Local Plan is to be found sound the full objective assessment of need for market and affordable housing should be met.

### **3. Duty to Co-operate**

3.1 Section 33(A) of the Planning and Compulsory Purchase Act 2004 as amended by Section 110 of the Localism Act 2011 introduced the Duty to Co-operate whereby a LPA must engage constructively, actively and on an on-going basis in the preparation of its Local Plan. The Duty to Co-operate is also referred to in Paragraphs 17, 157 and 178 of the NPPF, whereby neighbouring LPAs should work jointly together and co-operate to address planning issues which cross administrative boundaries and on matters that are larger than local issues. In accordance with Paragraph 181 of the NPPF, a LPA is expected to demonstrate evidence of having effectively co-operated to plan for issues with cross boundary impacts when their Development Plan Documents (DPD) are submitted for examination. This co-operation should be continuous from engagement on initial thinking through to implementation. The NPPG under its Duty to Co-operate section provides further advice on appropriate co-operation.

3.2 There are arguably two aspects to the Duty to Co-operate :-

- the S33(A) legal test is a test of 'process'. A LPA must co-operate with all neighbouring authorities and other prescribed bodies to ensure legal compliance with the Duty to Co-operate prior to submission of its DPD for examination because any failure to do so is incapable of retrospective modification. At examination if a DPD is not to be rejected by an Inspector a LPA will have to provide evidence of compliance with the Duty to Co-operate. Therefore, this legal test is one of the first things examined because, if the legal requirement is not fulfilled, then an Inspector must recommend non adoption of the DPD and ;
- collaborative joint working is a test of “outcomes” which is an aspect of soundness. This test is concerned with the 'positively prepared' and 'effective' soundness criteria of Paragraph 182 in the NPPF.

3.3 The NPPG (ID 9-010-20140306) emphasises that co-operation is more than just confirming that a LPA has approached other parties. The Duty to Co-operate is unlikely to be satisfied by the exchange of correspondence, conversations or consultations between authorities alone (NPPG ID 9-011-20140306) as illustrated by the withdrawal from examination of the Coventry and Bolsover Local Plans.

3.4 Warwick District Council has four neighbouring authorities namely Solihull Metropolitan Borough Council, Stratford upon Avon District Council, Rugby Borough Council and Coventry City Council. All of these authorities except Solihull are part of the Coventry & Warwickshire Housing Market Area (HMA). At this time Solihull MBC has determined that the Borough forms its own HMA

however it also forms part of the Greater Birmingham & Solihull Local Enterprise Partnership (GBSLEP) Housing Needs Study.

3.5 The NPPG sets out that “a housing market area is a geographical area defined by household demand and preferences for all types of housing, reflecting the key functional linkages between places where people live and work” (ID 2a-010-20140306). The NPPG affirms that a LPA should assess its development needs working with other authorities in the relevant HMA in line with the Duty to Co-operate (ID 2a-007-20140306). However NPPG ID 9-015-20140306 also emphasises that “there may be a need for co-operation over a wider functional area involving both neighbouring and other LPAs”. Just as LPA administrative areas are not self-contained entities with border controls neither are HMAs. It is vitally important to consider inter relationships between neighbouring authorities and HMAs when formulating housing and development policies. The “What Homes Where?” toolkit identifies significant inflows and outflows of internal migrants moving between Warwick and its neighbouring authorities and Birmingham as illustrated by the Table below :-

| Top flows into WARWICK | 2010-11 inflow: nos. of people | Cumulative % of total inflow | Top flows out of WARWICK | 2010-11 outflow: nos. of people | Cumulative % of total outflow |
|------------------------|--------------------------------|------------------------------|--------------------------|---------------------------------|-------------------------------|
| Coventry               | 1660                           | 21.9%                        | Stratford-on-Avon        | 900                             | 10.8%                         |
| Stratford-on-Avon      | 590                            | 29.7%                        | Coventry                 | 770                             | 20.1%                         |
| Birmingham             | 290                            | 33.5%                        | Rugby                    | 260                             | 23.2%                         |
| Solihull               | 260                            | 37.0%                        | Birmingham               | 240                             | 26.1%                         |
| Rugby                  | 200                            | 39.6%                        | Solihull                 | 190                             | 28.4%                         |

3.6 These important functional linkages are acknowledged by the Council in Paragraphs 1.20 and 1.21 of the Warwick Local Plan “*whilst the WMRSS is no longer extant, the Council has continued to recognise the importance of working on strategic issues across boundaries. Warwick District is not an island and therefore proposals and policies elsewhere impact on the District and vice versa ... the Council has undertaken a SHMA for the Coventry and Warwickshire along with the other LPAs ... this has provided a sub-regional evidence base on the quantum of housing required in Coventry and Warwickshire. This evidence base has been used as a starting point for on-going discussions about the quantum of housing to be delivered in each district*”.

3.7 Paragraphs 1.22, 1.23 and 1.24 of the Local Plan continue “*each of the authorities within the sub region is at a different stage in preparing their local plan or core strategy. The capacity of the other districts to deliver their housing requirement in full is therefore not known. In this context, the potential remains that one or more of these authorities will not be able to meet their housing requirement within their boundaries. Warwick District Council has therefore been working closely with the other authorities in Coventry and Warwickshire to agree a robust process to address this issue should it arise. This process has been agreed by the Coventry and Warwickshire Joint Committee. It involves three broad stages (1) ensuring a robust and up to date joint evidence base, (2) agreeing a sub-regional strategy for meeting any shortfall in housing provision and (3) reviewing Local Plans where necessary.*

*If required, the Council is committed to an early review of its Local Plan to address any shortfall in the sub region's housing provision. The Council and along with the other Councils in the Coventry and Warwickshire sub-region have also cooperated with Councils in neighbouring housing market areas, particularly the Birmingham area. Whilst it is not anticipated that Warwick District Council will be approached directly to accommodate any housing shortfall from the Greater Birmingham area, there is a possibility that other Councils within the Coventry and Warwickshire sub-region will be. This could have knock on effects for the District. It has therefore been agreed, that any housing shortfall arising from within the Greater Birmingham area will also be addressed using the approach described above”.*

3.8 This approach is incorporated into **Policy DS20 Accommodating Housing Need Arising from Outside the District** which states “*the existence of unmet housing need arising outside the District will not render this Plan out of date. However, the Plan will be reviewed if evidence demonstrates that significant housing needs arising outside the District should be met within the District and cannot be adequately addressed without a review ... The six LPAs within the Coventry and Warwickshire HMA have agreed to cooperate together to ensure the HMA's housing need of 3,750-3,800 dwellings per annum is met in full. It is recognised that this is important in supporting the growth ambitions of Coventry and Warwickshire as set out in the Strategic Economic Plan as well as ensuring local plans and core strategies within the sub-region comply with national policy and guidance ... A further issue that may need to be addressed through this process is the potential for a shortfall in housing land arising from outside the Coventry and Warwickshire HMA, in particular from the Greater Birmingham area. In the event that such a shortfall may need to be partially addressed within the Coventry and Warwickshire HMA, the six local planning authorities have agreed to work together using the process described above“.*

3.9 A summary of the latest position on plan making in neighbouring authorities shows that :-

- In the consultation ending on 17<sup>th</sup> July 2014 the Stratford upon Avon District Council Core Strategy pre submission version proposes only 10,800 dwellings (540 dwellings per annum) over 2011 – 2031 compared to an objective assessment of housing needs of 11,400 dwellings (570 dwellings per annum) identified in the Coventry & Warwickshire SHMAA. It is evident that Stratford upon Avon is not meeting its full objectively assessed housing needs as identified by the SHMA furthermore there is no agreement from the authorities in the HMA or beyond (Redditch and Wychavon) to meet this unmet need. So if Stratford upon Avon is not meeting its full objectively assessed housing need there is a possibility unmet need could impinge upon Warwick ;
- On 16<sup>th</sup> April 2013, the Coventry City Council Core Strategy was withdrawn after the Council failed to satisfactorily comply with its legal responsibilities under the Duty to Co-operate including the lack of a joint SHMAA. Coventry's withdrawn Core Strategy proposed a

minimum of 11,373 dwellings (669 dwellings per annum) between 2011 – 2028 informed by a city only based assessment, which was a significant reduction in housing provision from the previous Core Strategy figure of 33,500 dwellings (distributed as 26,500 in Coventry, 3,500 in Nuneaton & Bedworth and 3,500 in Warwick) found sound in 2010. The Coventry & Warwickshire SHMA Final Report identifies an objective assessment of housing needs of 1,180 dwellings per annum (23,600 dwellings between 2011 - 2031) for Coventry City. The Council is expected to consult on its new Core Strategy during summer 2014 however at this time the specified housing requirement is unknown ;

- Rugby Core Strategy was adopted in June 2011. The Core Strategy proposes a minimum of 10,800 dwellings (540 dwellings per annum) between 2006 – 2026 based on revoked WMRSS housing figures. The Council is consulting (ending on 11<sup>th</sup> July 2014) on a development strategy for a new Local Plan which will address an objective assessment of housing need of 660 dwellings per annum or 13,200 dwellings between 2011 – 2031 ;
- The High Court case Gallagher Homes Limited & Lioncourt Homes Limited v Solihull Metropolitan Borough Council [2014] EWHC 1283 (Admin) determined that the 11,000 dwellings between 2006 – 2028 in the Solihull Local Plan adopted in December 2013 was not based on an objective assessment of housing need. Therefore there may be an unmet need arising in Solihull MBC, which could impact on Warwick ;
- In a sub-regional context, Birmingham City Council's most recent objective assessment of housing need indicates a requirement for between 80,000 to 105,000 new homes over its revised plan period 2011 - 2031 with only sufficient land (including windfalls) within in its own administrative area to accommodate 43,000 new homes. The Pre Submission Local Plan consultation (ended in December 2013) proposed a Green Belt review and the allocation of land west of Sutton Coldfield for a further 6,000 dwellings. However there remains an unmet need of circa 31,000 - 56,000 dwellings. Even though Birmingham is not an immediate neighbouring authority, it is unlikely that Warwick will remain entirely immune from such housing pressures. This matter will not be resolved by the long awaited GBSLEP Housing Needs Study which is not a SHMA nor binding on the participating LPAs. The study will merely confirm the housing shortfall across the sub region and suggest possible distribution patterns for this shortfall between LPAs.

3.10 It is not agreed that the existence of an unmet housing need outside the District will not render the Warwick Local Plan out of date. The NPPG advises that a LPA should consider whether plan making activity by other authorities has an impact on planning and the Local Plan in their area, for example a revised SHMA will affect all authorities in that HMA and potentially beyond irrespective of the status or stage of development of particular Local Plans (ID 12-008-20140306). Even if a LPA has an adopted Local Plan it is still required to co-operate with a LPA that is bringing forward its Plan. Local Plans should



be based on a strategy which seeks to meet objectively assessed development and infrastructure requirements. Therefore if a LPA preparing a Local Plan provides robust evidence of an unmet housing need identified in a SHMA other LPAs in the HMA will be required to consider the implications including the need to review their housing policies. The Council must acknowledge the new NPPF world with its greater policy emphasis on housing provision and its approach to start with full objectively assessed housing needs as illustrated by Paragraphs 31, 92 and 98 of the Gallagher Homes Limited & Lioncourt Homes Limited v Solihull Metropolitan Borough Council [2014] EWHC 1283 (Admin).

3.11 Furthermore and perhaps most importantly in Paragraph 95 of Gallagher Homes Limited & Lioncourt Homes Limited v Solihull Metropolitan Borough Council [2014] EWHC 1283 (Admin) Mr Justice Hickinbottom concludes that an assessment of whether a LPA has complied with its Duty to Co-operate under S33(A), which may be triggered by an unmet housing need in one area resulting from a shortfall between full housing need and a housing target based on a “policy on” requirement, cannot be determined until the objective assessment of housing need is known. In conclusion whilst there remain uncertainties about the meeting of unmet housing need in the LPAs adjoining Warwick District Council and Birmingham it is impossible to determine if the legal requirements of the Duty to Co-operate has or has not been discharged by the Council because the evidence is not available on which to make such a judgement. It is recommended that the Council provides further evidence such as a statement of compliance with Duty to Co-operate including formal agreements signed by elected members confirming that objectively assessed needs identified in the SHMA will be met by the respective LPAs.

## 4. Housing Land Supply

4.1 Paragraph 1.46 of the Local Plan states the Council’s intention to “*provide a sustainable level of housing growth (and balance this with economic growth) to reduce the number of people who are currently homeless or living in unsatisfactory accommodation, to meet future housing needs, and to help deal with the issues of need for affordable housing. The Local Plan will identify and maintain supply of land for housing to meet the objectively assessed needs for market and affordable housing*”. **Policy DS7** sets out the means of achieving the housing requirement from past completions, existing planning permissions, windfall sites, SHLAA sites, use of employment land, canal-side regeneration and Local Plan site allocations. **Policy H1 Directing New Housing** and **Policy DS10 Broad Location of Allocated Housing Sites** identify urban brownfield sites and greenfield sites on the edge of Kenilworth, Warwick, Leamington and Whitnash together with sites within Growth Villages and the rural area. **Policy DS11 Allocated Housing Sites** lists all these sites and **Policy DS15 Comprehensive Development of Strategic Sites** provides details on the Sustainable Urban Extensions. A housing delivery trajectory is also shown.

4.2 However the Council should clarify the method for dealing with shortfalls in housing delivery illustrated by the housing trajectory against an annualised housing requirement and if a 5% or 20% buffer is applicable. The Council

should also confirm that 5 years housing land supply is available on adoption of the plan. In the Warwick Local Plan Revised Development Strategy consultation the Council stated in Paragraph 5.1.32 “*at present there is not a 5 year supply of land for housing within the District as required by the NPPF*”.

4.3 Under Paragraph 49 of the NPPF “*relevant policies for the supply of housing will not be considered up to date if the LPA cannot demonstrate a five year supply of deliverable housing sites*”. Therefore if the Local Plan is not to be out of date on adoption it is critical that the land supply requirement is achieved. If there was not reasonable certainty that the Council had a 5 years supply of housing land the Local Plan would not be sound as it would be neither effective not consistent with National Policy. No doubt the Council is aware of the recent suspension of Local Plan Examinations for East Devon and Amber Valley because the Councils failed to identify 5 years land supplies.

4.4 **Policy H10 Bringing forward allocated sites in the growth villages** in Bullet point (c) states “*on sites allocated for 50 or more dwellings, the proposals include a phasing strategy whereby the homes are delivered across the plan period in phases of no more than 50 dwellings at a time over a period of 5 years, starting from the date the development commences on site*” which is inappropriate. The fundamental thrust of Government policy is the need to boost significantly the supply of housing. Under the NPPF the requirement to meet the full objectively assessed needs for market and affordable housing is an absolute one except insofar as there is any inconsistency with other policies set out in the NPPF. The phasing proposal in **Policy H10** means that the Council will not be meeting in its objective assessment of housing needs. The Council has not demonstrated that its housing needs are less at specific times during the plan period in fact such phasing may worsen trends in market signals such as affordability and rates of development.

## 5. Other Policies

5.1 **Policy HS4 Improvements to Open Space, Sport and Recreation Facilities** includes a reference to a Supplementary Planning Document (SPD). This SPD has not been through a statutory process and therefore has a lesser status than the Local Plan. By referring to this SPD in the Local Plan policy a greater weighting of significance is implied which is inappropriate. This reference should be removed and only if necessary placed in the supporting text.

5.2 The same criticism applies to the reference to Building for Life in **BE2 Developing Strategic Housing Sites**. This reference should also be removed to supporting text.

5.3 **Policy CC3 Building Standards Requirements - Residential Buildings** requires all new dwellings to achieve Code for Sustainable Homes Level 4 from the date of adoption of the Local Plan and Level 5 from 2016 (or any future national equivalent) unless it can be demonstrated that it is financially unviable. This policy should be reviewed by the Council in response to the

Governments recent consultation on the Housing Standards Review and the announcements on planning made in the recent Queen's Speech.

## 6. Viability

6.1 If the Warwick Local Plan is to be compliant with the NPPF, development should not be subject to such a scale of obligations and policy burdens that viability is threatened. The NPPG Viability Section stresses the importance of a realistic understanding of the costs and value of development in the local area and the operation of the market so that the scale of obligations and policy burdens do not threaten development viability (ID 10-001-20140306 and ID 10-004-20140306). The NPPG states that the development of plan policies should be iterative with draft policies tested against evidence of the likely ability of the market to deliver the plan policies, and revised as part of a dynamic process (ID 10-005-20140306).

6.2 This is acknowledged by the Council in Paragraph 6.7 of the Local Plan *“National planning policy requires that careful attention is given to viability and costs of development. For plans to be deliverable, development must be viable and should not therefore be subject to obligations and policy burdens that undermine viability. Development should provide competitive returns to a willing landowner and willing developer”*. However the Council's conclusion in Paragraph 6.8 that *“the Council has undertaken a viability assessment of the proposals in this Plan, including requirements for affordable housing and development standards. The viability assessment has also been cross referenced to the likely infrastructure costs associated with this Plan. This work indicates that as a whole, the Plan's proposals are viable and, in the main, development proposals should be able to comply with the policies of the Plan and contribute to the costs of infrastructure through the CIL scheme without threatening viability”* is disagreed with.

6.3 The Warwick District Council Affordable Housing Viability Assessment Final Report dated November 2011 by DTZ pre dates the NPPF and NPPG. The report was also prepared before the publication of the document *“Viability Testing Local Plans Advice for Housing Delivery Practitioners – Local Housing Delivery Group chaired by Sir John Harman (June 2012)”*. There are a number of concerns about the assumptions used in the Council's viability assessment, which do not correlate with the recommendations of the Harman Report. As a consequence there is potentially a significant under estimation of actual costs of particular concern are build costs, costs for Code for Sustainable Homes, cost for Lifetime Homes standards (applicable to SUEs only), finance costs, professional fees, sales & marketing costs and Section 106 contribution payments.

6.4 **H2 Affordable Housing** proposes that a minimum of 40% affordable housing to meet local needs is provided on residential developments of 10 or more dwellings within the urban area and 5 or more dwellings within the rural areas. The form of affordable housing, its location on the site and its means of delivery will be subject to negotiation at the time of a planning application. The viability of the development will be a consideration in such negotiations.

6.5 However even with the under estimation of costs (described above) **Policy H2 Affordable Housing** together with other policy requirements such as **Policy CT5 Infrastructure Contributions to Meeting Places, Cultural Facilities and Public Art**, **Policy CC3 Building Standards Requirements**, and **DM1 Infrastructure Contributions** are not justified by the viability assessments, which demonstrate that at the Baseline Market Position (the market conditions at the date of the report 2010/11) no development was viable at 40% affordable housing provision (Paragraph 10.6). On Sustainable Urban Extension sites (representing 66% of the proposed land supply in the Local Plan) at the Baseline Market Position only between 0 - 25% affordable housing provision was possible. Indeed Paragraph 10.8 of the Affordable Housing Viability Assessment recommends *“given that certain areas of the District perform far better than others, DTZ would suggest Warwick District Council consider producing a zoned affordable housing policy which has different affordable housing percentages by area”*. This recommendation should be considered by the Council.

6.6 The Council should also cross reference The Affordable Housing Viability Assessment Final Report against the Community Infrastructure Levy Viability Study Final Report dated June 2013 by BNP Paribas Real Estate to identify any inconsistencies between the two reports. Paragraphs 6.18 – 6.27 of the BNP Paribas Real Estate CIL Viability Study are very confusing. It is not obvious the amount of affordable housing provision achievable given the proposed CIL charges for each of the three residential CIL charging zones. The Council should clarify its proposed CIL charges and affordable housing policy especially with reference to the Mid Devon CIL Examiner’s Report, which reduced the proposed residential CIL rate as the LPA had failed to properly take into account the appropriate rate of affordable housing.

6.7 The results of a recent publication *“CIL – Getting It Right”* by Savills sponsored by HBF dated January 2014, emphasises *“the three way trade-off between the costs of CIL, Section 106 funding for infrastructure and affordable housing policy, with the costs of local standards and the move to zero carbon being additional costs to be factored into the trade-off”*.

6.8 **Policy DM2 Assessing Viability** states that *“developments will be expected to comply with the policies set out elsewhere in this Plan (including those policies which refer to the provision and funding of infrastructure) unless it can be demonstrated that the policies will result in the development being unviable. Applicants should discuss viability concerns with the Council at the earliest possible stage in the development process. Proposals that are unable to comply with the Plan’s policies on viability grounds must be accompanied by a detailed Viability Assessment. The Viability Assessment will be independently reviewed by a viability specialist appointed by the Council at the applicant’s expense. Where the Viability Assessment demonstrates that the Plan’s policies are likely to impact on the viability of a proposal, the applicant should discuss the implications of this with the Council”*.

6.9 However the Council should be mindful that it is inappropriate to set unachievable policy obligations. In Paragraph 154 of the NPPF states that *“local plans should be aspirational but realistic”*. It is unrealistic to negotiate

every site on a one by one basis because the base-line aspiration of a policy or combination of policies is set too high as this will jeopardise future housing delivery. The Harman Report emphasises that *“if the assessment indicates significant risks to delivery, it may be necessary to review the policy requirements and give priority to those that are deemed critical to development while reducing (or even removing) any requirements that are deemed discretionary. The planning authority may also consider whether allocating a larger quantity of land, or a different geographical and value mix of land, may improve the viability and deliverability of the Local Plan”*. The Council should prove such considerations have been applied in the preparation of the Warwick Local Plan.

6.10 The Council should provide further evidence of whole plan viability assessment to justify the proposed policy requirements of the Warwick Local Plan.

## **7. Conclusion**

7.1 For the Warwick Local Plan to be found sound under the four tests of soundness defined by Paragraph 182 of the NPPF, the plan must be positively prepared, justified, effective and compliant with National Policy.


7.2 The Warwick Pre Submission Local Plan is unsound because of a number of unresolved issues including :-

- a housing requirement figure, which does not meet in full an objective assessment of housing need ;
- the unsatisfactory resolution under the Duty to Co-operate of the impact of unmet housing needs arising in neighbouring authorities ;
- the inaccuracy of the whole plan viability assessment.

7.3 Consequently the Local Plan has not been positively prepared and properly justified meaning it will be ineffective and non-compliant with the NPPF.

7.4 It is hoped that these representations will be helpful in informing the next stages of the Warwick Local Plan. If any further information or assistance is required please contact the undersigned.

Yours faithfully  
for and on behalf of **HBF**

  
**Susan E Green MRTPI**  
**Planning Manager – Local Plans**