

Publication Draft Local Plan: Focused Consultation 2014

For Official Only	
Person ID	
Rep ID	

This consultation is a formal process and represents an opportunity to comment on the Council's Local Plan and accompanying Sustainability Appraisal (SA) in light of the information published in the "Focussed Consultation" before it is submitted to the Secretary of State. All comments made at this stage of the process are required to follow certain guidelines as set out in the **Representation Form Guidance Notes** available separately. In particular the notes explain what is meant by legal compliance and the 'tests of soundness'.

This form has two parts:

- Part **A** – Personal Details
- Part **B** – **Your Representations**

If you are commenting on multiple sections of the document, you will need to complete a separate Part B of this form for each representation on each policy.

This form may be photocopied or alternatively extra forms can be obtained from the Council's offices or places where the plan has been made available (see the table below). You can also respond online using the Council's e-Consultation System, visit: www.warwickdc.gov.uk/newlocalplan

Please provide your contact details so that we can get in touch with you regarding your representation(s) during the examination period. Your comments (including contact details) cannot be treated as confidential because the Council is required to make them available for public inspection. If your address details change, please inform us in writing. You may withdraw your objection at any time by writing to Warwick District Council, address below.

All forms should be received by **4.45pm on Friday 12 December 2014**

To return this form, please deliver by hand or post to: **Development Policy Manager, Development Services, Warwick District Council, Riverside House, Milverton Hill, Leamington Spa, CV32 5QH** or **email:** newlocalplan@warwickdc.gov.uk

Where to see copies of the Plan

Copies of the Plan are available for inspection on the Council's web site at www.warwickdc.gov.uk/newlocalplan and at the following locations:

Warwick District Council Offices , Riverside House, Milverton Hill, Royal Leamington Spa
Leamington Town Hall , Parade, Royal Leamington Spa
Warwickshire Direct Whitnash , Whitnash Library, Franklin Road, Whitnash
Leamington Spa Library , The Pump Rooms, Parade, Royal Leamington Spa
Warwickshire Direct Warwick , Shire Hall, Market Square, Warwick
Warwickshire Direct Kenilworth , Kenilworth Library, Smalley Place, Kenilworth
Warwickshire Direct Lillington , Lillington Library, Valley Road, Royal Leamington Spa
Brunswick Healthy Living Centre , 98-100 Shrubland Street, Royal Leamington Spa
Finham Community Library , Finham Green Rd, Finham, Coventry

Where possible, information can be made available in other formats, including large print, CD and other languages if required. To obtain one of these alternatives, please contact 01926 410410.

Part A - Personal Details

1. Personal Details*

2. Agent's Details (if applicable)

* If an agent is appointed, please complete only the Title, Name and Organisation boxes below but complete the full contact details of the agent in section 2.

Title		Mr
First Name		Tim
Last Name		Watton
Job Title (where relevant)		Associate
Organisation (where relevant)	Lenco Investments	RPS Planning & Development
Address Line 1		Highfield House
Address Line 2		5 Ridgeway
Address Line 3		Quinton Business Park
Address Line 4		Birmingham
Postcode		B32 1AF
Telephone number		0121 2135500
Email address		Tim.watton@rpsgroup.com

3. Notification of subsequent stages of the Local Plan

Please specify whether you wish to be notified of any of the following:

The submission of the Local Plan for independent examination	Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>
Publication of the recommendations of any person appointed to carry out an independent examination of the Local Plan	Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>
The adoption of the Local Plan.	Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>

For Official Use Only

Person ID:

Rep ID:

Part B - Your Representations

Please note: this section will need to be completed for each representation you make on each separate policy.

4. To which part of the Local Plan or Sustainability Appraisal (SA) does this representation relate?

Plan (tick one only):

Focused Changes [] Sustainability Appraisal [X]

Paragraph Number:

Policy Number:

Policies Map Number:

5. Do you consider the Plan is :

5.1 Legally Compliant?

Yes No

5.2 Complies with the Duty to Co-operate?

Yes No

5.3 Sound?

Yes No

6. If you answered no to question 5.3, do you consider the Local Plan and/or SA unsound because it is not:

(please tick that apply):

Positively Prepared:

Justified:

Effective:

Consistent with National Policy:

For Official Use Only

Person ID:

Rep ID:

7. Please give details of why you consider the Local Plan is not legally compliant or is unsound or fails to comply with the duty co-operate. Please be as precise as possible. If you wish to support the legal compliance or soundness of the Local Plan or its compliance with the duty to cooperate, please also use this box to set out your comments.

The purpose of the focused consultation is to present changes to the Local Plan in response to more recently published evidence. The Council refers to the Coventry and Warwickshire Strategic Employment Land Study (SELS) and an updated Strategic Housing Land Availability Assessment (SHLAA), which have provided impetus for the proposed changes.

RPS does not agree that the Council has responded proactively to the SELS, which should have included a strategy for supporting sustainable growth in the Coventry and Warwickshire area. As required under Article 5(i) of the Strategic Environmental Assessment Directive (SEA Directive), where an environmental report is prepared, the responsible body should undertake an assessment of the likely significant effects, accounting for reasonable alternatives. In light of the current evidence base, RPS does not consider that the Council have considered

The reasoned justification behind this assessment is included in the separate sheet enclosed.

Continue on a separate sheet if necessary

8. **Please set out what modification(s) you consider necessary to make the Local Plan legally compliant or sound, having regard to the test you have identified at 7. above where this relates to soundness. (Please note that any non-compliance with the duty to co-operate is incapable of modification at examination). You will need to say why this modification will make the Local Plan legally compliant or sound. It will be helpful if you are able to put forward your suggested revised wording of any policy or text. Please be as precise as possible.**

RPS refers to the continuation sheet enclosed in terms of changes that need to be made to make the Local Plan sound and legally compliant.

Continue on a separate sheet if necessary

Please note your representation should cover succinctly all the information, evidence and supporting information necessary to support/justify the representation and the suggested modification, as there will not normally be a subsequent opportunity to make further representations based on the original representation at publication stage. **After this stage, further submissions will be only at the request of the Inspector, based on the matters and issues** he/she identifies for examination.

For Official Use Only

Person ID:

Rep ID:

9. If your representation is seeking a modification, do you consider it necessary to participate at the oral part of the examination?

No, I do not wish to participate at the oral examination

Yes, I wish to participate at the oral examination

10. If you wish to participate at the oral part of the examination, please outline why you consider this to be necessary:

The Council has inappropriately and unlawfully discounted a site from the plan preparation process. RPS wishes to have the opportunity to respond on site specific issues in relation to strategic allocations, the choice of those allocations and to present further oral evidence in support of the representations made in respect of the Land South of Coventry.

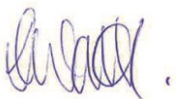
Continue on a separate sheet if necessary

Please note: This written representation carries the same weight and will be subject to the same scrutiny as oral representations. The Inspector will determine the most appropriate procedure to adopt to hear those who have indicated that they wish to participate at the oral part of the examination.

11. Declaration

I understand that all comments submitted will be considered in line with this consultation, and that my comments will be made publicly available and may be identifiable to my name/organisation.

Signed:



Date :

12 December 2014

Copies of all the objections and supporting representations will be made available for others to see at the Council's offices at Riverside House and online via the Council's e-consultation system. Please note that all comments on the Local Plan are in the public domain and the Council cannot accept confidential objections. The information will be held on a database and used to assist with the preparation of the new Local Plan and with consideration of planning applications in accordance with the Data Protection Act 1998.

For Official Use Only

Person ID:

Rep ID:

Warwick Local Plan: Focussed Consultation – Continuation Sheet

Question 7 (Continued)

SHLAA

1. The Council has stated that the SHLAA update has been provided to correct omissions in the previous 2014 document. In the representation to the Publication Local Plan in July, RPS included an amended appraisal of the suitability to the Council assessment of Site C.10, Land South of Baginton, appraised in the 2012 SHLAA. The Council's assessment in 2012 determined that the Land South of Baginton was unsuitable for development, owing to issues relating to the potential landscape impact, noise and air pollution.
2. In response to the 2014 SHLAA, RPS provided an update of the suitability of Land south of Baginton, which investigated issues of landscape impact, air and noise pollution in more detail. Studies were undertaken and supplied to the Council demonstrating that noise and air quality would be within acceptable levels to support residential development on the site. Equally, RPS provided evidence related to Warwick District Council's own Sustainable Landscaping Study in 2012 that the development of Land South of Baginton could be fully integrated into the local area without impacting upon the local landscape.
3. As indicated in the amended SHLAA in July 2014, the Council have clearly taken the opportunity to review the SHLAA as a key part of the Council's evidence base. The Council have, however, been selective in accounting for evidence submitted to them. The Council have not yet provided a response to evidence provided by RPS or attempted to revise the assessment of deliverability of Land south of Baginton. As a result, the Council failed to place the site within the public domain as a reasonable alternative to other strategic sites being considered in consultations.
4. The SHLAA and consequently the Sustainability Appraisal (SA) should be iterative documents, which can be updated where new evidence is made available. The response by RPS in June 2014 highlighted these oversights, however no change has been made to adjust the SHLAA, in line with evidence, which should have triggered the inclusion of Land South of Baginton as a deliverable strategic site to be considered as part of the SA.
5. RPS contends that the failure to accurately update the SHLAA has allowed the Council to avoid the consideration of Land South of Baginton as a strategic site for housing development. This is a serious omission that has prevented the Land South of Baginton to be considered in a public forum as a potential strategic allocation of land for housing.
6. RPS therefore considers that the Council have not permitted Land at South Baginton to be considered in a fair, equitable and public way as part of the SA process. Land at South Baginton should have been considered as an appropriate Sustainable Urban Extension to support the arising need for housing in Warwick District and the need arising from the Coventry Gateway site.
7. RPS include a detailed Chronology of the Council's consideration of Land at South Baginton is included in Appendix 1 of this continuation sheet.

Major Amendments to the Draft Local Plan

8. The Council has made a number of major amendments to the Draft Local Plan, which includes the redistribution of housing and employment sites. RPS considers that there are a number of changes which have not been subject to the SA process and therefore have not been drafted in line with the SEA Directive. The Council has included an SA of a three new allocations, however this assessment is incomplete and does not fully cover the range of alterations the Council has made to the Plan.
9. In addition to including new employment sites, the Council has deleted three from the Draft Local Plan and included provision for additional housing on two previously identified sites. The Council is right to appraise the recently included sites within the plan, however the Council should also have appraised the likely sustainability impacts of removing sites for employment and adjustments made to housing sites. The development of the Local Plan should, at every stage of development, be complemented by a SA. This Focussed Consultation is not adequately supported by an SA of these changes. To date, the Council's SA is incomplete and legally noncompliant. The Local Plan cannot therefore be adopted until these changes are made.
10. The Council has made substantive changes to the Draft Local Plan, which has not been given appropriate opportunity for public comment and has not been supported by a robust and legally compliant SA.

Deletion of Employment Sites

11. In the Focussed Consultation the Council have decided to remove three potential employment allocations, totalling 19.7 hectares. This is to be replaced by a new allocation for 11.7 hectares. Table 4.19 of the 2014 Coventry and Warwickshire Strategic Employment Land Study (SELS) identifies a shortfall of 129 hectares of employment land across the Coventry and Warwickshire area. Based on previous employment land studies, Table 2.1 of the SELS identifies an indicative future need of between 15 and 25 hectares of employment land to be met in Warwick District between 2011 and 2030.
12. Given that the study identifies this significant shortfall, it is unclear why the Council have responded to this by removing additional employment land from the Draft Local Plan. This decrease of 8 hectares, equivalent to 40% of the proposed allocations in the Publication Local Plan, is a significant change in the provision of employment land that the Council has not accounted for through the SA process. This is another omission which renders this stage of Local Plan production unlawful and unsound.

H39 (Opus 40 Site)

13. The Council propose that employment site E3 (Opus 40) for 3.7ha of B1 is removed from the Draft Local Plan. Now referred to as site H39, the Council have included the same parcel of land for 100 dwellings. The Council have provided no evidence to demonstrate that this site is suitable, available and achievable, as required under Paragraph 47 of the National Planning Policy Framework and on this basis it is unclear how the Council have justified the inclusion of this site for housing.

14. The Council has not undertaken an SA of this site, to demonstrate how the sustainability of site is affected as the use of the site changes from employment to housing. This, again, is an omission on the Council's part as this does not represent a thorough appraisal of the likely environmental impacts of the Draft Local Plan.

Site H01 (Land West of Europa Way)

15. The Council has indicated a significant change to Site H01 which has increased the number of dwellings on the site from 1,190 to 1,300. In addition to this, the Council has removed the draft allocation of 8ha of employment land on this site. This increase to the provision of housing and the removal of 8ha of employment land has not been tested through SA.
16. The sustainability of this proposal is inherently linked to the benefits of allocating both housing and employment together, which will derive positive scores against indicators relating to sustainable transport, air quality reducing the need to travel. The Council has significantly changed the type of development proposed at this site, however an appraisal of these proposed changes has not been undertaken.
17. RPS finds that these changes should have been evaluated as part of the SA process which are likely to result in significant changes to the sustainability of the site. It is important for the SA to be undertaken as the Local Plan is progressed, as a key form of evidence to inform and guide policy proposals and allocations for development. The Council cannot demonstrate that this evidence has been undertaken and cannot justify the changes made to this site in terms of a robust and justified SA.
18. RPS considers that the Council's original intentions were correct, involving locating new housing adjacent to locations of employment growth, however RPS considers that there are other sites in Warwick District more capable of harnessing the benefits of locating housing adjacent to employment sites, to deliver more sustainable outcomes.
19. RPS therefore recommends that the Council deliver a strategy which supports the objectives of the Coventry Gateway Sub-Regional employment site, expected to be delivered to the south of Coventry. This will promote a pattern of development which is linked to wider strategic objectives in Coventry and Warwickshire and ensure that development is located to minimise travel and support sustainable transport in the south of Coventry.

Coventry Gateway

20. The Coventry Gateway (CG) site has been promoted as a priority employment site of sub-regional importance in the Coventry and Warwickshire Local Economic Partnership Strategic Economic Plan (SEP). The SEP identifies the 121 hectare site as the key driver for economic growth in the Coventry and Warwickshire area and without it, the Local Economic Partnership will be unable to meet its targets for growth.
21. The CG site is located on what is identified in the (page 24 refers) CWLEP Strategic Growth Plan as the strongly established north-south strategic travel to work corridor than runs through Nuneaton, Coventry, Leamington and Warwick and where 80% of travel to work movements occurs. The corridor was also previously identified as a High Technology Corridor within the

Regional Spatial Strategy for the West Midlands and acknowledged in Policy PA3 of the RSS. This same corridor has now also been identified as the principal north-south public transport corridor in the CWLEP document where a range of transport infrastructure is prioritised.

22. The Focussed Consultation refers to the recently published SELS. This document confirms the importance of the CG site as a sub-regional driver for new employment and regeneration in Coventry.
23. Table 6.4 of the SELS outlines that the CG site could, subject to the pending public inquiry, begin delivery of employment land within the next two years. The SELS identifies the GC as immediately deliverable with a focus for large manufacturers, logistics and technology uses.
24. The CG site has been appraised as part of the SA, assessing the potential impact of developing a 118 hectare site for B1, B2 and B8 uses. RPS considers that aspects of this SA need to be refined, in line with the recently published SELS and to reflect the cumulative impacts of development.
25. The CG site has recorded a number of negative scores against the Council's SA Objectives. RPS does not believe that this assessment fairly reflects the cumulative impacts of development, which could enhance a number of scores in the appraisal. Slight negative scores have been recorded against SA Objectives relating to sustainable transport and the reduction in the need to travel. The Council justify this in terms of the walking distance to the site from Coventry Railway Station, 3.5 miles from the site. This is an unreasonable indicator, which does not consider where the likely workforce will be coming from. Page 69/70 of the SELS acknowledges that there is a high level of worklessness within 3km of Zone B of the CG site. Not only is the development expected to increase the levels of employment in the area but it can facilitate sustainable forms of transport, as 3km is considered an acceptable distance to travel to work by either walking or cycling.
26. RPS also considers that the appraisal should be undertaken in the context of strategic housing allocations. RPS has, through the Local Plan process, promoted Land South of Baginton as a sustainable housing site on the edge of Coventry, which would complement the proposed development at CG. This would provide housing along with local community facilities in a prime location, within easy access of a range of employment types. Considered together, this would support increases to the SA scores, creating positive outcomes for sustainable transport, the reduction in the need to travel and access to services. There is strong support for the CG site to proceed and Warwick District need to look seriously at suitable locations to support the employment growth at the Sub-Regional site. The inclusion of Land South of Baginton is capable of meeting this need and is consistent with the Council's strategy in the Publication Local Plan to locate strategic housing and employment together.

Land South of Baginton

27. RPS has consistently promoted Land South of Baginton as an appropriate site for a Sustainable Urban Extension (SUE), delivering up to 1,000 dwellings to support the CG site and the wider aspirations for growth in the Coventry and Warwickshire area.

28. Land south of Baginton has been never been considered as a potential strategic allocation by the Council. As RPS have identified, the site is suitable, available and achievable for development and therefore constitutes a reasonable alternative site. The Council are mandated under the SEA Directive to consider all potential reasonable alternative sites in the development of the Local Plan. The Council cannot currently claim that this has taken place.
29. The Council should therefore seek to include sites which support the aims of the CG and assist the Council in delivering sustainable housing in Warwick to meet the objectively assessed housing need for the District.

Question 8

30. RPS object to the legitimacy of the Focussed Consultation, which fails to account for the requirement to undertake a SA of all strategic changes in the Draft Local Plan and again fails to consider Land south of Baginton as a SUE, despite evidence supplied to the Council demonstrating the deliverability of the site.
31. Through the Focussed Consultation the Council are proposing an additional 210 dwellings, to be allocated as an extension to site H01 and site H39. This is a substantive change to the Draft Local Plan which feasibly could be delivered through an alternative strategic site, capable of delivering more sustainable outcomes than currently presented in the Focussed Consultation.
32. Prior to submission to the Secretary of State, RPS advise that the Council undertake a comparative assessment of strategic sites for housing, which includes the assessment of Land south of Baginton, supported by a comprehensive SA.
33. This will also present the Council with an opportunity to rectify the omissions made in the Focussed Consultation and undertake a full and comprehensive SA meets the requirements of the SEA Directive and delivers growth to the most sustainable locations.

APPENDIX 1 CHRONOLOGY OF FAILURE TO ASSESS LAND AT BAGINGTON EQUITABLY, PUBLICALLY AND FAIRLY

1. RPS has made comments to all stages of the Warwick District Local Plan and previous versions of the now discontinued Core Strategy. Representations have consistently supported the inclusion of Land at Baginton within the development plan as a sustainable location to accommodate both the housing needs of Warwick District, and also any cross boundary needs associated with Coventry City.
2. While it is understood that the Council is currently at examination **the process to date can be demonstrated as having inappropriately excluded from the evaluation process not only a suitable site for a strategic allocation, but also the potential of the land promoted by RPS to provide a more appropriate and sustainable local extension to the village of Baginton.**
3. The following chronology sets out the failings of the process to date that has led to the exclusion of the land promoted by RPS from appropriate evaluation. It provides a chronological outline of information supplied to the Council in respect of the evidence required to appropriately evaluate the site for both strategic and local allocation purposes, parts of which have not been acknowledged or used by the Council to date. **This has resulted in the land controlled by Lenco Investments being absent from both strategic and local allocation appraisal processes to date. This is an error for which the liability lies entirely with the Council.**

Strategic Environmental Assessment requirements

4. When preparing its development plan the Council is statutorily required to consider reasonable alternatives under the Strategic Environmental Assessment (SEA) Directive (2001) and the Environmental Assessment of Plans and Programmes Regulation (2004). In this context, a number of pertinent legal judgements have provided clarity on the application of both pieces of legislation.
5. From these judgements it is clarified that the authority should evaluate all reasonable alternatives taking into account the objectives and geographical scope of the plan¹ and that where reasonable alternatives exist they should be evaluated to an equitable level by **fair** and **public** analysis². Furthermore, the authority should ensure that its option appraisal process and the Sustainability Appraisal (SA) evaluation process are based upon the most up to date evidence. In respect of this, and while it is open to an authority to reject alternatives at an early stage of the process and decide not to revisit them, the proviso for this is that there is no change of circumstance to warrant revisiting options³.
6. It is demonstrated below that the authority has not considered all reasonable alternatives within the geographic scope of the plan, has not evaluated or subject the alternatives to the same level of fair public analysis and has continued to reject a site as being suitable

¹ Article 5.1 of the Strategic Environmental Assessment Directive

² Judgement Case CO/3983/2011, Mr Justice Ouseley, Paragraph 71, (Heard versus Broadland District Council, South Norfolk Council and Norwich City).

³ Judgement Case CO/6882/2010, Mr Justice Collins, paragraph 16 (Save Historic Newport Ltd and others versus Forest Heath Council and others)

despite significant changes of circumstance early in the plan process. It has therefore failed to comply with the above statutes as clarified by recent case law.

Land at Baginton as a reasonable strategic alternative

Core Strategy Issues Paper 2007 (now superseded)

7. In November 2007 the Council published an Issues Paper and RPS responded accordingly. The Issues Paper did not, however, consult on site based options.

Core Strategy Options Paper June 2008 (now superseded)

8. RPS has been promoting the Land at Baginton to the authority as a strategic site from as early as 2008. During 2008 RPS met with Council Planning Officers to establish the evidence that the Council would specifically require to consider the site. Following this meeting, appropriate representations were made to the Council's Core Strategy Issues and Options in June 2008 supporting the broad direction of growth option south of Coventry at Baginton Village.

Core Strategy Preferred Option 2009 (now superseded)

9. In 2009 the Council published a Core Strategy Preferred Options document but this did not include Land at Baginton as a potential suitable option. This was understood to be on the basis that the 2009 SHLAA evaluated the site and identified it as unsuitable for development. The principal environmental constraints cited were landscape, noise and odour.
10. In respect of these alleged constraints, RPS had already engaged with the Council's Environmental Health Officers (EHO) at the outset of the site's promotion. The Council's EHO officers concluded that with appropriate mitigation measures the presence of the sewage works to the west of the site would not preclude residential development of the site. **Council officers had therefore already concluded that odour was not a preventative constraint** to development on the land promoted by RPS.
11. RPS made the Council's Planning Officers aware of the above discussions and the conclusions of its EHOs in its duly made representation to the Preferred Option in 2009. RPS also submitted a promotional document to the Council in February 2009 that specifically addressed the landscape and noise constraints to the strategic site.
12. In the 2009 duly made representations, RPS also responded specifically to Question 10 of the consultation document. This question asked whether the Council had identified all the reasonable options. In response to this question, RPS specifically commented on the 2009 SHLAA assessment in respect of noise, odour and landscape, setting out that these issues had been resolved and were no longer constraints. **In the representations RPS also referred to the communication with the Council's EHO confirming this.**
13. Given that during the consultation of a development plan consultees are invited to respond to both the consultation document and the evidence upon which it is founded, RPS used the Preferred Option consultation as the conduit to reconfirm that the constraints in the 2009 SHLAA were not present on site. RPS also confirmed that it **had**

already provided the Council with the evidence to address the 2009 SHLAA position prior to the Preferred Option consultation.

14. The 2009 RPS representations therefore reconfirmed the information already submitted and set out that the site was suitable, particularly in respect of **odour, as already concluded by the Council's own EHO**. As such, the site should have been included in the Preferred Option document as a reasonable alternative for consultation and SA/SEA given that it was promoted to the Council early enough along with supporting evidence.
15. RPS is therefore on record as providing a duly made representation to both the Council's development plan process and the evidence base upon which it was based, in particular its SHLAA process in 2009 to the effect that the constraints in the SHLAA do not preclude development on the site.

Alternative Sites 2010

16. Following the Preferred Option consultation, the Council consulted on alternative strategic sites in 2010. This was to allow sites that had been promoted to it from the Preferred Option to be presented for public consultation.
- 1.1 Within this document the Council published Alternative Site 6 at Baginton. This was promoted by Sworders and was an area of almost 400ha around the south of Coventry Airport, north of Baginton and stretching westward to include the golf course. Due to the scale and extent of Alternative Site 6 promoted by Sworders, it encompassed the area of land promoted by RPS.
17. The site, however, did not represent Lenco Investment's interests, which is only 50ha of land, nor did the consultation distinguish the land delineated by the RPS's representations as an alternative in its own right. Alternative Site 6 was therefore by scale, nature and submission not representative of the land RPS was promoting, or reflective of the discussions being held between RPS and the Council officers. It did also by scale, prejudice the proper consideration of a smaller strategic site of only 50ha of land. Representations to a consultation of some 400ha of land covering an extensive area of south Coventry could not therefore relate to a site of a smaller scale where environmental evidence provided by RPS for the 50ha extent deemed it suitable.
18. Furthermore, RPS is also concerned that despite promoting the site since 2008 to the Council, and the authority ruling the site out in the 2009 SHLAA, the Council chose to publish a consultation document in 2010 that did not contain the site promoted to it by RPS because of the findings of the 2009 SHLAA, but did publish a far more extensive area of land for consultation when that land had not been assessed via SHLAA. RPS is of the opinion that the land promoted by RPS has **not been fairly and equitably subject to public analysis**.
19. In response to this Alternative Sites consultation, RPS submitted representations to the Council including the resubmission of a promotional document already submitted to the Council in February 2009. In the representation RPS also categorically set out that the Land at Baginton was being promoted by RPS independently and separately from that of Alternative Site 6 (Sworders), and should be considered as such.

20. The representations made in 2010 by RPS also repeated the detailed response made to the 2009 SHLAA to the effect that the conclusions that were considered to deem the site unsuitable were incorrect, and not founded on robust evidence. Specifically, the representation **reiterated the response made in respect of the 2009 SHLAA regarding odour, noise and landscape.**

Summary

21. RPS is therefore of the opinion that the Council had within its discontinued Core Strategy process:
- unjustifiably dismissed Land at Baginton worthy of public consultation as a realistic alternative in the 2009 consultation document based upon its status as unsuitable in SHLAA which was based upon no evidence; and
 - not included the Land at Baginton promoted by RPS again for public consultation in 2010, despite RPS addressing the 2009 noise, landscape and odour SHLAA issues specifically on two previous occasions, including through duly made representations; and
22. It is therefore the position that up to 2010, the Land at Baginton had been prejudiced from being subject to public consultation and SEA/SA evaluation by the Council, despite RPS's constant representations and submission of evidence. Furthermore, alternative sites including the wider area of Alternative Site 6 had been subject to public consultation by the Council with little or no supporting evidence submitted, and no assessment within SHLAA. The publicly fair and equitable evaluation of Land at Baginton had failed.

The New Local Plan

The New Local Plan 2011

23. With the transition to the Local Plan process in 2011 (rather than the continuation of the Core Strategy), the Council published the '*Local Plan, Helping Shape the District*' consultation in March 2011. This considered a number of strategic options. In response to this (July 2011) RPS again made specific representations relating to the need for the Council to appropriately consider Land at Baginton and confirmed that the issues relating to the site's suitability had already been addressed and forwarded to the Council.

Preferred Options Local Plan 2012

24. Following the 2011 consultation the Council published its Preferred Options document in May 2012 along with the accompanying Sustainability Appraisal Report. This document contains the preferred approach for delivering growth around the south of Coventry City. This was the identification of 880 dwellings at Westwood Heath. No other alternatives were presented, and again Land at Baginton did not feature as a reasonable alternative or as a discounted site. This is now understood to be on the basis that the 2009 SHLAA had been updated and the Land at Baginton was still deemed to be still unsuitable, with principally **odour** and **noise** remaining the constraining factors to the site's suitability.

25. As such Land at Baginton was again excluded from being subject to public consultation or assessment within the Councils SEA/SA process. This is hard to understand given RPS's engagement in the Councils Local Plan and Core Strategy development plan processes to date which had included:
- Confirmation from the Council's own EHO that **noise** and **odour** were **not** overriding constraints to development and could be mitigated;
 - RPS providing confirmation of the above discussion and evidence of this and other environmental issues through duly made representations in 2008, 2009, 2010 and 2011.

26. RPS therefore responded to the Council's consultation again in 2012, stating that the Land at Baginton was entirely suitable and should have formed part of the Council's appraisal process. More specifically the representations again stated that RPS had already provided the Council with the necessary information to address the SHLAA constraints on **noise, odour and landscape**.

Revised Development Strategy

27. In 2013, the Council published its Revised Development Strategy. This document contained no strategic sites for the peripheral area of Coventry City and sought to establish a development strategy for the District in the absence of evidence of unmet need from Coventry City. RPS again submitted representations to the Council's consultation to the effect that Coventry City's needs are most likely to be required to be met in part by Warwick District, and that Land at Baginton should be considered appropriately within this debate.

28. The Revised Development Strategy was also accompanied by a Final Interim SA Report. In this it sets out the sites that have been considered, including the preferred sites and those that have been discounted along with the reasons for each. Table 4.1 provides this information in the context of the requirements of the SEA Directive. However, Land at Baginton does not appear within this table at all. This is particularly concerning as Table 4.1 includes other sites where the SHLAA assessment deemed them unsuitable, as has been the case with the Land at Baginton.

29. It is therefore clear that the land promoted by RPS, where evidence has been provided since 2008/09, has never been subject to public consultation **nor has it been considered within the Council's SA/SEA process**. This clearly demonstrates that the site has not had a fair, equitable and public analysis⁴. **As such RPS is of the opinion that the emerging plan is unlawful.**

Emerging Pre-Submission Plan

30. Following the representations to the Council in 2013, RPS met with a representative of the Council's planning team on 26 September 2013 to discuss the site and its consideration within the Council's development plan process. A key component of the

⁴ Judgement Case CO/3983/2011, Mr Justice Ouseley, Paragraph 71, (Heard versus Broadland District Council, South Norfolk Council and Norwich City).

meeting was that despite evidence being provided to the Council by RPS as far back as 2009, the 2012 SHLAA assessment was identical to the 2009 document in content and conclusion.

31. The outcome of the meeting was that the Council officers were to advise RPS on what elements of the evidence base they felt were still outstanding. The response from the Council was received on the 31 October 2013, as below.

“When the site was first assessed we consulted Environmental Health colleagues on the physical constraints and environmental conditions. Their view was that there was the potential for future residents of the site to experience noise from Coventry Airport and airborne pollution from the sewage works. The impact of both was uncertain [RPS emphasis] and hence the ability to deal with them through mitigation was also uncertain. They also had concerns that in the event that housing uses were introduced to the area this could restrict operations on these adjoining sites.

The site was not included as a preferred strategic site in the Core Strategy Preferred Options which was the subject of consultation in Summer 2009. RPS objected to the omission of the site on the grounds that the constraints highlighted in the SHLAA could be resolved through mitigation measures. However, although some work had been carried out on issues such as transport and landscape, no work had been carried out in respect of the impact of noise from the airport (in terms of levels and timing) or smells (in terms of sources, levels and areas affected).

When the Council reviewed the SHLAA in 2012, letters were sent to all site promoters asking if any changes to site details needed to be included. As far as I am aware, no further details were received about this site. There was no reason, therefore to alter the original assessment”.

32. In respect of the points raised above, in its duly made representations in 2014 RPS referred the Council to the chronology set out above and specifically:

- It is noted that in the response from the Council’s own internal consultation with Environmental Health colleagues was inconclusive and the potential impact was **‘uncertain’**. It therefore appears that the site was discounted as a reasonable alternative on odour and noise within the 2009 SHLAA, based upon **no** firm evidence and only **‘uncertain’** effects. RPS contests that this is an appropriate manner in which to exclude a site in the first instance. Also in updating its SHLAA, the Council should have ensured that its evidence was robust and decisions justified, particularly in respect of paragraph 158 of the NPPF of using proportional evidence. It is fully appreciated by RPS that the authority needs to consider the evidence and the proportional relevance of evidence collected, but this must also be proportional to the decision being made. In this context, when making strategic decisions to exclude a significant site from public consultation

and SEA/SA process the Council should ensure that its evidence is robust enough to stand scrutiny at examination. In this instance it is clear that the evidence to exclude the land base upon noise and odour was far from robust originally and that the Council Planning Officers should have liaised with their own internal EHOs to ensure that the position had not changed in 2012 since 2009. If they had, as RPS has done, then the conclusions would have been as RPS has found;

- the evidence presented to the Council in 2009 and 2010 by RPS (through the development plan consultations) set out specifically that the Council's EHO concluded that odour **did not preclude development** from the site and could be mitigated;
- In respect of the second paragraph of the Council's response above, representations were made in 2009 and 2010 that addressed both noise and air quality. Specifically, air quality discussions had been held with the Council's own EHO and the conclusions provided based upon this dialogue and engagement. In respect to noise, the masterplan had considered and accommodated this into the design from noise contour evidence and was submitted alongside representations to that effect in 2009 and 2010. It is therefore incorrect to state that no work had been carried out on both.
- In respect of the last paragraph, RPS is not aware of a letter received in 2012, although it did receive a letter in 2011. However, representations had already been made to the Council in 2009 and 2010 in respect of the SHLAA assessment with the 2010 representations **specifically addressing the SHLAA odour and noise position**. RPS therefore directs the Council to the duly made representations to the development plan already sent and while the Council can seek additional information from all promoters of land to SHLAA via separate correspondence, RPS can evidence that the Council was already in receipt of the additional evidence from RPS in respect of noise and odour. This was provided through ongoing engagement within the development plan process since 2008. **Therefore the liability for the site's exclusion from the 2012 consultation document lies entirely with the Council and it has been erroneous in not taking into account duly made representations that specifically addressed SHLAA evidence requests**. It has therefore failed to update its own outdated understanding of the site with the information provided by RPS.

33. It can be observed that the Council's understanding of what evidence it holds itself is misplaced and resulted in prejudicing the site.

Village Housing Options and Settlement Boundaries Consultation 2013

34. RPS notes that within the consultation document in 2013 for accommodating development in the villages, a preferred site is included at Baginton Village. This is a smaller part of the site promoted by RPS on behalf of Lenco Investments. In the consultation document, it is noted that the Council still retained the opinion that noise and odour are a constraining issue on its preferred option site. However, the site is now contained within the plan as a preferred allocation. It appears therefore that despite any

further work being undertaken by the Council to properly evaluate noise and odour of the site or wider area, it concluded that the smaller parcel of land is suitable for development and yet still retains that the remaining area of the land promoted by RPS, including the land adjacent to the preferred site as unsuitable on noise and odour. There is no explanation or justification for this rationale or decision making.

35. Furthermore, the Council included the wider area of land now promoted by RPS for a sustainable extension to the village of Baginton as a sustainable area for residential living in its latest Gypsy and Traveller consultation document. It therefore considers the area of land entirely suitable for habitation in respect of odour and noise for the purpose of accommodating Gypsy and Traveller accommodation options but fails to acknowledge that the same circumstances exist for the purposes of dwellings. **This is nothing less than prejudicial.**
36. RPS therefore objects to the selective and inconsistent approach that the Council has taken where it continues discount parcels of Land at Baginton on no evidence (despite it being presented to the Council on many occasions) and yet at the same time inconsistently include other parcels of land adjacent to land controlled by Lenco Investments as a preferred housing allocation and suitable for development.
37. The Council cannot selectively choose to discount or include sites in exactly the same geographical area and adjacent to each other based upon no evidence to support either conclusion. RPS is of the opinion that the Council does not have the evidence available to it to enable it to distinguish between the suitability of two sites adjacent to each other and arrive at different conclusions for each site in respect of noise and odour.
38. Again, the land at Baginton in the ownership of Lenco Investments has been prejudiced in the development plan process and not featured within the Council's public consultation to allow fair, equitable and public analysis and scrutiny. **RPS is of the opinion that the current development plan approach remains unlawful.**

Submission Draft Plan (2014)

39. It is observed in the current version of the Plan that no significant development around the periphery of Coventry is included, however, there are sites that are strategic allocations within the Green Belt. The current Plan is accompanied by a Sustainability Appraisal which indicates in Tables 4.15 and Table 4.16 which sites have been appraised in the Council's SA process. Neither of these tables includes Land at Baginton as having been considered. RPS therefore observes that the Land at Baginton has not been appraised as a reasonable alternative to the current allocations, particularly other Green Belt allocations.
40. RPS has also appraised the latest Council SHLAA published in May 2014. As a result of the meeting with the Council, the SHLAA now identifies part of the site as suitable for development. However, again the Council maintains that there are significant constraints to the site in respect of noise and odour. RPS submitted extensive evidence to the authority in 2014 including Acoustic and Odour Reports outlining that the odour and noise constraints do not preclude development. The Council's SHLAA outlines that it

acknowledges this information but states that further work is still required to demonstrate that the constraints can be overcome.

41. It is no incomprehensible how the Council can reach such decisions. RPS specifically requested from the Council the evidence that it felt was required in 2013 further to that already provided. RPS has provided this evidence in its entirety and appends to this representation.
42. **RPS contests that the Council holds any evidence that can support its statements that the site is unsuitable on odour and noise, as such the Council is still prejudicing the consideration of this site based upon no evidence.**

Evidence Base

43. RPS has prepared and submitted evidence to the Council in respect of the land that illustrates that the Land at Baginton is entirely suitable for development. A Noise Assessment and Odour Assessment has been prepared and have been submitted to the Council. These have both been prepared in liaison with the **Council's EHO, Environment Agency, Coventry Airport and Severn Trent**, and substantiate the responses submitted to the Council by RPS in 2009, 2010, 2011 and 2013 that **noise and odour are not constraining factors to development.**
44. RPS is of the opinion that despite evidence being presented to the Council to the effect that the Council's assumptions on these matters are incorrect and inconsistent with more recent advice from its own EHOs, the **further** evidence forwarded now in 2014 provides conclusive evidence that the site is entirely suitable for development and that it should be appraised as such from the outset. The conclusion from both the 2014 noise and odour reports is that the site is entirely suitable for development.
45. RPS is aware that **no** credible evidence is held by the Council to the contrary.

Strategic Housing Site Selection Process

46. The council has outlined in its Local Plan Site Selection Methodology (published on its evidence base website) that the starting point of site selection was the Council's Strategic Housing Land Availability Assessment (SHLAA). The methodology states at paragraph 1.2, that the SHLAA was the starting point and that sites that were deemed suitable, available and achievable were taken forward for more detailed appraisal. The results of this assessment are included within the tables that accompany the Council's methodology document on the website.
47. It is noted that this information is the precursor to all strategic site assessments and that if a site as considered suitable, available and achievable, irrespective of location and Green Belt status, it was assessed by the Council. Therefore by incorrectly appraising the land promoted by RPS in the first instance and not correcting that error within subsequent SHLAA processes based upon the evidence provided, the Council has carried the error through the development plan process and erroneously excluded the site. This exclusion from the process is not and cannot be justified on any account, at any stage.

Conclusion

48. From the above it can be evidenced that the Council has not only discounted the strategic site Land at Baginton at the early stages of the plan process on no clear evidence, it has persistently failed to take into account the evidence and representations made to it in respect of said site, that not only addresses the lack of evidence, but substantiates the position that the evidence was ill founded in the first place.
49. Rather than address the issue head on the Council seeks to maintain that that site is unsuitable based upon no evidence held by it.