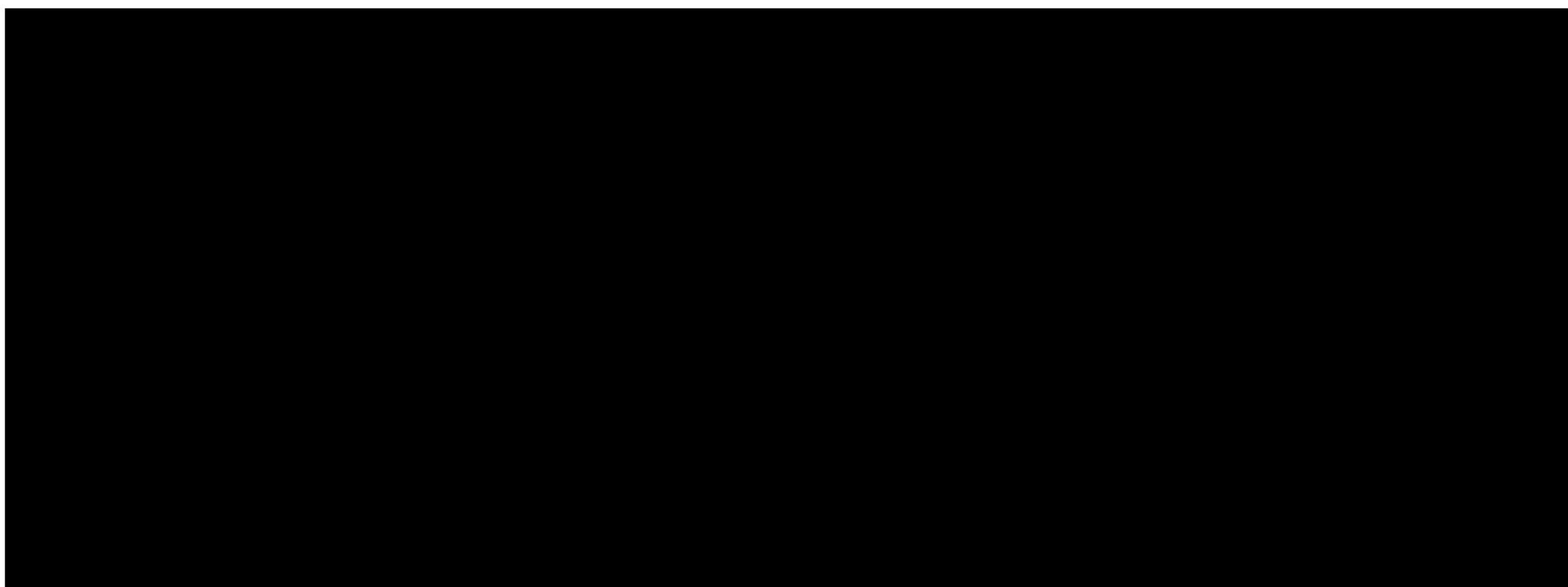


Representation in Respect of Warwick District Council Local Plan Publication Draft 2014.

Supplementary documentation to accompany proforma submitted by Dr Paul Thornton on behalf of:



Submission in respect of Proforma Section 7

I am one of five joint owners of a plot of land off Hodgetts Lane and Cromwell Lane, Burton Green, henceforth referred to as “our site”. This document is submitted for, and on behalf of, all of those owners. Warwick District Council (WDC) Planning Dept. made a presentation at Burton Green Village Hall in early 2013 at which residents were invited to put forward land for possible housing development as part of the Local Plan. In response, we submitted our site which was formerly a market garden but was divided between 5 properties adjoining the land more than 20 years ago. Four out of the five owners are families who have lived here for more than 25 years, and the fifth for 8 years.

We wish to make a Representation against the part of the Local Plan Publication Draft relating to Burton Green. We believe that the Plan is not Sound for the following seven reasons:-

- (1) The Local Plan Village Housing Options and Settlement Boundaries Consultation document published in November 2013 contained some serious factual errors in the information upon which the site selection process was based. As a result of these errors the site selection process was unsound.

- (2) As a result of the errors contained in the Nov 2013 document, the Public Consultation which followed its publication was flawed to the extent that it should be considered invalid
- (3) There is no explanation of the method by which WDC took account of the results of the Public Consultation in the formulation of the Publication Draft version of the Plan. Also, the errors relating to Burton Green in the November 2013 document are repeated in the Publication Draft, despite being highlighted in our Consultation submission. This suggests that WDC failed in their duty to consider our Consultation response.
- (4) WDC have belatedly published a revised site assessment matrix subsequent to the Publication Draft. In respect of our site, some of the errors have been corrected, as a result of which our site now compares favourably with the Preferred Option site. There has been no amendment of the Publication Draft to take account of those now acknowledged factual changes in the evidence base, which should have been recognised much earlier in the process. The Publication Draft is not justified.
- (5) There is evidence to suggest that some of the information used in the site selection process has been selected or presented in such a way as to favour the Preferred Option Site at the expense of other sites. This casts doubt upon the soundness and justification of the selection process, and further undermines the validity of the Public Consultation.
- (6) The deliverability of the Preferred Option site is very much in doubt as a consequence of the construction and operation of HS2. WDC have demonstrably failed to examine or properly take account of the evidence relating to the Burton Green area published by HS2 Ltd.
- (7) Despite Burton Green being classified as a Growth Village, WDC have arbitrarily reduced the Housing Allocation from the original 70-90 dwellings down to 60.

Each of these criticisms, individually, would be sufficient to question the soundness of the Plan, but taken together they demonstrate a major failing in the procedures adopted that has resulted in a Plan that is neither Justified nor Effective and consequently fails the tests of Soundness.

The above seven points will now be examined in further detail.

(1) Errors in the November 2013 Village Housing Options consultation document.

Appendix 6 to that document contains the justification for the selection of Option 1 (Burrow Hill Nursery) as the Preferred Option and the “discounting” of Options 2 – 7.

(Our site is referred to as Option 7 and also BG 3*0 in SA and SHLAA documentation).

Page 141 of Appendix 6 contains the statement “**The site (Option 7) relies on HS2 coming forward within the plan period to provide land and suitable access**”. This statement was then, and remains, absolutely and entirely incorrect. We have requested an explanation for the origin of this statement but WDC have failed to provide an answer.

Further statements relating to our site and HS2 are also contained in Appendix 6.

“**Site not progressed due to proximity to HS2 line**” (page 138).

“**Not suitable at this stage due to lack of access and proximity / location in relation to HS2**” (page 141).

It is clear that WDC at that stage chose the proximity of our site to HS2 as the primary reason for discounting it. However it is equally clear that they have not examined the detailed evidence published by HS2 Ltd. This was acknowledged in an email dated 10th January 2014 from Planning Officer Mr Stephen Hay. In particular, the noise contour maps published by HS2 indicate that our site will be unaffected because the line will pass through a “Green Tunnel” (ie. a “cut and cover” tunnel) in the centre of Burton Green. Our enquiries have revealed that WDC were not even aware of the plan for this tunnel, despite the fact that it is shown in detail in all of the HS2 publications. This explains their misleading statements about the proximity of the line, but does not explain their entirely false assertion that our site “**relies on HS2 coming forward ...to provide land and suitable access**”. It should also be noted that while the tunnel mitigates the operational impacts of HS2 almost entirely, additional protection is provided by the existing houses on both sides of Hodgetts Lane which lie between the proposed track line and our site. The proposed HS2 development **does not** affect the deliverability of our site in any way whatsoever.

Furthermore, WDC’s failure to properly examine the documentation provided by HS2 Ltd has led them to overlook the fact that the Preferred Option Site **will be** adversely affected by HS2. This will be examined in Section 6 below.

A second error is the inclusion, without explanation, of an additional piece of land in our site which was not part of our application. This is shown as a narrow strip at the north western boundary of our site. This land was put forward as an entirely separate application by the owner of 36 Hodgetts Lane and is the back garden of her house. This error was pointed out in our Consultation response but was ignored in the Publication Draft.

All of the above misinformation was perpetuated in oral explanations to the public by members of WDC Planning Department at the Public Exhibition in Burton Green Village Hall on Friday 10th January 2014 .

(2) Validity of the Public Consultation December 2013- January 2014

As stated above, the errors contained in the November 2013 document gave a very misleading impression of the suitability of our site, to the extent that the subsequent public consultation process was likely to be biased to the detriment of our site. Our site was also discounted on grounds of lack of suitable access, despite the fact that we had been advised by Stephen Hay of WDC Planning Dept. that the lack of a clearly specified access arrangement would not be detrimental. Mr. Hay also advised us that it would not be beneficial for us to involve a developer at that stage, yet it became clear when the November 2013 document was published that sites in which developers were already involved were given preference. In particular, the Burrow Hill Nursery site in Burton Green, which had by then been extensively promoted by Cala Homes, appeared to have been already been chosen by WDC working in conjunction with Cala Homes.

Furthermore, the description of our site as a “discounted” option with inadequate explanation of that term inevitably introduced a degree of bias into the public consultation simply through the unfortunate choice of vocabulary. The bias was further compounded by WDC’s incorrect presentation of our site to the general public as undevelopable as a result of lack of access and proximity to HS2. This gave the impression that the public need not consider the site constructively any further. It contributed to the general impression given to local residents that the councils “Preferred option” was being presented as a *fait accompli*. This combination of factors created such a degree of bias in the Public Consultation that it casts serious doubt upon the validity of the consultation process, particularly in relation to Burton Green.

(3) Failure of WDC to demonstrate how the Public Consultation influenced the formulation of the Publication Draft

In January 2014 we submitted a detailed response to WDC as part of the Public Consultation process. Our response can be viewed here:-

<http://warwickdc.jdi-consult.net/localplan/download.php?action=download&uploadid=14236>

In this response we sought to correct the factual errors contained in the November 2013 Village Housing Options document, and we addressed all of the concerns expressed in relation to our site. To this end we took the following steps:-

- a. We provided detailed references to various HS2 documentation showing that our site was unaffected by the proximity to HS2.
- b. We showed that we had solved the access issue. This was achieved by the joint purchase of a property adjoining our site and by the submission of a pre-application proposal to Warwickshire County Council Highways Department in respect of the proposed access road to be created by the demolition of that property (378 Cromwell Lane). This proposal was fully approved by the Highways Department who raised no concerns about the safety and suitability of the proposed access route.
- c. We also had a legal agreement drawn up by solicitors Hill Hofstetter Ltd in order to allay the council's concerns over deliverability arising from the fact the our site is jointly owned by 5 parties.
- d. We provided architects illustrative plans demonstrating the viability of the scheme. One of those incorporated the suggestion of a residential home for the elderly, dismissing the notion that our site was inadequate for options of a community nature.

When the Publication Draft of the Local Plan was released, the only change in Burton Green was a reduction in the housing allocation for the village as a whole from 75 to 60, and this was still allocated wholly to the previously Preferred Option site.

We could find no evidence that WDC had considered the Consultation responses in formulating the finalised version of the Plan.

Our own Consultation response was published on the council website but its contents seem to have been ignored. None of the errors relating to HS2 or the incorrect boundary of our site

were corrected or even acknowledged, nor were our solutions to the council's access and deliverability concerns acknowledged.

In consideration of the responses from the wider public, a widely held view among Burton Green residents is that a single large housing development would be out of character with the village, and that several smaller developments would be preferable. This analysis has been independently corroborated by Mrs Ann Blacklock, Councillor for the ward. The summarised report of the Consultation failed to represent this view in any way.

The full comments and responses from the consultation were published on the council website. Selected comments were incorporated into a summary with no explanation of the methodology involved in their selection. There is no evidence of scrutiny or investigation of the consultation responses for factual accuracy, objective validity or weighting in planning terms. For example, a consultation claim is selected for re-publication that cited a website poll. This claimed that "85% of village residents support the preferred options site". In fact, this was based on a total of just eighteen anonymous votes on an unofficial village website with no provision to determine the eligibility of voters and no provision to prevent multiple voting by an even smaller number of individuals.

There is a paucity of information to suggest that the Consultation responses have impacted on the subsequent plans, and a general lack of transparency in the process by which those responses have influenced the decision making process.

(4) Retrospectively published Village Site Appraisal Matrix which shows that the Preferred Option choice was not Justified

As previously stated, the choice of the preferred option site for housing allocation in Burton Green was the result of a seriously flawed site selection process resulting from important factual errors and mistakes. These mistakes could and should have been corrected before the Publication Draft stage, but they were not. As a result, the Publication Draft of the plan cannot be shown to be Justified. We will now show that if the correct evidence had been considered at the time, the site selection process would have produced a different result in Burton Green, thus confirming that the Publication Draft is not Justified.

After the release of the Publication Draft we wrote formally to WDC on 22nd April to ask why our Consultation response appeared to have been ignored and why the factual errors had

not been corrected. At first we were advised by Development Policy Manager Mr Dave Barber, via an email response to our local councillor Ann Blacklock, that our site had been rejected primarily because it was assessed as high landscape value. This was incorrect and in fact he provided a map which demonstrated that our site had not been assessed at all. This assessment has now been revised to medium landscape value, the same as the Preferred Option site

We arranged a meeting with Mr. Dan Robinson, Planning Officer, on 27th May to discuss our complaints. He finally provided a substantive response (Enc) to our letter of 22nd April on the day of the meeting. **On the same day he also published online a new site assessment matrix.** This was misleadingly dated 16th April 2014. This misdating confirms that this should have been produced before, and published contemporaneously with, the Draft Plan. It is clear that it was not produced until one third of the way through the available consultation period for this submission.

At our meeting, Mr Robinson was unable to provide any explanation for the earlier errors, nor for the fact that they had not been corrected following our Consultation response. Nor was he able to explain whether or not, and if so how, our solutions to their original concerns had been taken into consideration in the formulation of the finalised version of the plan for Burton Green.

However, the latest updated version of the site appraisal matrix, published on 27th May 2014 has finally corrected some of the earlier factual errors, and does now acknowledge that access and deliverability are no longer issues of major concern. As a result our site can now be shown to be preferable to the Burrow Hill site in most respects, thus confirming that the Preferred Option choice was not the most appropriate strategy. An extract from the new Site Appraisal Matrix showing the comparison of the two sites in Burton Green accompanies this document. But in the interests of brevity we do not intend to make a direct detailed comparison of every aspect of the two sites in this document. We would be happy to provide this either during the oral part of the examination, or in written form if required. However we do consider it necessary to comment on three matters arising from the revised site appraisal matrix. These will be points (i) through (iv) below, and reference to the matrix will be by column heading and row number (eg. S26).

- (i) The new matrix has introduced a new criticism of our site which was not previously raised, namely that it is now described as “classic backland

development” implying that there is no street frontage and no proper access to services. However if WDC had taken the trouble to examine our consultation response, it would have been evident that the new proposed access road does provide street frontage to all new dwellings as well as good access to services. This was illustrated by a variety of architect’s sketch plans included with our Consultation response for purely illustrative purposes. Further detail would be provided at the planning application stage to demonstrate how the amenity impact on neighbouring properties would be minimised.

We think that characterisation of “back-land development” has been wrongly extended to our site by WDC through inadequate site inspection. It is also possible that confusion has arisen as a result of the mistaken inclusion of our neighbour’s site at 36 Hodgetts Lane as part of our site, as mentioned earlier. Her proposal for 4 bungalows in her back garden accessed by a narrow track at the side of her house would certainly be considered as back-land development, but this must not be allowed to influence the designation of our site which is served by a clear direct access road.

- (ii) A second newly introduced criticism is that our site would require “substantial environment screening” to the north and west. While such screening can be very easily provided where necessary, this is further evidence of a lack of detailed examination which should have been provided by a site visit. In fact substantial screening already exists, both in the form of trees and the crest of a natural slope which obscures the site from view when approached from a north westerly direction such as along Hodgetts Lane. We have attached an aerial photograph of our site which partly illustrate this point.
- (iii) Thirdly, the new Site Selection Matrix **still** continues to promote some of the falsehoods from earlier publications, despite the fact that they have been corrected in other parts of the document. Specifically, AJ26 repeats the false statements that the close proximity of HS2 will be an adverse factor “leading to major negative effect”, and that the lack of highways access because the property is at the back of third party land would not support SA Objective 2 leading to major negative effects. Also AF26 falsely states the SHLAA Timeframe as 2024-29, thereby repeating the utterly nonsensical claim that the site deliverability somehow relies upon HS2.

- (iv) The final mistake occurs in section AP26 where it is claimed that our site lies within Land Parcel BG-10, which again is incorrect. This statement is followed by a long paragraph giving the Landscape Character Assessment Summary for BG-10 which is irrelevant since our land is not part of that parcel. In fact our land has not been assessed.

The fact that these mistakes have been allowed to slip through yet again in a document of some importance demonstrates a surprising lack of competence.

We are of course aware that the Public Consultation period ended in January and that the finalised version of the Plan was published in April, and that the updated version of the site appraisal has been published far too late to affect either of these outcomes.

For this reason we urge that the Planning Inspector should recommend a complete re-examination of the Site Selection process in Burton Green. We feel that the Plan cannot be classified as Sound unless this is done.

(5) Evidence of bias in the presentation of information.

There is some evidence that information has been presented in such a way that it unfairly favours the Preferred Option site at the expense of other sites, suggesting that the presentation has been manipulated in order to justify a pre-determined outcome (ie. to support the choice of the Preferred Option site).

An illustration of this is revealed by a detailed examination of the Sustainability Appraisal of Potential Village Site Allocations, found on page 18/61 of Appendix 6 in the November 2013 report, and identically on page 17/60 of Appendix 6 of the April 2014 version. In these reports our site is designated BG3*0 and the councils Preferred Option site is BG4*0.

Quotations from this page are shown in bold type below.

“With regard to travel and transport, the sites BG4*0, BG6*0 and BG7*0 have excellent access to public transport with a bus stop within 0-400m and there are pavements which provide safe access for pedestrians into the village centre or to public transport. Therefore there are likely to be major positive effects on SA Objective 2 if this site is developed”.

In fact, our site, BG3*0 has much better access to public transport with 3 bus stops within closer proximity.

The bus stop close to BG4*0, the Burrow Hill site is for a service that only operates once per week to Kenilworth. This does not constitute “excellent access to public transport” and would certainly not be enough to provide “major positive effects on SA Objective 2”.

Conversely, two of the bus stops adjacent to our site, as well as serving the weekly Kenilworth service, are served by an hourly service between Coventry city centre and Balsall Common, via local shopping centres, with a total of 72 buses per week in each direction. That frequent service also provides direct links to connecting bus services and, more significantly, to local train stations (see below).

“It should be noted that there is no obvious highways access to site BG3*0 and BG5*0 as the sites are located at the back of third party land and therefore development would not support SA Object 2 leading to major negative effects.”

This statement is entirely untrue. Even if there were no highway access it would be untrue because there would still be easy pedestrian access to the bus stops, but the access issues for both our site and BG5*0 were resolved to the satisfaction of the highways department, and acknowledged by Warwick District Council, long before this false statement was repeated in the “April 2014” version.

More importantly, this report fails to even mention the most important public transport link in the area, with fast connections to Coventry, Birmingham, the NEC, Birmingham Airport and the national rail network. This link is Tile Hill Station, which is within close walking distance of site BG5*0, with BG3*0 being slightly further away, although less than one mile and also served by the frequent bus service from our site. The Preferred Option site is the most distant of the 3 sites and probably not considered walkable for a high percentage of residents of that site.

The positive effects on SA Objective 2 are far greater for sites closer to Tile Hill Station. The fact that this is not even mentioned and the fact that the report chooses instead to emphasise the almost completely insignificant positive effect of a once weekly bus service, illustrates a very clear bias in the presentation of information.

“However, the sites are likely to increase traffic on Red Lane which feeds into the A452 (Birmingham Road) which has been identified in the Transport Assessment (2012) as being affected by traffic.if all the sites were taken forward this could (lead to) major negative cumulative effects on traffic.”

Once again this statement is subtly biased in favour of the Preferred Option site because it fails to mention that the only vehicular access to this site is actually on Red Lane, whereas other sites can be accessed from a variety of routes, so it is inevitable that the Preferred Option site will have the largest negative impact. This is perhaps a relatively minor point but the report conveniently fails to draw attention to it.

(6) The deliverability of the Preferred Option site.

It is evident that WDC has not examined the material published by HS2 Ltd in relation to the line’s impact on Burton Green during both the construction phase and the operational phase.

We refer in particular to the London – West Midlands. Environmental Statement CFA18 Stoneleigh, Kenilworth and Burton Green, Sections SV01 to SV04. Within that document we draw particular attention to the Operational Sound Contour Maps and Operational Airborne Noise and Vibration Impacts and Likely Significant Effects. We also refer to High Speed Rail (London-West Midlands) PLANS Volume 2.2 Calvert-Burton Green, page 67, and the corresponding sections of High Speed Rail (London-West Midlands) Bill.

If WDC had examined these documents they would have recognised that in the long term substantial parts of the Preferred Option site are shown to be significantly adversely affected by noise from the operation of the trains. This arises from proximity to the line where it is not underground.

During the HS2 construction phase the Preferred Option site will be very severely affected by the close proximity, not just of the line itself, but of the extensive additional excavation sites and the construction compounds. In particular, the compound at the junction of Red Lane and Cromwell Lane that will be used in the construction of the Green Tunnel, is immediately opposite the Burrow Hill site

Given the designation of Hob Lane and Red Lane as major routes for construction traffic, with considerable large vehicle movements over many years, there is major potential for

disruption through mutual interference if Burrow Hill site construction and HS2 construction were to be concurrent.

Furthermore, the disruption resulting from the construction phase of the project in that immediate location is likely to impact severely on the saleability of new houses on the site for some considerable time to come. This in turn is likely to make the site economically unviable for the foreseeable future, particularly in the light of unpredictable delays to the start of HS2 construction resulting from petitioning and other legal challenges.

The adverse impact on the area surrounding the Preferred Option site is likely to be so great during the construction phase that it is highly unlikely that a prudent developer would risk building in that timescale. The Preferred Option site is therefore very unlikely to be deliverable in the timescale desired under the local plan.

(7) Reduction in Housing Allocation for Burton Green

Burton Green is identified as a Growth Village in the Settlement Hierarchy Report 2014, having previously been described as a Secondary Service Village. This designation means that Burton Green is one of the most sustainable rural settlements according to a range of indicators. As such, and particularly in view of the current national housing shortage, WDC should endeavour to build the maximum new housing allocation within the village, subject to constraints such as preserving the character of the village. The allocation was set at 70-90 dwellings in the November 2013 Village Housing Options document, but reduced to 60 dwellings without explanation or justification in the Publication Draft. That maximum allocation remains appropriate irrespective of any changed developments elsewhere in the district.

Submission in respect of Proforma Section 8

Conclusions and Proposed Solutions.

In conclusion, we have made a number of criticisms of the Local Plan which we are confident demonstrate that it is neither justified nor effective, and consequently not sound. In making this representation, we must observe that the updated decision matrix was not published until one third of the way through the shortest allowed consultation period. Given the time required to collate this response, this delay has resulted in insufficient time for us to obtain

legal advice. This representation may therefore not be framed in terms that make the legal arguments in respect of justification and soundness as clear as might otherwise have been achieved. We shall seek further guidance as to whether or not a further submission would be helpful in that regard. In the interim, we would ask that the council and the inspector recognise our unfamiliarity with the legislation and its application.

We look to the Planning Inspector to order a complete re-evaluation of the local plan or, as a minimum, a review in respect of Burton Green. Undertaken equitably, and without prejudice, this should result in the determination of the site we have put forward as a housing development site, possibly in conjunction with one or more of the other sites within the village.

Alternatively, the Inspector may feel that the evidence is strong enough for him to order such a determination.

We urge WDC to co-operate with us further in reviewing all their documentation in respect of our site and confirming their further corrections to us and to the Inspector. We request that the council revert to us in respect of any matters that would facilitate further consideration of the site in anticipation of their own further submissions to the Inspector. In particular, we remain available to facilitate a site visit by council officers or indeed, by the Inspector.

We would welcome the opportunity to assist the Inspector should clarification of any points be required and otherwise we look forward to participating in the oral hearing.