

## **Report on the Examination of the Lichfield District Local Plan Allocations 2008 – 2029 Proposed Submission**

Ref: PINS/K3415/429/7

Please refer to the highlighted paragraphs 89 and 90 of the Inspector's Report into the Examination of the Lichfield Local Plan Allocations Document. Here the Inspector acknowledged that the area to the North of Tamworth within Lichfield was the most logical area of search to recover Tamworth's unmet housing needs. The Inspector also discusses the rationale for the review mechanism within the Lichfield Local Plan Allocations Document, namely Policy LPR.



The Planning Inspectorate

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# **Report to Lichfield District Council**

**by Mike Fox BA (Hons) Dip TP MRTPI**  
**an Inspector appointed by the Secretary of State**

**Date: 25 April 2019**

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Planning and Compulsory Purchase Act 2004

(as amended)

Section 20

## **Report on the Examination of the Lichfield District Local Plan Allocations 2008- 2029 Proposed Submission**

The Plan was submitted for examination on 30 May 2018

The examination hearings were held between 4 and 13 September 2018

File Ref: PINS/K3415/429/7

## Abbreviations used in this report

AA	Appropriate Assessment
AMR	Authority Monitoring Report
AONB	Area of Outstanding Natural Beauty
BC	Borough Council
BCC	Birmingham City Council
BDP	Birmingham Development Plan
CAJ	Court of Appeal Judgment
CJEU	Court of Judgment of the European Union
CPO	Compulsory Purchase Order
DC	District Council
DCLG	Department of Communities and Local Government (now the Ministry of Housing, Communities and Local Government)
dpa	dwellings per annum
DPD	Development Plan Document
DTC	Duty to Co-operate
ELCA	Council's Employment Land Capacity Assessment
EU	European Union
GBHMA	Greater Birmingham Housing Market Area
ha	hectare
HRA	Habitats Regulations Assessment
IDP	Infrastructure Delivery Plan
IR	Inspector's Report
KRS	Key Rural Settlement
LDC	Lichfield District Council
LPEG	Local Plans Examinations Group
LPS	Lichfield Local Plan Strategy
LDS	Local Development Scheme
MM	Main Modification
OAN	Objectively assessed housing needs
ORS	Other Rural Settlement
PPG	National Planning Practice Guidance
SA	Sustainability Appraisal
SAC	Special Area of Conservation
SCC	Staffordshire County Council
SCG	Statement of Common Ground
SDA	Strategic Development Allocation
SHLAA	Strategic Housing Land Availability Assessment
SPD	Supplementary Planning Document
sq m	square metre
TBC	Tamworth Borough Council
<i>The Framework</i>	The National Planning Policy Framework (2012)

## Non-Technical Summary

This report concludes that the Lichfield District Council Local Plan Allocations 2008-2029 Proposed Submission provides an appropriate basis for the planning of the District, provided that a number of main modifications [MMs] are made to it. Lichfield District Council has specifically requested me to recommend any MMs necessary to enable the Plan to be adopted.

The MMs all concern matters that were discussed at the Examination Hearings. Following the Hearings, the Council prepared schedules of the proposed modifications. The MMs were subject to public consultation over a six-week period. In some cases, I have amended their detailed wording where necessary. I have recommended their inclusion in the Plan after considering all the representations made in response to consultation on them.

The Main Modifications can be summarised as follows:

<b>Summary of Main Modifications</b>
A new policy for an <b>early review of the Plan</b> and explanatory text.
An amendment to policy NT1 to include <b>key development principles</b> to the housing land allocation to the <b>North of Tamworth</b> .
An amendment to policy R1 to include <b>key development principles</b> to the housing land allocation to the <b>East of Rugeley</b> .
An amendment to policy OR7 to include <b>key development principles</b> to the housing land allocation at <b>Watery Lane</b> .
An amendment to policy EMP1 regarding <b>protection of employment land</b> including marketing and viability considerations and explanatory text.

## Introduction

1. This report contains my assessment of the Lichfield District Local Plan Allocations 2008-2029 Proposed Submission in terms of Section 20(5) of the Planning & Compulsory Purchase Act 2004 (as amended). It considers first whether the Plan's preparation has complied with the Duty to Co-operate (DTC). It then considers whether the Plan is sound and whether it is compliant with the legal requirements. The National Planning Policy Framework (*the Framework*) (paragraph 182) makes it clear that, in order to be sound, a Local Plan should be positively prepared, justified, effective and consistent with national policy.
2. The revised *Framework* was published in July 2018. It includes a transitional arrangement in paragraph 214 whereby, for the purposes of examining this Plan, the policies in the 2012 *Framework* will apply. Similarly, where the Planning Practice Guidance (PPG) has been updated to reflect the revised Framework, the previous versions of the PPG apply for the purposes of this Examination under the transitional arrangement. Therefore, unless stated otherwise, references in this report are to the 2012 *Framework* and the versions of the PPG which were extant prior to the publication of the 2018 *Framework*.
3. The starting point for the Examination is the assumption that the local planning authority has submitted what it considers to be a sound plan. The Lichfield District Local Plan Allocations 2008-2029 Proposed Submission, submitted in May 2018, is the basis for my Examination. It is not the same document that was published for consultation in March 2017. In particular, the sites allocated for housing in the earlier consultation plan, on land South of Highfields Road and on land East of Coulter Lane, both at Burntwood, are deleted from this Plan and remain part of the Green Belt.

## Main Modifications

4. In accordance with section 20(7C) of the 2004 Act, the Council requested that I should recommend any main modifications [MMs] necessary to rectify matters that make the Plan unsound and thus incapable of being adopted. My report explains why the recommended MMs, all of which relate to matters that were discussed at the Examination Hearing sessions, are necessary. The MMs are referenced in bold in the report in the form **MM1, MM2, MM3** etc, and are set out in full in the Appendix.
5. Following the Examination Hearings, the Council prepared a schedule of proposed MMs. The MM schedule was subject to public consultation for six weeks. I have taken account of the consultation responses in coming to my conclusions in this report.

## Policies Map

6. The Council must maintain an adopted Policies Map which illustrates geographically the application of the policies in the adopted development plan. When submitting a local plan for examination, the Council is required to provide a submission Policies Map showing the changes to the adopted Policies Map that would result from the proposals in the submitted local plan. In this case, the submission Policies Map comprises the set of plans identified as

*Schedule of Proposed Modifications Appendix A* as set out in Examination Document CD1-3.

7. The Policies Map is not defined in statute as a development plan document and so I do not have the power to recommend main modifications to it. However, none of the published changes to the Policies Map go to the soundness of any of the policies and none of the published MMs to the Plan's policies require further corresponding changes to be made to the Policies Map.

### **Scope of the Plan**

8. The Lichfield District Local Plan Allocations 2008-2029 Proposed Submission, which I refer to as the Plan, is Part 2 of the Lichfield District Development Plan. The scope of the Plan is to enable the effective delivery of Part 1 of the Plan, the Lichfield District Local Plan Strategy 2008-2029 (LPS)<sup>1</sup>, in particular allocations to meet the housing and employment growth requirements established in the LPS. Anything outside its scope, such as the strategic provisions of the LPS, is therefore not a matter for this Plan to address.
9. Regarding the issue of whether the regional housing need of the Greater Birmingham and Black Country areas was examined appropriately at the LPS Examination, the LPS was found sound and no successful High Court challenges were made to it within the prescribed statutory period. It is therefore unnecessary for me to consider matters addressed by the LPS.

### **Assessment of Duty to Co-operate**

10. Section 20(5)(c) of the 2004 Act requires that I consider whether the Council complied with any duty imposed on it by section 33A in respect of the Plan's preparation.
11. The Council's evidence<sup>2</sup> shows an extensive and continual process of engagement between the Council and its neighbouring local authorities throughout the local plan process, both in relation to Part 1 – the Lichfield Local Plan Strategy (LPS) – which was adopted on 17 February 2015 and Part 2 (this Plan). This process of engagement has also included other important statutory undertakers. For example, engagement has been active and ongoing in relation to cross-boundary housing needs with Birmingham City Council (BCC) and Tamworth Borough Council (TBC).
12. The LPS is the principal strategic element of the Council's Local Plan. This Plan gives rise to only limited strategic matters with cross-boundary implications (although there is a recognition that the forthcoming Local Plan Review will deal with major regional housing issues amongst other matters). Any future strategic issues are matters for a review of the LPS and therefore not a matter for this Plan<sup>3</sup>. The Statement of Common Ground (SCG) between BCC and Lichfield District Council (LDC), dated 30 July 2018<sup>4</sup>, commits LDC to address

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<sup>1</sup> Lichfield District: Local Plan Strategy 2008-2029 (LPS); adopted 17 February 2015 [Examination Document CD1-32].

<sup>2</sup> LDC: Local Plan Allocations Duty to Co-operate Statement; May 2018 [Examination Document CD1-10].

<sup>3</sup> LDC: Matter 1 Statement, paragraph 1.40 [Examination Document M1/1]

<sup>4</sup> Examination Document CD6-23.

this regional housing issue through its emerging LPS Review, which is to be submitted in line with Birmingham Development Plan (BDP) policy TP48.

13. Regarding progress in addressing Tamworth's unmet housing needs, it is clear from the SCG between TBC, North Warwickshire BC and LDC (dated 2 and 4 September 2018)<sup>5</sup>, that there has been demonstrable commitment shown to collaborate under the DTC to address Tamworth's unmet housing needs. It is important to understand, however, that DTC is not a duty to agree.
14. Other examples of joint working under the aegis of DTC include delivery of some of TBC's unmet housing growth; cross-boundary employment provision, including the need to assist TBC with land for employment beyond Tamworth's boundaries; addressing the future of the former Rugeley Power Station; managing the Cannock Chase Area of Outstanding Natural Beauty (AONB) on a partnership basis; and addressing cross-boundary transport, water and flood risk issues.
15. Overall I am satisfied that where necessary the Council has engaged constructively, actively and on an on-going basis in the preparation of the Plan in accordance with the requirements of paragraphs 178-181 of *the Framework* and that the Duty to Co-operate has therefore been met.

## **Assessment of Soundness**

### **Main Issues**

16. Taking account of all the representations, the written evidence and the discussions that took place at the Examination Hearing sessions, I have identified eight main issues upon which the soundness of the Plan depends. Under these headings my report deals with the main matters of soundness rather than responding to every point raised by representors.

### **Issue 1 – Is the Plan justified, effective and consistent with the LPS (Part 1 of the Plan) and national policy, particularly in relation to housing provision?**

#### *Sustainability Appraisal and Habitats Regulation Assessment*

17. The Sustainability Appraisal (SA) for the Plan was prepared in-house and the submitted SA documents demonstrate that the Plan has been robustly tested both in relation to the SA and Habitats Regulation Assessment (HRA)<sup>6</sup>.
18. It is necessary for the SA to demonstrate clearly that there were no significant flaws in the SA process, and that all the realistic alternatives have been considered, together with the reasons for discounting them in favour of the preferred allocations in the Plan. The selection of reasonable alternatives was carried out in some detail and potential alternatives were considered for both sites and policies<sup>7</sup>; in particular, the SA used a full scoring matrix which is sub-divided by settlements<sup>8</sup>. The SA also explains the reasons for the

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<sup>5</sup> Examination Document EX5.

<sup>6</sup> See Examination Documents CD1-20 to 28.

<sup>7</sup> LDC: Note 1: Sustainability Appraisal [Examination Document EX30].

<sup>8</sup> See Examination Document CD1-26, page 211 onwards.

preferred alternatives for housing, employment and gypsy sites, involving a thorough process of iteration and consultation.

19. However, the key decisions in relation to reasonable alternatives for the distribution of development in Lichfield District, having regard to the SA, were made at the strategic stage, during the preparation of the LPS. This has considerably influenced the scope of the alternatives to be considered for this Plan, given its role as a Part 2 Local Plan.
20. Regarding effects on biodiversity, the Council produced a note addressing the impact of the proposed development at the former Rugeley Power Station on the Cannock Chase Special Area of Conservation (SAC) and whether further mitigation measures were required<sup>9</sup>. An additional note, prepared in consultation with Natural England, confirms that the appropriate assessment (AA) which has already been undertaken by the local planning authority and covered in the Council's HRA document<sup>10</sup>, takes account of the Sweetman 2 Court of Judgment of the European Union (CJEU), with specific reference to the potential effects of a substantial new brownfield development on the site of the former Rugeley Power Station<sup>11</sup>.
21. The HRA document also states that the submitted Plan will have a lesser impact on the Cannock Chase SAC than the earlier Local Plan document consulted on in March 2017<sup>12</sup>, as it reduces the cumulative amount of development within the 8-15 kilometres zone of influence<sup>13</sup> without the need for mitigation.
22. I am therefore satisfied, taking into account the evidence before me, that the Council has taken into account the relevant aspects of EU Directive 2001/42/EC, and the Sweetman 2 CJEU Judgement. It is also clear that the Plan has been robustly tested both in relation to the SA and HRA.

*Is the potential of the allocated sites and other opportunities justified and consistent with the overall housing requirement of the LPS and national policy?*

23. The LPS makes provision for 10,030 dwellings over the plan period (2008-2029). This figure includes 500 dwellings to meet the needs arising from Rugeley and the same amount in relation to Tamworth. Table 4.1 of the submitted Plan shows that the overall quantum of housing provision over the plan period, arising from completions, commitments, strategic development allocations (SDAs) and additional local plan allocations, amounts to 11,350 dwellings, or an excess of 13.16% over the LPS provision. A total of 5,071 dwellings arises from Local Plan allocations, a figure which addresses the residual needs of the District until 2029.
24. In addition, the windfall allowance, which is estimated at 55 dwellings per annum (dpa), is a conservative estimate based on previous completions as set out in the Authority Monitoring Report (AMR) and I therefore do not consider it to be unreasonable.

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<sup>9</sup> See Examination Document CD3-59.

<sup>10</sup> Examination Document CD1-28.

<sup>11</sup> Examination Document EX 40.

<sup>12</sup> Examination Document CD1-13.

<sup>13</sup> Examination Document CD1-28, HRA Conclusions, page 10.



25. In considering whether the excess ensures sufficient flexibility over the remainder of the plan period, there is no legal requirement for such a buffer. However, paragraph 14 of *the Framework* makes clear that local plans need to have sufficient flexibility to adapt to rapid change and therefore the provision of a buffer is good practice. A buffer of 13.61% exceeds the non-implementation rate which is estimated at 5%. I am also satisfied the buffer is consistent with paragraph 47 of *the Framework*, which expects local planning authorities to boost significantly the supply of housing.
26. No robust calculations for a larger buffer than the Council's 13.61% were submitted during the Examination. The need to respond to the Greater Birmingham Strategic Growth Study should not affect this Plan for reasons I explain later in this report. The figure of 20%, as suggested by the Local Plans Examination Group (LPEG), is not national policy.
27. From the evidence which I have summarised, I conclude that the potential of the allocated sites and other opportunities for housing is justified and consistent with the overall housing requirement in the LPS and accords with national policy.

*Is the proposed distribution of new homes consistent with the spatial strategy and principles set out in the LPS?*

28. The proposed distribution of new homes in the District of Lichfield over the plan period is set out in Table 4.1 of the submitted Plan. Whether the proposed distribution departs significantly from that shown in the equivalent table (Table 8.1) in the LPS, to the extent that the distribution in the Plan could be viewed as unsustainable and generally inconsistent with the LPS, depends on the significance of the following key considerations:
  - (i) The quantum proposed for the second most sustainable settlement in the District – Burntwood – has been reduced from 1,350 dwellings in the LPS to 1,054 dwellings in the submitted Plan, i.e. a reduction of 296 dwellings, which amounts to Burntwood's provision reducing from 13% to 9% of the District-wide housing provision.
  - (ii) There has also been a reduction – albeit lower than for Burntwood – in the proportion of housing for the most sustainable settlement in the District – Lichfield City – from 38% to 35% of the District-wide housing provision.
  - (iii) There is a corresponding increase in the Plan's housing provision in the Rural Settlements, i.e. in the least sustainable areas of the District, from 28% to 35% of the District-wide housing provision. Also, within this rural total the housing provision for the Key Rural Settlements (KRS), i.e. the least unsustainable of the rural settlements, has fallen from 28% to 21%, whilst the least sustainable of all categories – Other Rural Settlements (ORS), which were included within a broader sub-total within Table 8.1 – has increased to 12.5% of the District-wide housing provision.
29. Does the cumulative impact of these changes fundamentally alter the strategy for the Plan, as set out in the LPS? Does it result in a significantly less

sustainable pattern of development, especially taking into account the impact on the second largest settlement of Burntwood?

30. A key material consideration which has occurred since the adoption of the LPS has been the Secretary of State's determination of a planning appeal, which granted outline planning permission for up to 750 dwellings at Watery Lane, Curborough, located adjacent to the City of Lichfield<sup>14</sup>. This scheme, which is technically outside the City boundary, appears in Table 4.1 under the ORS heading, rather than as part of the city's total.
31. It is clear from reading the Secretary of State's decision letter and the Inspector's Report (IR) that the geographical reality is that the proposed development on the site will function as an extension of the urban area of the City, as opposed to functioning as a stand-alone rural settlement. The proposed development will also be connected to and integrated with the City by its proximity to the urban area and by the proposed delivery of sustainable transport measures.
32. The evidence points to the Watery Lane site being an extension of the City for the purpose of considering the distribution of proposed housing across the District. On this basis Table 4.1 could be amended to include Watery Lane as part of the City's housing provision, following the provision of the proposed infrastructure improvements, including sustainable transport links (pedestrian routes, cycleways and bus services), to link the scheme to the rest of the City. This recalculation was discussed at the Hearing sessions.
33. If Site OR7 were included within the Lichfield City housing provision, this would result in the proportion of dwellings provided for in Lichfield City being higher than that shown in the LPS, with the proportion in the two most sustainable settlements in the District, Lichfield and Burntwood, working out at 51%, which is the same as in the LPS. The inclusion of Watery Lane within the Lichfield City total would also reduce the ORS share of housing from 12.7% to 6%, which is comparable to that in the LPS.
34. The reduction in the percentage of new homes apportioned to Burntwood is due principally to the Council's decision to retain the Green Belt around the settlement and not release any of it for development. I address the issue of the Green Belt below (Issue 2). However, it is clear that the Plan still makes significant provision for housing at Burntwood; 15 sites are allocated within the settlement, primarily on brownfield sites which are generally well related to the town's facilities, whilst the overall number of new homes is only 296 less than in the LPS and still 9% of the total provision for the District.
35. I therefore conclude, on the basis of the above considerations, that the focus on urban areas for new growth is generally consistent with the strategic framework as set out in the LPS, with both the LPS and this Plan making provision for 51% in the two most sustainable settlements when their housing totals are combined.

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<sup>14</sup> Ref APP/K3415/A/14/2224354 – Secretary of State's decision to allow the appeal for up to 750 dwellings and a range of other facilities, infrastructure and landscaping at Watery Lane, Curborough, Lichfield; dated 13 February 2017.

36. Moreover, the emphasis on building new homes on previously developed land (PDL) in Burntwood, ensures the complete protection of the Green Belt around the settlement, resulting in positive sustainable outcomes. Taking all these considerations together, it is clear that the proposed distribution of new homes within the District accords with the principles set out in the LPS.

*Does the Plan provide sufficient evidence to demonstrate that the proposed new homes can be implemented over the plan period?*

37. The key considerations include whether the Plan and the supporting evidence shows in sufficient detail that the allocated sites would be deliverable and/or developable over the plan period; whether the track record of housing delivery over recent years supports the rate of delivery required; and whether it is realistic to place such reliance on a limited number of large sites.
38. The Council's Strategic Housing Land Availability Assessment (SHLAA)<sup>15</sup>, which has been prepared with the involvement of a panel of local housebuilders, and follows a detailed site selection process, shows, on a site-by-site basis, that the potential exists to deliver the housing requirements of the Plan over the plan period. It is not therefore necessary to require a site-by-site trajectory in addition to the year-by-year trajectory which is included in the Plan<sup>16</sup>.
39. In relation to the track record of dwelling completions in the District, the 2018 Authority Monitoring Report (AMR)<sup>17</sup> shows that since the start of the plan period (2008), there have been 2,755 net completions, i.e. at a rate of 275 dpa. However, the last year (2017/18) has shown an acceleration to 552 net completions, which exceeds the LPS requirement of 478 dpa. The AMR also shows that the housing completion rate in the District has increased year-on-year since 2011/12 (with the one exception of 2015/16).
40. The critical consideration is the likelihood of this level of housing provision being maintained for the rest of the plan period, given the reliance of the housing supply on the size of the contribution of the large sites. These include four large sites, at Fradley (80 units plus an employment land allocation); Arkall Farm (1,000 units), the former Rugeley Power Station (800 units) and at Watery Lane (750 units), which together have the potential for 2,550 dwellings. There is also a total of 2,565 units allocated on seven Strategic Development Allocations (SDAs), and one Broad Development Location, ranging in size from 722 down to 49 units<sup>18</sup>. Together these 12 sites, totalling 6,417 units, form the bulk of the Council's estimated completions to arise from the largest housing allocations in the Plan.
41. Planning applications have been made in relation to most of these sites, with development now underway on five of them, together with a combination of planning applications, resolutions to grant subject to a Section 106 Agreement and pre-application discussions on the remainder of these sites. The sites at Cricket Lane, south of Lichfield, East of Burntwood Bypass and Deanslade Farm, Lichfield, are expected to deliver in excess of their housing allocation in the Plan. I therefore regard the SDA total as a conservative estimate. I

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<sup>15</sup> Examination Documents CD3-28 and CD5-10.

<sup>16</sup> Submitted Plan; Appendix D: Housing Trajectory; page 99.

<sup>17</sup> Examination Document CD6-13.

<sup>18</sup> See Examination Document CD3-36 Housing Supply Update; October 2017.

consider that the proposed rate of delivery of these sites based on the detailed evidence submitted to the Examination is realistic.

42. The largest housing allocation in the Local Plan Strategy is the SDA at Fradley, a KRS, in close proximity to Lichfield, for 1,302 dwellings. Despite slower than expected progress to date, the SDA is already under construction, and a significant proportion of its housing is identified in the SHLAA as likely to come forward within 10 years. Furthermore, no major constraints to its continued development during the plan period were identified, either in the SHLAA, in the written evidence or at the Examination Hearing sessions. In support of the Plan, the SHLAA identifies around 285 dwellings under construction with a further 534 dwellings with outline consent. I therefore consider it is realistic to assume that the entire SDA will be implemented within the plan period.
43. I will now deal with the deliverability of the three largest housing allocations, at Arkall Farm, Former Rugeley Power Station and Watery Lane (with a combined estimated yield of 2,550 dwellings), and whether they are likely to be delivered in their entirety within the plan period.
44. Arkall Farm, North of Tamworth, for 1,000 dwellings: The full implementation of the scheme which has outline planning approval is linked to key trigger points associated with highways improvements. The initial 300 dwellings can be implemented without the need for any major highways improvements. However, the SCG<sup>19</sup> commits to the delivery of the site within the plan period.
45. Additional evidence<sup>20</sup> shows that the intention of the Council and the landowners is to progress a 'monitor and manage' regime from the outset, which includes active plans for modal shift. A note from Staffordshire County Council (SCC), the highway authority<sup>21</sup> states that the authority is working positively and proactively to establish a costed engineering scheme (including land acquisition). Compulsory Purchase Order (CPO) powers may be necessary to ensure a satisfactory highways solution. However, from the evidence submitted by the principal parties, I consider there is no insurmountable reason why the full complement of 1,000 dwellings cannot be completed by the end of the plan period.
46. **MM3** amends policy NT1 by clarifying the expectations of the masterplanning of this allocation in order for the Plan to be positively prepared and effective. In particular, it refers to the range of uses, open spaces and transport routes on the masterplan, and their relationship both to each other and to the existing development in the vicinity of the site. This is necessary for the effectiveness of the Plan and accords with the requirement in the PPG to make clear what is intended to happen in the area, where and when this will happen and how it will be delivered<sup>22</sup>.
47. Former Rugeley Power Station, for 800 dwellings: The allocation, on the grounds of a former power station, is affected by multiple constraints, including the need to demolish the existing structures and undertake an extensive programme of remediation. Flood risk and ecological impact also

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<sup>19</sup> SCG between LDC and Barwood Development Securities in relation to Arkall Farm; 31 July 2018 [Examination Document CD6-17].

<sup>20</sup> Note on Arkall Farm by LDC and Barwood Strategic Land; 14 September 2018 [Examination Document EX34].

<sup>21</sup> SCC Note on Arkall Farm; 20 September 2018 [Examination Document EX54].

<sup>22</sup> PPG Ref ID:12-002-20140306: *What should a local plan contain?*

need to be addressed. A commitment to developing the site by 2029 for a minimum of 800 dwellings as part of a mixed development is included in a SCG between the Council and the site owners<sup>23</sup> and in a further note<sup>24</sup> submitted during the Examination.

48. The demolition contract, which was validated in July 2018, is structured to enable concurrent remediation activity, and is programmed for completion within three years. The note also advises that the Lichfield portion of the site (which is divided between LDC and Cannock Chase District Council (DC)) is largely outside the demolition zone, enabling early delivery of housing units. Most of the site is located within Flood Zone 1, and ecological mitigation is already underway.
49. Recent market testing shows there is limited competition within the Rugeley housing market and little risk of saturation. A joint Development Brief Supplementary Planning Document (SPD) has been adopted by both LDC and Cannock Chase DC in February 2018<sup>25</sup> with a planning application to be submitted following community consultation for a development along the principles of a 'garden community'. The programmed demolition and remediation in parallel means that it is envisaged that up to 200 dwellings could be completed within five years, whilst both the developers and the Council are confident that the site will be capable of exceeding the minimum of 800 dwellings required by the Plan.
50. Based on the above evidence, I am satisfied that it is likely that at least 800 dwellings would be completed within the plan period.
51. **MM4** amends policy R1 by clarifying the expectations of the masterplanning of this allocation. This is necessary for the same reasons which are set out in relation to MM3 above.
52. Watery Lane, for up to 750 dwellings: Planning permission for the development of this site was granted by the Secretary of State in February 2017, following an Inquiry<sup>26</sup>. Issues of implementation, including whether the site would be completely developed within the plan period, were considered by the Inquiry Inspector in his IR and by the Secretary of State. No significant constraints were identified in these reports, and the IR (paragraph 299) states that the appeal scheme is deliverable, with an estimate of around a quarter of the total being completed within five years.
53. A High Court Challenge to the decision, which was dismissed in October 2017, explains the slow progress on this site since the proposed development was granted planning permission. Since then there has been significant progress on bringing the site forward for development, including monthly stakeholder meetings and commencing formal marketing, based on two outlets (one at the north end of the site with access from Netherstowe Lane and one at the south end with access from Watery Lane). I also note there is considerable developer interest in the site. Infrastructure works are due to start early in 2019,

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<sup>23</sup> SCG between LDC and Rugeley Power Ltd in relation to the former Rugeley Power Station; 16 August 2018 [Examination Document EX4].

<sup>24</sup> Note on Rugeley Power Station by LDC and ENGIE; 14 September 2018 [Examination Document EX37].

<sup>25</sup> Examination Document CD2-1.

<sup>26</sup> Ref APP/K3415/A/14/2224354 – Secretary of State's decision to allow the appeal for up to 750 dwellings and a range of other facilities, infrastructure and landscaping at Watery Lane, Lichfield; dated 13 February 2017.

including relevant Section 278 highways submissions, aiming to start housebuilding by mid-2019 with the first residential completions by early 2020. A phasing plan has already been submitted as required by planning condition.

54. On the basis of the evidence, including further detailed statements submitted during the Examination<sup>27</sup> and the discussions at the Hearing sessions, it is my view that this site is now "up and running" and the allocation at Watery Lane is likely to be implemented in full within the plan period.
55. Finally, **MM5** amends policy OR7 by clarifying the expectations of the masterplanning of this allocation. This is necessary for the same reasons which are set out in relation to MM3 above.
56. It is my conclusion, based on the above evidence, that the implementation rates envisaged for all three of these large sites are realistic, and that it is therefore reasonable for the Plan to rely on these allocations to contribute significantly towards the total housing provision for the District of Lichfield over the plan period.

*Does the Plan demonstrate a deliverable five-year supply of housing sites?*

57. Paragraph 47[2] of *the Framework* requires local planning authorities to identify and maintain a five-year supply of deliverable housing sites. The seriousness of this requirement is underlined in paragraph 49 of *the Framework*, which states that the relevant policies (in a local plan) shall not be considered up-to-date if the local planning authority cannot demonstrate a five-year supply of deliverable housing sites.
58. The Council has produced a five-year housing land supply paper<sup>28</sup> which concludes that at April 2018, Lichfield had 5.6 years' housing supply. In brief, the Council's calculation is based on the LPS housing requirement for the plan period of a minimum of 10,030 dwellings and is summarised as follows:
  - (i) The five year housing requirement takes into account a significant shortfall in completions from the start of the plan period until 2018, to be made good over the whole of the remaining plan period (i.e. the 'Liverpool' method), with an addition of a 20% buffer in line with the requirement in paragraph 47 [2] of *the Framework*, as there has been a persistent record of under-delivery. The Council's calculations give an annual requirement on this basis of 792 dwellings<sup>29</sup>.
  - (ii) The net deliverable capacity of sites within the five year calculation is calculated as 4,449 dwellings<sup>30</sup>.
  - (iii) The straightforward calculation of Lichfield's five year housing supply is therefore  $4,449 \div 792 = 5.62$  years.

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<sup>27</sup> Barton Willmore: Watery Lane Allocation – Response to the Inspector's Questions; 14 September 2018 [Examination Document EX38].

<sup>28</sup> LDC: Five Year Housing Land Supply Paper; July 2018 [Examination Document CD 6-12].

<sup>29</sup> Examination Document CD6-12, Figure 2.

<sup>30</sup> Examination Document CD6-12, Figure 3.

59. The assumptions used by the Council to calculate a housing land supply in excess of five years were debated at the Examination Hearing sessions. Based on the evidence submitted, I consider that the 20% buffer based on the Council's shortfall in housing completions over the previous 10 years is justified.
60. The adoption of the 'Liverpool' approach, which spreads out the delivery to compensate for the shortfall over the whole of the remainder of the plan period (as opposed to the 'Sedgefield' method which makes good the shortfall over the next five years) was supported by the appeal Inspector for Watery Lane. In my view it is the appropriate method for Lichfield, where a significant proportion of the Plan's housing total is programmed to come from the three large sites which I have addressed above, all of which require substantial investment in infrastructure and in the case of the former Rugeley Power Station, considerable remediation. This will mean that delivery is likely to take place after a few years rather than in the very short term, justifying the use of the 'Liverpool' method to make up the shortfall.
61. Regarding the deliverability of individual sites, evidence shows that completions on some sites, e.g. land at Tuppenhurst Lane, Handsacre and at Spode Avenue, Adjacent Hayes Meadow Primary School, (the latter due to a Lands Tribunal) are likely to be delayed with lower annual completion rates, below the Council's detailed estimates in its five-year supply schedule<sup>31</sup>. However, evidence also shows that other sites, such as St John's Lane and Cricket Lane, both in Lichfield City, are likely to be delivered more quickly than their projected targets, ahead of programme. Moreover, the SHLAA, which sets the basis for the Council's evidence on delivery rates, is endorsed by a Panel which includes a representative cross section of the housebuilding industry<sup>32</sup>, and the information is generally robust.
62. The Council's estimates for windfall sites, at 55 dpa, is based on a suitably cautious application of both past rates of delivery, as evidenced in the AMR, and its assessment of future urban capacity. I consider on this basis that the Council's evidence complies with the requirement in paragraph 48 of *the Framework*, that local planning authorities may make an allowance for windfall sites in their five-year supply if they have compelling evidence that such sites have become available in the local area and will continue to provide a reliable source of supply.
63. The assumed non-implementation rate of 5% used by the Council is in line with the high implementation rate of planning permissions, and the Council produced evidence to demonstrate this. The Council's figure for non-implementation therefore appears reasonable and I have no grounds to take a different view.
64. Based on the above considerations, I conclude that the evidence demonstrates that the Plan is able to provide a five-year supply of deliverable housing sites for Lichfield District.

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<sup>31</sup> Examination Document CD6-12, Appendix B.

<sup>32</sup> Evidence given on Day 2 of the Hearing sessions by the Council and supported by other parties at the Hearing.

*Does the Plan provide for the range and types of housing which accord with the LPS aims and targets?*

65. Paragraph 50 of *the Framework* requires local planning authorities to plan for a mix of housing to meet the differing needs of groups within the community. LPS policies H1 and H2 address these matters. The Council's evidence shows that the issue of self-build housing, which was debated at the Hearings, is already being considered at the review issues stage<sup>33</sup>. In accordance with legal requirements, the Council has created a register of individuals and groups who are seeking to acquire serviced plots of land, and the evidence shows that 35 individuals were on its register<sup>34</sup> and to date had granted 24 self-build exemptions. However, the absence of a bespoke provision within the Plan does not render it unsound. I agree, however, that a self-build policy should be considered for inclusion in the LPS Review.
66. The Council has produced a Gypsy and Traveller Accommodation Assessment. It supports LPS policy H3, which identifies a need for 14 residential and 5 transit pitches within the plan period. LPS Policy H3 provides a criteria-based approach to gypsy and traveller accommodation, and the Council is also engaging with neighbouring authorities under DTC to seek assistance in accommodating its unmet need for gypsy and traveller sites. The explanatory text to policy H3 in the LPS states (paragraph 8.23) that the identification of specific sites will be a matter for the Local Plan Allocations Document, i.e. this Plan. It does not, however, do this, and this is a serious omission in the Plan, both in relation to the requirement set out in the LPS and also in relation to national policy.
67. The Plan therefore is not sound as submitted. However, a modification has been put forward by the Council, committing itself to an early review of the Plan. I consider that it would be disproportionate to hold up the rest of the Plan to resolve the omission of gypsy and traveller sites at this late stage, and that the proposed modification for the early review of the Plan (**MM1 & 2** – see Issue 2 below), which is programmed in its Local Development Scheme (LDS) for submission in 2020, needs to address this important issue.
68. Regarding housing for the elderly, policy H1 of the LPS makes provision for a range of housing needs, including supported housing, care homes and lifetime homes standards. As such there is no need for a separate policy for elderly persons' provision in this Plan.
69. On the basis of the evidence summarised above, subject to the MMs requiring an early review of the Plan, I consider that the Plan makes adequate provision for delivering the range and types of housing in line with the LPS aims and targets within the plan period.

*Issue 1 - Conclusion*

70. From the evidence before me and from the discussion that took place at the Examination Hearing sessions, I conclude that, subject to the above

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<sup>33</sup> Examination Documents EX17 and CD6-21].

<sup>34</sup> Examination Document EX17.



modifications, the Plan is justified, effective, consistent with the LPS strategy (Part 1 of the Plan) and with national policy.

## **Issue 2 – Is the Plan consistent with national policy in respect of the Green Belt?**

*Do "exceptional circumstances" exist to justify further alterations to the Green Belt boundaries?*

71. Paragraph 79 of *the Framework* explains that the fundamental aim of the Green Belt is to prevent urban sprawl by keeping land permanently open; and that permanence and openness are the essential characteristics of Green Belts. It therefore follows, as paragraph 82 of *the Framework* states, that Green Belt land can only be released for development in "exceptional circumstances".
72. The Green Belt covers about half the area of the District, to the south and west of a line which is drawn from just east of Rugeley to the north, skirting the eastern edge of Lichfield City and extending to Fazeley in the south-east. It constrains the growth of Lichfield City on three sides (north-west, west, south and south-east) and stops the outward growth of Burntwood in all directions.
73. In addition to proposing three SDAs to the south of Lichfield City on land formerly in the Green Belt, at least in part, and which now have planning permission, the LPS set out housing land requirements for Burntwood, including a SDA on land east of Burntwood Bypass, for development up to 375 dwellings (policy Burntwood 5). The 2017 Consultation Version of the Plan, based on the strategic parameters of the LPS, proposed new housing on the edge of Burntwood within the Green Belt, on land South of Highfields Road, for 250 dwellings, and a smaller allocation to the east of Coulter Lane, on the western edge of Burntwood for 80 dwellings (both within the Green Belt)<sup>35</sup>.
74. In the submitted Plan, however, both of these allocations have been deleted, resulting in an intact Green Belt but reduced overall housing provision for Burntwood.
75. I have already concluded under Issue 1 that the proposed housing distribution in the submitted Plan is justified in relation to Burntwood and that no further housing allocations are therefore necessary. Although some representors would wish that further housing allocations in the Green Belt were made in the Plan, in the light of my conclusions in Issue 1 there is no need. I therefore conclude that the "exceptional circumstances" do not exist to justify the alteration of the Green Belt boundaries to enable new development on the edge of Burntwood in advance of a future review of the LPS.
76. In addition to the above considerations, the Green Belt is an essential component of the spatial distribution of development in the District as set out in the LPS Key Diagram and is also an integral part of the more extensive Birmingham Green Belt. The Green Belt is therefore a key element in the sustainable balance of development in the District.

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<sup>35</sup> Examination Document CD1-13.

77. The key focus highlighted during the Examination concerns the provision of new homes within the second most sustainable settlement of Burntwood. The proportion of new homes here is reduced in relation to the LPS total. The Plan, however, does make provision for new homes in Burntwood. Its population would still grow by over 1,000 based on the implementation of these new homes, whilst the loss of new dwellings in relation to the 2017 Consultation Plan is only 296. The provision of new homes in the Plan would result in additional (not less) demand for more services and facilities in Burntwood.
78. In view of the overall requirements for housing and other uses both in terms of overall quantum and its sustainable distribution which I consider to be broadly in line with the LPS, I do not consider that any further areas of Green Belt land release for development can be justified at this time.
79. On the basis of these considerations I do not consider that the necessary "exceptional circumstances" have been demonstrated to exist in order to justify deleting parts of the Green Belt, outside the sites to the south of the City of Lichfield which I have explained above, in advance of a review of the LPS.

*Should the Plan provide clearer guidance on Green Belt infill boundaries, as provided for in LPS Core Policy 1?*

80. LPS policy CP1 allows for limited infill development in Green Belt villages, with appropriate infill boundaries being determined through this Plan. Subsequent to the LPS adoption, however, as part of the preparation of this Plan, the Council undertook two comprehensive Green Belt assessments. The latest of these, the Supplementary Green Belt Report<sup>36</sup>, explores the policy requirements set out in the LPS and comes to three main conclusions. These are: (i) no infill boundaries should be proposed in the Plan (i.e. this Plan)<sup>37</sup>; (ii) the principle and identification of any such infill boundaries should be considered through a future comprehensive Green Belt Review; and (iii) support should be given to any communities seeking to identify appropriate infill boundaries through community-led plans.
81. I consider that these recommendations, based on careful consideration in the light of the relevant material considerations, are justified and appropriate for the future planning and management of the Green Belt in the District. The most appropriate time to consider the potential infill development within villages in the Green Belt would be at the time of the comprehensive Green Belt Review, which, subject to **MM1** and **MM2** would be part and parcel of the LPS Review. The above-mentioned Supplementary Green Belt Report also argues that the most appropriate forum for considering infill boundaries is through the neighbourhood plans. I consider that both these approaches are justified.

## *Issue 2 - Conclusion*

82. From the evidence before me and from the discussion at the Examination Hearing sessions, I conclude that the "exceptional circumstances" required in

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<sup>36</sup> LDC: Local Plan Allocations Supplementary Green Belt Report; November 2016 [Examination Document CD3-56].

<sup>37</sup> Ibid, Section 4.4, second paragraph.

*the Framework* do not exist to justify the need to remove any Green Belt land in addition to the areas already agreed as part of the LPS and identified on the Policies Map in the submitted Plan, (i.e. to the south of Lichfield City). I also conclude that there is no need to provide clearer guidance on Green Belt infill at this time in advance of the LPS Review.

### **Issue 3 – How should the Plan respond to the housing shortfall in the Greater Birmingham Housing Market Area and also from the neighbouring Borough of Tamworth?**

#### *Greater Birmingham's Housing Shortfall*

83. The unmet housing needs of Greater Birmingham were considered at the LPS Examination, where a MM required the LPS to recognise the need for collaborative working with Birmingham City Council (BCC) and other affected authorities. Since the LPS Examination the Council has been actively involved in DTC engagement in relation to the Greater Birmingham Housing Market Area (GBHMA) housing shortfall. Paragraph 4.6 of the LPS makes it clear that matters relating to the GBHMA shortfall should be addressed by an early or partial review of the Plan.
84. Since the LPS Examination, the Birmingham Development Plan (BDP) has been examined and adopted. The BDP identifies a housing need for Birmingham of 89,000 dwellings, with a shortfall of 37,900 dwellings over the period 2011-2031. A SCG between BCC and LDC<sup>38</sup> represents a joint commitment by the two authorities to deal with this matter through a local plan review, in line with BDP policy TP48.
85. In line with the LPS, **MM1** and **MM2** commit the Council to carry out an early review of the Plan that will be submitted to the Secretary of State for examination by the end of December 2021. I support the Council's commitment to use its best endeavours to submit the review before that date. Although the above-mentioned SCG suggests an earlier date, BCC has not objected to LDC's suggested date in its response to the MMs consultation and I am aware that the date aligns with the adopted South Staffordshire Local Plan, policy SAD1, which also commits that Council to a local plan review by the end of 2021.
86. Overall, I am satisfied that the review date provides an acceptable balance between certainty and flexibility to enable the Council to deliver the required quantum of housing in accordance with the housing needs identified in the GBHMA.
87. It is also necessary, for the effectiveness of the Plan, for **MM1** and **MM2** to refer to the need for an evidence-based assessment of highways infrastructure needs in partnership with the highways authorities.
88. The LPS Review has now formally commenced, with the publication of a Scope, Issues and Options Document<sup>39</sup> which underwent public consultation between 30 April and 11 June 2018. It is essential, however, that the momentum already established in the LPS Review should continue in the interests of the

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<sup>38</sup> Examination Document CD6-23; 30 July 2018.

<sup>39</sup> Lichfield District Local Plan Review 2020-2036: Scope, Issues and Options; April 2018.

effectiveness of the Plan and the urgent needs of the GBHMA to meet its unmet housing need. I consider that the proposed timetable for a review is sufficiently realistic to avoid the likelihood of slippage, so that the date in the above-mentioned MMs enables the Plan to be effective.

### *Tamworth's Housing Shortfall*

89. The LPS IR states that the additional unmet housing need arising in Tamworth would be dealt with in an early or partial review of the LPS, or through this Plan<sup>40</sup>. It is clear from the Council's engagement with the GBHMA, and from the discussions at the Examination Hearing sessions, that Tamworth's needs should now be considered within the GBHMA context rather than as a separate one-off arrangement with Lichfield District, and that the most effective way to achieve this is through the LPS Review as set out in **MM1** above.
90. It has already been decided that some of Tamworth's housing needs, around 500 dwellings, will be met by the development of Arkall Farm, immediately to the north of the Borough boundary of Tamworth. This would go some way to address the urgency of Tamworth's needs. However, although land immediately to the north of Tamworth would appear to be the most logical area of search, there are significant infrastructure issues necessitating a new study, and this is best undertaken as part of a comprehensive review of the Plan rather than through a series of uncoordinated planning applications.

### *Issue 3 - Conclusion*

91. From the evidence before me and the discussion at the Examination Hearing sessions, I conclude that the most appropriate way for the Plan to respond to the housing shortfall in the GBHMA is through a review of the LPS, as outlined in **MM1**, and that the review should also address the shortfall from the neighbouring Borough of Tamworth as part of the GBHMA. The Plan is therefore, subject to **MM1** and **MM2**, justified, effective and in line with national policy

### **Issue 4 – Are the Plan's policies and provisions for the protection and enhancement of its environmental, landscape, biodiversity and heritage assets justified and in accordance with national policy?**

92. The LPS sets out policies for the natural environment (core policy 13 and policies NR1- NR9). I am satisfied that the Local Plan contains a comprehensive set of policies to deal with landscape, biodiversity and environmental assets.
93. The LPS also contains a wide-ranging policy – Core Policy 14 – which sets a framework for the protection of the built and historic environment of the District.
94. Policy BE2 deals with the built and historic environment. It is supported by Historic England and is broadly in line with national policy. It also complements LPS policy BE1.

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<sup>40</sup> IR paragraph 11 [Examination Document CD6-3].

95. The protection of local green space is no longer covered by saved policy C9. Whilst a number of requests were made for the designation of LGS, these did not meet the criteria for designation set out in paragraph 77 of *the Framework*. I am satisfied that the natural resources policies of the LPS and this Plan provide for the protection of the important landscapes, greenspaces and habitats in the District. Neighbourhood Plans provide a further opportunity to consider the designation as LGS of other green spaces of value to local communities.

#### *Issue 4 - Conclusion*

96. In view of the evidence before me and the discussions at the Examination Hearings, I conclude that the Plan's provisions for the protection and enhancement of its environmental, landscape, biodiversity and heritage assets, are justified and in accordance with national policy.

#### **Issue 5 – Is the Plan effective in delivering economic prosperity, allocating employment land, protecting existing employment areas, setting a realistic framework for achieving a satisfactory housing/ employment balance and promoting retail and office development, in line with the LPS and national policy?**

*With reference to policy EMP1, are the expectations in the Plan for employment growth soundly based on a coherent framework and consistent with the requirements of the LPS?*

97. The LPS spatial strategy includes employment development in accessible and sustainable locations. The Council's Employment Land Capacity Assessment (ELCA)<sup>41</sup> concludes that there is sufficient capacity within the employment areas of Lichfield City, Burntwood and Fradley to meet the District's requirements as set out in the LPS. The document provides a thorough and detailed evidence base to support this conclusion.
98. LPS core policy 7 specifies that a further 10 ha needs to be allocated in this Plan to ensure flexibility in the provision of employment land, and policy EMP1 identifies sufficient land to meet this requirement. There is therefore no requirement to allocate additional land and sites for employment development in the District.
99. Regarding the employment needs of Tamworth, policy SS1 of the adopted Tamworth Local Plan<sup>42</sup> states that a minimum of 14 ha of employment land will need to be delivered outside the Borough within locations which assist the delivery of Tamworth's strategy and those of its neighbours. The ELCA identifies that approximately 6.5 ha can be accommodated within the District, close to the Tamworth Borough boundary which, when added to 7.5 ha which has been permitted within North Warwickshire, means that there is sufficient employment land to meet Tamworth's requirements on suitable locations.
100. The three employment sites identified in policy EMP1 (Site F2, south of Fradley Park (18.2 ha); Site OR6, on land east of the A38 (5.1 ha); and Site A6, on land at Main Street Alrewas (0.4 ha)) are all in accessible and sustainable

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<sup>41</sup> Examination Document CD3-43.

<sup>42</sup> Examination Document CD6 -19.

locations, and the evidence shows that they are all deliverable within the plan period. In addition, the largest site (Fradley Park) is suitable for a range of employment uses.

101. On the basis of the above evidence, I conclude that the expectations in the Plan for employment growth are soundly based on a coherent framework and are consistent with the requirements of the LPS.

*How effective is the Plan in protecting allocated employment sites from other uses, e.g. housing? Should the Plan set out the parameters of an 'independent assessment' in relation to the attractiveness of the market, and over what period of time?*

102. A policy framework to provide for consistent decision making in relation to proposals for the change of use or redevelopment of employment land is necessary to prevent its inappropriate loss to other uses. It is acknowledged that the market alone is unable to secure the retention of employment land in the face of competition from higher value uses such as residential. In the context of a vulnerable economy, it is important to provide a safeguard which both protects existing employment land and allocations whilst allowing for flexibility. This is in line with paragraph 19 of *the Framework*, which states that the planning system should do everything it can to support sustainable economic growth, and paragraph 22 which states that policies should avoid the long-term protection of employment sites where there is no prospect of the site being used for that purpose.

103. Modifications **MM6** and **MM7** ensure that the Plan sets out robust marketing criteria in order to achieve consistency of decision making in the implementation of policy EMP1, including its supporting text. **MM7** requires an adequate marketing period, for example through the use of commercial agents, at a price that reflects market value for employment use for at least 12 months prior to the release of employment land. I consider this to be a reasonable period for the effectiveness of the Plan in playing its part to secure sustainable economic growth for Lichfield which would be consistent with national policy.

104. Whilst some land may be developed for retail, **MM6** makes clear that such a use needs to be related in scale to the primary employment focus of the site, so that the vitality and viability of the employment area is not adversely affected; neither am I persuaded from the evidence before me that the modified policy is likely to undermine the existing retail hierarchy or lead to demands for employment land in neighbouring local authority areas to meet Lichfield's needs.

105. Subject to the above modifications there is sufficient flexibility in policy EMP1 to allow for development to take place in employment areas through the planning application process as part of a mix of uses. The ECLA concludes that where sites are unlikely to be delivered for employment use, they have been excluded from the Plan's provision, which is justified and makes the Plan effective.

*Does the Plan address the need for a housing/employment balance? Is there a balance between housing provision and maintaining an adequate supply of employment land?*

106. Maintaining a sustainable balance between housing and employment is a critical consideration, although it is accepted that measuring this balance in relation to complex parameters is difficult. Nevertheless, the balance between the provision of housing and employment provision is established through the LPS, especially in core policies 1, 6 and 7. This important and strategic consideration was specifically considered at the LPS Examination, where the balance between the level of housing and employment was considered to be consistent and sound<sup>43</sup>. I am satisfied that the more detailed provisions of the Plan are in accordance with the strategic balance set out in the LPS.

*Does policy Lichfield 3 set a sound framework for promoting Lichfield City Centre as a retail and commercial centre? Should the Plan aim for a 'town centres first' approach to office development? Does policy Burntwood 3 set a sound framework for promoting Burntwood as a retail and commercial centre?*

107. LPS core policy 8 requires development proposals for retail, office and cultural facilities to be focused within the commercial centres of Burntwood and Lichfield City. LPS policy E1 covers retail assessment, and sets out a threshold of over 1,000 sq m gross for considering schemes in Lichfield City. Policy Lichfield 3 builds on these adopted policies and promotes the city centre as a strategic centre by improving its range of facilities. Regarding office development, policy Lichfield 3 sets out a 'city centre first' stance using a sequential test approach and impact test, which accords with paragraphs 24 and 26 of *the Framework*. I therefore consider that the Plan's approach to promoting Lichfield City centre is consistent with both the LPS and section 2 of *the Framework*, which promotes the vitality and viability of town centres.

108. LPS core policy 8 also sets the retail policy framework for Burntwood, designating it as a town centre within the hierarchy of centres, primarily serving a local catchment providing for convenience shopping. LPS policy E1 sets a correspondingly lower retail threshold at 500 sq m (gross), which accords with both the LPS and section 2 of *the Framework*. Policy Burntwood 3 reinforces this by promoting the centre for a diverse range of uses, including opportunity sites for new retail floorspace. I am satisfied that this is consistent with the LPS and provides a sound policy framework for the centre.

#### *Issue 5 - Conclusion*

109. In view of the evidence submitted and the discussions at the Examination Hearing sessions, I conclude that the Plan's provisions for delivering economic prosperity, including the allocation of employment land, protecting existing employment areas, setting a realistic framework for achieving a satisfactory housing/employment balance and setting out retail parameters for Lichfield City Centre and Burntwood, are, subject to above modifications, justified, effective and in line with the LPS and national policy.

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<sup>43</sup> LPS Inspector's Report, paragraphs 238-242 [Examination Document CD6-3].

**Issue 6 – Are the transport, infrastructure, implementation and monitoring provisions of the Plan sound? Does the Plan provide effective policies to cover aspects of development management which are not explicitly covered in the LPS? Are the monitoring arrangements effective?**

110. The Infrastructure Delivery Plan (IDP)<sup>44</sup> sets out the infrastructure required to support the sustainable delivery of the Plan, in line with the requirements in paragraph 157 [1] of *the Framework*. Regarding the development of Arkall Farm, the Secretary of State's decision to grant planning permission for 1,000 dwellings confirms that the development is deliverable from an infrastructure perspective and this site is covered in more detail under Issue 1 above. The Council has also signed a SCG with TBC<sup>45</sup> which sets out how the two Councils are working together to resolve unmet infrastructure needs, e.g. for sport and recreation. The Plan is positively prepared in this respect.
111. Potential sewerage constraints in relation to two development sites within Lichfield City and Armitage with Handsacre were identified by Severn-Trent Water Authority, where hydraulic modelling for development on these sites was required. This has been resolved through a SCG between Severn Trent and the Council<sup>46</sup>, and therefore I am satisfied that the effects of the Plan on sewerage infrastructure are capable of mitigation.
112. The robustness of the transport evidence has been clarified through a SCG between the Council and Highways England<sup>47</sup> which refers to improvements to the Strategic Road Network at Muckley Corner; Swinfen; and further junction improvements and safer access to A38 at Hilliards Cross and Fradley South. These and other schemes are likely to be adequate to mitigate the transport impacts of development.
113. The Environment Agency is now satisfied that a sequential test regarding flood risk has been completed, and both parties have signed a SCG to this effect<sup>48</sup>. I have no grounds to come to a different view regarding any of the above infrastructure matters.
114. The Plan contains a number of development management policies which have been prepared internally and with other relevant parties. The case for policies to cover specific sites such as Drayton Park and for roadside service areas are not in my view compelling, and the relevant issues are covered in the generic policies of this Plan and the LPS.
115. Appendix A of the LPS contains a comprehensive monitoring framework, including a set of indicators (linked to the AMR), targets (outcomes), contingency options and data sources. All the key thematic areas of this Plan are covered, and no changes are necessary in the interests of the soundness of the Plan.
116. Uncertainties and risks were assessed through the SA. Key areas of risk relate to housing delivery and economic growth, which are outside the direct control of the local planning authority. Some flexibility has been incorporated into the

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<sup>44</sup> Examination Document CD3-13.

<sup>45</sup> Examination Document CD6-22.

<sup>46</sup> Examination Document CD6-34.

<sup>47</sup> Examination Document CD6-40.

<sup>48</sup> Examination Document CD6-43.



Plan, such as the housing provision buffer and the protection of employment land subject to market testing, and the policies in the Plan are not overly prescriptive. I therefore consider that the Plan contains sufficient flexibility to effectively address the likelihood of uncertainties and risks.

#### *Issue 6 - Conclusion*

117. No outstanding infrastructure issues have been identified which could undermine the effectiveness of the Plan in delivering the quantum of development proposed during the plan period. No changes to the Plan are needed in relation to development management, monitoring or uncertainties and risks. I therefore conclude that the transport, infrastructure, and implementation provisions of the Plan are sound; that the Plan provides sufficient guidance to cover aspects of development management which are not explicitly covered in the LPS; and that the monitoring arrangements are soundly based.

#### **Issue 7 – Are the Plan's provisions for conserving and enhancing the character and appearance of Lichfield City Centre justified and effective and consistent with national policy?**

118. In many historic and beautiful cities such as Lichfield there is tension between conservation and growth. Policy Lichfield 3 addresses this tension and draws a balance between promoting the city centre as a retail and business centre whilst at the same time seeking to sustain and enhance its historic environment, heritage assets and their setting. LPS policy Lichfield 1 sets out a strong framework for protecting and enhancing the setting of the city's world-famous cathedral.

119. The framework for sensitive conservation provided by these policies forms a sufficient platform to enable the local planning authority to ensure that development proposals are sympathetic to the distinctive character of the city centre and to assist community involvement in these schemes. This accords with the advice in the PPG<sup>49</sup> on securing high quality design and paragraph 58 of *the Framework*, which requires developments to respond to local character whilst not preventing or discouraging appropriate innovation.

120. The policy does not specifically address delivery concerns. However, I am not convinced that a more prescriptive policy would necessarily assist; it might be appropriate for detailed planning briefs to be prepared to provide the necessary guidance to secure timely delivery for schemes on key sites such as Friarsgate, Bird Street Car Park and the Quonains Site, off Dam Street. However, this will be a matter for the Council, and the absence of specific reference to them does not affect the soundness of the Plan.

#### *Issue 7 - Conclusion*

121. On the basis of the evidence submitted during the Examination and at the Hearing sessions, I consider that policy Lichfield 3, supported by LPS policy Lichfield 1, is set at the appropriate level to act as a strategic basis for more detailed work to address conservation issues affecting the city centre.

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<sup>49</sup> PPG Ref. ID: 26-001-20140306 *Why does good design matter?*

I therefore conclude that the Plan's provisions for Lichfield city centre are justified, effective and are consistent with national policy.

**Issue 8 – Are the Site Allocations in the Plan justified, effective, positively prepared and consistent with national policy?**

122. The Council stated that all the allocated sites had willing owners and with one exception this was not challenged during the Hearing sessions. I consider from the evidence submitted and from site observation that the prospect of development on several of the site allocations was straightforward and therefore no further comments are necessary in respect of these sites.
123. Several alternative sites have been promoted. However, considering my conclusions on the main issues above and in particular issues 1, 2 and 3, it has not been necessary for me to scrutinise in depth the relative merits of the alternative sites. As such I have generally not referred to them in this report.

**Lichfield City**

124. I regard all the Lichfield City allocated sites in the Plan to be suitable for the development of housing and/or other uses that are proposed. I note that site L2, for the development of 200 dwellings, is adjacent to the larger East of Lichfield SDA (750 dwellings), which began construction in 2016, and which after initial uncertainties, is now progressing steadily.
125. Site L2 identifies potential environmental impacts which need to be considered and the need to design sympathetically the transition from urban to rural. Site L4, for the development of 194 dwellings at Land off Limburg Avenue and Sainte Foy Avenue, identifies potential environmental impacts which need to be considered.
126. Site L7, for the development of 27 dwellings at Scotch Orchard, requires appropriate investigation to establish whether mitigation works are required for any ground contamination, but there is no evidence to suggest that this will delay the implementation of the site until beyond the plan period.
127. In relation to Site L9 (Land off Burton Road (East), Streethay), proposed for the development of 9 dwellings, the Council stated at the Hearing sessions that vehicular access was no longer an issue and I have no grounds to come to a different view.
128. Site L12, for the development of 36 dwellings at Land at St John's Hospital, requires the significant archaeological potential of the site to be the subject of archaeological assessment and mitigation. However, the first phase of the development is completed and it is expected that the entire site will be developed within the plan period.
129. The access concerns in relation to Site L14 (Former Integra Hepworth, Eastern Avenue), proposed for the development of 99 dwellings, have now been overcome and initial construction works have started.
130. Site L22, for the development of 38 dwellings at Former Regal Cinema, Tamworth Street, requires the significant archaeological potential of the site to

be the subject of archaeological assessment. However, development has now started, and completion is anticipated before the end of the plan period.

131. The Plan acknowledges that several sites could impact on the setting of Lichfield Cathedral. This important consideration is addressed in LPS policy Lichfield 3 (see Issue 7 above) and site allocations L1; L6; L8; L18; L19; L20; L21; L22; L26; L28; and L29 all require that design should consider the setting of Lichfield Cathedral, including historic views or skylines, which is justified and in accordance with national policy.

### **Burntwood**

132. Sites B14 (Land South of Highfields Road) for the development of 250 dwellings and B15 (Land East of Coulter Lane) for the development of 80 dwellings have been deleted from the submitted Plan and these sites retain their Green Belt designation (see Issue 2 above). For the reasons I have already stated, I consider that the continued designation of the Green Belt covering these sites is justified and in accordance with national policy.
133. Site B4, for Land off New Road/ Mount Road for the development of 95 dwellings, requires the completion of appropriate investigation to establish the extent of any ground contamination and whether mitigation works are required; the policy also requires potential noise and odour mitigation to be considered. However, completion is anticipated before the end of the plan period.
134. Site B5 (Land rear of Chase Terrace Primary School) for the development of 12 dwellings has potential ecological impacts which need to be considered, but it is supported by the County Council and completion is anticipated before the end of the plan period.
135. Policy B7, for Land South of Cannock Road for the development of 17 dwellings, requires potential noise and odour mitigation to be considered. However, completion is anticipated before the end of the plan period.
136. Site B10 (Land off Milestone Way, Chasetown) for the development of 150 dwellings, requires the completion of appropriate investigation to establish the extent of any ground contamination and whether mitigation is required. However, the site already has planning permission, reserved matters have already been submitted and completion is anticipated well within the plan period.
137. Site B13 (Bridge Cross Garage, Cannock Road) for the development of 8 dwellings requires the completion of appropriate investigation to establish the extent of any ground contamination and whether mitigation works are required. Although no planning application has yet been submitted, completion is anticipated before the end of the plan period.
138. Site B19 (Chorley Road), for the development of 7 dwellings in a former concrete works, requires the completion of appropriate investigation works to establish the extent of any ground contamination and whether mitigation works are required. Although the existing planning application has expired, completion is anticipated before the end of the plan period.

### **East of Rugeley**

139. Site R1, for the development of at least 800 dwellings on the former Rugeley Power Station, is considered in more detail in Issue 1 above. My conclusion is that the proposed development on this site is developable and can be completed within the plan period.

### **North of Tamworth**

140. Site NT1, for the development of 1,000 dwellings at Arkall Farm, is considered in more detail in Issue 1 above. My conclusion is that the proposed development on this site can be completed within the plan period.

141. Development is already underway on site NT2 (Land North of Brown's Lane, Tamworth) for the development of 165 dwellings, and there is every likelihood that this scheme can be delivered well within the plan period.

### **Key Rural Settlements**

#### *Fradley*

142. Site F1 (Bridge Farm, Fradley) for the development of 80 dwellings requires the design and scale of the development to be considered in the context of the site's location adjacent to the Canal Conservation Area. My conclusion is that this site can be completed within the plan period.

#### *Alrewas*

143. Site A2 for the development of 121 dwellings at Land North of Dark Lane has potential ecological impacts which need to be considered. My conclusion is that this site can be completed within the plan period.

#### *Armitage with Handsacre*

144. Site AH1 (Land adjacent to Hayes Meadow School) for the development of 200 dwellings requires the demolition of one dwelling to gain access. I do not view this as a major constraint and the developer is confident that the rate of progress can exceed the SHLAA estimate.

#### *Fazeley*

145. Site FZ2 (Tolsons Mill) for the development of 100 dwellings, requires the completion of appropriate investigation to establish the extent of any ground contamination and whether mitigation works are required. My conclusion is that this site can be completed within the plan period.

#### *Shenstone*

146. Site S1 (Land at Lynn Lane) for the development of 50 dwellings as part of a mixed-use development, is supported by the Shenstone Neighbourhood Plan

and the expectation is that this site can be completed within the plan period. I have no grounds to disagree with this conclusion.

### *Whittington*

147. Site W3 for the development of land at Chapel Lane & Blacksmith Lane, Whittington for 10 dwellings is, according to the Council's land agent, available for developer interest, although this was challenged at the Hearing sessions. Even if this site remains undeveloped during the plan period, its impact on the Plan's overall deliverability will be negligible.

### **Other Rural Settlements**

148. Site OR1 for the development of Packington Hall, Tamworth Road for 24 dwellings (with 28 applied for), requires the completion of appropriate investigation to establish the extent of any ground contamination and whether mitigation works are required. My conclusion is that this site can be completed within the plan period.

149. Although the planning permission for 28 dwellings has lapsed on site OR3 at Fotherly Hall, Fotherly Lane, none of the key development considerations set out in policy OR3 would suggest that the site is not capable of implementation within the plan period.

150. Site OR7, for the development of land at Watery Lane for up to 750 dwellings, is considered in more detail in Issue 1 above. My conclusion is that this site can be completed within the plan period.

### *Issue 8 - Conclusion*

151. In the light of the above considerations and the discussions at the Hearing sessions, I conclude that the individual site allocations proposed are positively prepared, justified, effective, deliverable over the plan period and consistent with national policy in relation to site specific matters, and that the deletions at Burntwood from the earlier consultation version are also justified.

### **Public Sector Equality Duty**

152. In reaching the conclusions above, I have had due regard to the Public Sector Equality Duty contained in the Equality Act 2010. Subject to the provision for gypsy and traveller accommodation in the review of the LPS (**MM1** and **MM2**), I do not consider that my findings will impact negatively on anyone with a relevant protected characteristic in respect of the matters addressed by Section 149 of the Act, neither will any part of the Plan be a barrier to providing for inclusive design and accessible environments as required by *the Framework*, with particular reference to paragraphs 50 and 149.

### **Assessment of Legal Compliance**

153. My examination of the legal compliance of the Plan is summarised below. I conclude that all aspects of legal compliance are met:

- Lichfield District Local Plan Allocations 2008-2029 Proposed Submission has been prepared in accordance with the Council's Local Development Scheme.
- Consultation on the Local Plan and the MMs was carried out in compliance with the Council's Statement of Community Involvement.
- Sustainability Appraisal has been carried out and is adequate.
- The Habitats Regulation Assessment is supported by an additional note, prepared in consultation with Natural England, which confirms that the AA which has already been undertaken by the local planning authority takes account of the Sweetman 2 CJEU, with specific reference to the potential effects of a substantial new brownfield development on the site of the former Rugeley Power station.
- The LPS, to which this Plan broadly conforms, includes policies designed to secure that the development and use of land in the local planning authority's area contribute to the mitigation of, and adaptation to, climate change. There is no need to duplicate the climate change stance of the LPS.
- The Local Plan complies with all relevant legal requirements, including the 2004 Act (as amended) and the 2012 Regulations.

## **Overall Conclusion and Recommendation**

154. The Plan has a number of deficiencies in respect of soundness for the reasons set out above, which mean that I recommend non-adoption of it as submitted, in accordance with Section 20(7A) of the 2004 Act. These deficiencies have been explored in the main issues set out above.

155. The Council has requested that I recommend MMs to make the Plan sound and capable of adoption. I conclude that with the recommended main modifications set out in the Appendix the Lichfield District Local Plan Allocations 2008-2029 Proposed Submission satisfies the requirements of Section 20(5) of the 2004 Act and meets the criteria for soundness in the National Planning Policy Framework.

*Mike Fox*

Inspector

This report is accompanied by an Appendix containing the Main Modifications.