

NON-CONFIDENTIAL



Borough of Tamworth

12 March 2013

Dear Councillor

You are hereby summoned to attend a **meeting of the Council of this Borough** to be held on **TUESDAY, 19TH MARCH, 2013** at 6.00 pm in the **COUNCIL CHAMBER - MARMION HOUSE**, for the transaction of the following business:-

AGENDA

NON CONFIDENTIAL

1 Apologies for Absence

2 To receive the Minutes of the previous meeting (Pages 1 - 14)

3 Declarations of Interest

To receive any declarations of Members' interests (pecuniary and non-pecuniary) in any matters which are to be considered at this meeting.

When Members are declaring a pecuniary or non-pecuniary interest in respect of which they have dispensation, they should specify the nature of such interest. Members should leave the room if they have a pecuniary or non-pecuniary interest in respect of which they do not have a dispensation.

4 To receive any announcements from the Mayor, Leader, Members of the Cabinet or the Chief Executive

5 Question Time:

- (i) To answer questions from members of the public pursuant to Procedure Rule No. 10.
- (ii) To answer questions from members of the Council pursuant to Procedure Rule No. 11

- 6 Audit and Governance Annual Report** (Pages 15 - 24)
(Report of the Chair of Audit and Governance Committee)
- 7 Scrutiny Chairs' Reports**
(Report of the Chair of Aspire and Prosper Scrutiny Committee) (To Follow)
(Report of the Chair of Healthier and Safer Scrutiny Committee) (To Follow)
- 8 Tamworth Local Plan** (Pages 25 - 74)
(Report of the Portfolio Holder for Economic Development and Enterprise)
- 9 Review of Members Allowances** (Pages 75 - 78)
(Report of the Solicitor to the Council and Monitoring Officer)

Restricted

NOT FOR PUBLICATION because the report could involve the disclosure of exempt information as defined in Paragraphs 1, 3 and 9 of Part 1 of Schedule 12A to the Local Government Act 1972 (as amended)

- 10 Review of Pay Policy** (Pages 79 - 98)
(Report of the Leader of the Council and Chairman of Appointments and Staffing Committee)

Yours faithfully



CHIEF EXECUTIVE

People who have a disability and who would like to attend the meeting should contact Democratic Services on 01827 709264 or e-mail committees@tamworth.gov.uk preferably 24 hours prior to the meeting. We can then endeavour to ensure that any particular requirements you may have are catered for.

Marmion House
Lichfield Street
Tamworth



MINUTES OF A MEETING OF THE COUNCIL HELD ON 26th FEBRUARY 2013

PRESENT: Councillor T Clements (Chair), Councillors J Garner, M Clarke, S Claymore, D Cook, C Cooke, M Couchman, S Doyle, J Faulkner, D Foster, M Gant, M Greatorex, G Hirons, A James, R Kingstone, A Lunn, M McDermid, R McDermid, K Norchi, J Oates, S Peaple, R Pritchard, E Rowe, P Seekings, P Standen and M Thurgood

The following officers were present: Anthony E Goodwin (Chief Executive), John Wheatley (Executive Director Corporate Services), Jane Hackett (Solicitor to the Council and Monitoring Officer), Stefan Garner (Director of Finance) and Lara Allman (Democratic & Election Services Officer)

55 ANNOUNCEMENT BY THE MAYOR

The meeting commenced with a minutes silence as a mark of respect following the death of Councillor Brian Beale.

56 APOLOGIES FOR ABSENCE

Apologies for absence were received from Councillors L Bates, K Gant and S Pritchard.

57 TO RECEIVE THE MINUTES OF THE PREVIOUS MEETING

The minutes of the meeting held on 13 December 2012 were approved and signed as a correct record.

(Moved by Councillor D Cook and seconded by Councillor R Pritchard)

58 DECLARATIONS OF INTEREST

None

59 TO RECEIVE ANY ANNOUNCEMENTS FROM THE MAYOR, LEADER, MEMBERS OF THE CABINET OR THE CHIEF EXECUTIVE

Announcement by the Leader of the Council

The new Committee Places that have previously been circulated by the Leader of the Council and the Leader of the Opposition following the death of Councillor Brian Beale were confirmed.

60 QUESTION TIME:**QUESTIONS FROM MEMBERS OF THE COUNCIL NO.1**
Under Procedure Rule No 11, Councillor P Standen will ask the Leader of the Council, the following question:-

"Does the Leader of the council agree with the comments made by the Secretary of State for Communities and Local Government Eric Pickles in the Telegraph on 27th January 2013, when he accused councils like Tamworth who are proposing to raise their council tax by slightly under 2% of 'cheating their taxpayers' and of being 'Democracy dodgers'?"

The Leader of the Council gave the following reply:

Thank you Cllr Standen for your question.

Simple answer is NO I do not agree with the Secretary of State on this issue. I agree that all taxes should be kept as low as possible, but I also accept sometimes harsh reality kicks in and hard choices must be made.

However, in regard to "democracy dodgers" as the Secretary of State so eloquently puts it let me quote from a letter I received on the 30th January 2013 from Brandon Lewis MP, Parliamentary Under Secretary of State for Department of Communities and Local Government.

He states "You will be aware that the government is prepared to facilitate action where authorities choose to burden tax payers with excessive increases. On 19 December 2012, the Secretary of State proposed a council tax referendum principle of 2%, with some low taxing Shire District Councils, Fire and Rescue Authorities and Police and Crime Commissioners given additional flexibility to set a £5 increase.

Having taken account of representations, the final principles report will be put to the House of Commons for approval alongside the final local government finance report in February. If an authority raises its relevant amount of Council Tax by more than the level of the principles, the local electorate will have a right to approve or veto this increase in a binding referendum".

As stated Brandon Lewis MP is the Parliamentary Under Secretary of State for Department of Communities and Local Government. Let's recall who is the actual Secretary of State. That's quite correct Eric Pickles MP. I am happy to provide a copy of the correspondence to any member who wishes to see it.

I don't take my advice/guidance from statements in the national media; I take those direct from Parliamentary reports / legislation.

I understand what Mr Pickles is trying to say, but they set the threshold and before a democratic referendum is called, the threshold is 2%.

Thank you Madam Mayor.

Supplementary Question

Thank you for your reply. What do you think Eric Pickles meant when he said in the same report 'Anybody using loop holes will lose out next year'?

The Leader of the Council gave the following response:

I have no idea, that is a question for Mr Pickles and I suggest you write to Eric Pickles to find out.

QUESTIONS FROM MEMBERS OF THE COUNCIL NO.2

Under Procedure Rule No 11, Councillor P Standen will ask the Leader of the Council, the following question:-

"At the planning committee meeting held on 29th January 2013 all Conservative members of the committee present voted in favour of application 0349/2012 to give outline planning application for up to 94 residential units at land of Pennine Way designated in the current local plan as Greenspace/Open Space; with one Conservative ward councillor speaking as an objector. Can the Leader confirm what is the Conservative group's policy in this area do they support provision of additional housing, or retention of our few remaining areas of greenspace?"

The Leader of the Council gave the following response:

Thank you again Cllr Standen.

As to the application 0349/2012 the Conservative group had no specific political policy. As to specific policies on housing land and future provision I believe the Conservatives groups position to be the exact same position as your own Cllr Standen. The proposed Local Plan that Cllr Claymore is currently in talks with the inspector about was moved as the future Local Plan by this chamber on 17th May 2012. I believe the recommendations were, and quite correctly, seconded by the Leader of the Opposition and you yourself voted with the motions. Thus our stance is surely the exact one. As Pennine Way was listed within the supporting evidence of the plan, the SHLAA, by definition you agree that it can be in future brought forward for housing as you voted with the Plan.

You will be aware of course that the amount of land in Tamworth administrative boundary is fixed; we are 4 miles across and 6 miles deep on the confluence of two rivers with a lot of flood plain. There will always be competing demands on what that land is used for. We have to make choices through the planning system about what we think those appropriate uses are and attempt to balance those

competing needs and demands – we know all of our needs cannot be met within our area. Thus Lichfield and North Warwickshire are taking some of our housing needs in future years under the duty to co-operate.

The Council knows that the current population of the town will grow in future years, that is undisputed, all household projection evidence supports this and to be able to offer the people of Tamworth and their children and families an opportunity to live in the town we will need to build more housing. I have two young children myself and hope they can choose to live in Tamworth one day, not have to take themselves and their children elsewhere because we put the shutters up.

The Council has had a good track record over the last ten years of bringing forward housing sites on brownfield land, i.e. sites that have been used previously for other uses, Tame Valley Alloys and Doultons for example. We know that the supply of brownfield sites is not sufficient to meet our housing needs; therefore we will have to look at 'greenfield' sites which inevitably will mean looking at land currently classed as open space. The term 'open space' can cover a variety of types of land. In planning terms it covers areas from formal parks/gardens, civic space, to semi natural areas to amenity green space such as the piece of mown grass around housing estates. The term can also be quite emotive. Just because land is classed as open space it does not necessarily follow that it is of high quality or is used on a regular basis.

With regards to Pennine Way an Open Space Assessment was undertaken in 2005 and the consultants looked specifically at this site and concluded:

- Although the site provides a buffer between housing and industrial land it doesn't really protect from the visual appearance of the large industrial buildings.
- It does contribute to the local landscape softening the surrounding urban texture but because of its ill maintained and untidy nature it doesn't provide an attractive site for use by the public. – **The consultant's words not mine.**
- It is littered in places and therefore its current value to the community as unusable and/or visual amenity open space could be questioned.
- It does not provide any spatial variation, ecological or educational benefits. The only activities likely are dog walking and therefore do not contribute to any real informal recreational opportunities.
- If the site were to be developed there are opportunities to improve the council owned part of the site to offer more formal play and recreation facilities.

It is worth noting that the site is in private ownership and access could be restricted leaving its only function as a visual amenity.

The Council received a planning application for the development of land at Pennine Way and the Planning Committee made the decision that in this case the loss of this privately owned piece of land of relatively poor quality was outweighed by the need to provide housing for our growing needs. Not a political point but a legal one.

I invite all Councillors to send me any thoughts and we will feed this in where possible to any consultation responses.

Supplementary question

It has been suggested that Councils who benefit ought to pay a contribution. If so would you be prepared to pay it or conversely if a negative benefit would you consider asking for a contribution from the Government.

The Leader of the Council gave the following response:

The Council will develop a position but requires to be better informed. We will be working with the local MP and will keep you fully informed.

QUESTIONS FROM MEMBERS OF THE COUNCIL NO.7

Under Procedure Rule No 11, Councillor G Hirons will ask the Leader of the Council, the following question:-

"Is it not the case that you are hiding future problems by only presenting a three year budget when it is clear, from the recent budget working groups, that this council cannot balance the budget over a five year period?"

The Leader of the Council gave the following reply:

Thank you Councillor Hirons.

Firstly, let's look at my success at hiding the 5 year financial picture. Why are you aware of it Councillor Hirons?

Did I come in front of all non-Cabinet members in December and put up slides on the screen in this Chamber showing the issues in years 4 and 5. Oh that's right I did.

When the Joint Budget Scrutiny met in January did I as part of my introduction state we were likely to be looking at three years because I could not at that point balance a five year budget without cuts to services. I believe I did.

You are aware of the 5 year hole in the General Fund budgets because I told you Councillor Hirons.

But tonight we have in front of us a 3 year proposed General Fund Revenue budget. This is proposed and open to debate in this chamber. But are you suspecting this is now hiding the issues from the public.

Tamworth Herald, 7th February 2013, page 2. I quote "Councillor Cook warned that budgets would continue to fall and that over the next 5 years there would be a shortfall of around £3.5million which needed to be looked at".

Not quite what I said, but close enough. So I have twice sat in front of you and told you the facts, very honestly, I have put slides on the screen in this chamber

showing the shortfall and why it exists and have been quoted in the local press this very month stating the fact there is short fall.

I am lost Councillor Hiron, help me. Are you saying I am just very bad at hiding it or were you absent from both open meetings and don't read local papers? Please clarify during your supplementary question; it would help us all understand your point so much better.

Straight answer, Councillor Hiron, is that you see a three year budget because that is what balances and I've told everyone I can think of.

Supplementary question

To quote Eric Pickles, will you 'man up' and indicate services which will be affected in years 4 and 5?

The Leader of the Council gave the following reply:

At present we can balance 3 years budget. We want another year to look at future options. Tamworth Borough Council does not offer any service that we could lose, all 400 staff work hard and I want to give them the respect that they deserve. It is a more difficult question when you actually manage staff.

QUESTIONS FROM MEMBERS OF THE COUNCIL NO.8

Under Procedure Rule No 11, Councillor J Faulkner will ask the Portfolio Holder for Housing, the following question:-

"Given that on 1 April 2013, 521 Tamworth Borough Council tenants are forecast to be adversely affected the Conservative/Liberal Democrat Government's vindictive provisions relating to under occupation usually called the 'bedroom tax', what measures are being taken to mitigate the damaging effect on tenants already suffering from a series of attacks on their wellbeing by this Government?"

The Portfolio Holder for housing gave the following reply:

Thank you Madam Mayor.

May I also thank Cllr Faulkner for his question. His use of some intemperate language gives me an inkling that he may have already made up his own mind on this issue. That doesn't surprise me. We know the Labour party stand for unlimited welfare and oppose the welfare cap; they believe people on benefits should get more from the tax payer each week than the average working person earns in a week.

The rationale of the under-occupancy changes as part of welfare reform is to enable us to start matching up need for homes with the stock which we have.

Families need homes. Is it fair that you should retain a bigger council home than you need and have it funded by the state or is it fair that we try and fit the

available council stock to match the needs of others? I am firmly on the side of supporting reform – it is long overdue.

I remind us all that these changes apply to our tenants who are people of working age and who are in receipt of housing benefit – that is currently over 63% of our tenants. Pensioner tenants are excluded from this revision of the benefit; there is protection for the disabled. On this issue I know that the Deputy Leader and the Chief Executive, together with our local MP, have signed a joint letter to central government seeking more support for disabled residents in particular. I believe that they await a reply.

Cllr Faulkner asks what measures are being taken to mitigate the effects on tenants of the changes to the under-occupancy issue.

The Member Seminar in May 2012 to which Cllr Faulkner refers set out the principles involved (managing fiscal deficit, incentivise work, making best use of stock, between use of public and private sector rented housing; highlighting the inevitable transitional difficulties for tenants. The actual tenants affected are 519, compared to 521 predicted.

There is another Seminar for members of the Council a week today in this Chamber to bring members up to date. I hope Cllr Faulkner and other members make every effort to attend.

We have done much work to publicise the changes to those affected. For example:

Range of drop in events to update tenants groups, etc. Final event planned for 25 March 2013 at the Assembly rooms with welfare reform.

Survey done October 2012

Telephone campaign over Christmas 2012 (know 25% want to down size – of those 121 need 1 & 2 bed properties)

Countdown literature sent monthly to inform and prepare tenants

Dedicated web site & help line – one of the most visited

Live blog planned for end of March

Video being finalised to explain changes – there will be press release around this

Individual letters to be sent to tenants within next 2 weeks – with named housing officer contact

Support for transitional phase. We have prepared for this:

Discretionary housing payments – via Benefit teams (£111k for 2013/14 – limited pot)

Development of Landlord Hardship fund where business case and homeless prevention is evidenced.

Targeted use of Homeless prevention fund (under review)

Investment in third sector – jam jar accounts, sensible borrowing, working with banks, we have a Partnership with illegal lending services agency in Birmingham to tackle loan sharks.

Allocations Changes and preparations.

Allocation review – I'll be reporting to cabinet about this on 13th March.
Re-designation of properties to 1 bed (I reported to cabinet last year about stock in Fazeley Road etc)
Promoting home swapper – changes to mutual exchange approach to be more flexible (better use of stock instead of best use only)
Promoting incentive to move
Working with private rented sector to look at bond scheme, maximise people's widest housing options
Rent application being developed to take payments at sign up
Introduction of fixed term tenancies from April to encourage people to move between tenures.

Strategic Approach overall to mitigate risks

Promotion of Right To Buy to give tenants widest possible housing choices
Working with contractors, think local 4 business and link into LEP to promote work.

To summarise

There are currently 159 Housing Association tenants and 519 Council tenants who will have either a 14% or 25% housing benefit reduction.

These numbers are subject to constant fluctuation, as people go on and off Housing Benefit.

Thank you Madam Mayor

Supplementary question

Senior Council Jonathan Mitchell QC has reported that a 'bedroom' is not defined anywhere in legislation and it is therefore up to the individual authority to define what is meant by 'bedroom'. How are you going to address this?

The Portfolio Holder for Housing gave the following reply:

We will do what we can to interpret the legislation. If it needs legal advice then we will seek it but we will do what we have to do to comply with the legislation.

61 CORPORATE VISION, PRIORITIES PLAN, BUDGET & MEDIUM TERM FINANCIAL STRATEGY 2013/14

The Report of the Leader of the Council and Cabinet seeking approval for the Single Corporate Vision & Strategic Priorities for 2013/14 was considered.

RESOLVED:

- 1 That Council approved:
 - 1 The Single Corporate Vision and Strategic Priorities for 2013/14;
 - 2 The proposed revisions to Service Revenue Budgets;
 - 3 The sum of £10,505 be applied from Collection Fund

- surpluses in reducing the Council tax demand in 2013/14;
- 4 It be noted that on 13 December 2012, the Council calculated the Council Tax Base 2013/14 for the whole Council area as 20,199 [Item T in the formula in Section 31B(3) of the Local Government Finance Act 1992, as amended (the "Act")];
 - 5 Calculate that the Council Tax requirement for the Council's own purposes for 2013/14 is £3,080,349;
 - 6 The following amounts as calculated for the year 2013/14 in accordance with Section 31 to 36 of the Act:
 - a. £54,445,138 being the aggregate of the amounts which the Council estimates for the items set out in Section 31A(2) of the Act (Outgoings excluding internal GF Recharges);
 - b. £51,364,789 being the aggregate of the amounts which the Council estimates for the items set out in Section 31A(3) of the Act (Income excluding internal GF Recharges);
 - c. £3,080,349 being the amount by which the aggregate at 6(a) above exceeds the aggregate at 6(b) above, calculated by the Council in accordance with Section 31A(4) of the Act as its Council Tax requirement for the year (Item R in the formula in Section 31A(4) of the Act);
 - d. £152.50 being the amount at 6(c) above (Item R), all divided by Item T (at 4 above), calculated by the Council, in accordance with Section 31B(1) of the Act, as the basic amount of its Council Tax for the year;
 - 7 The Council Tax level for Tamworth Borough Council for 2013/14 of £152.50 (an increase of £2.95 (1.97%) on the 2012/13 level at Band D;
 - 8 An aggregate Council Tax (comprising the respective demands of Tamworth Borough Council, Staffordshire County Council, Office of the Police and Crime Commissioner Staffordshire and Stoke-on-Trent and Staffordshire Fire and Rescue Authority) of £1,425.00 at Band D for 2013/14 be noted;
 - 9 The Council Tax levels at each band for 2013/14;
 - 10 The sum of £756,300 be transferred from General Fund Revenue Balances in 2013/14;
 - 11 The Summary General Fund Revenue Budget for 2013/14;
 - 12 The Provisional Budgets for 2014/15 to 2015/16 as the basis for future planning;
 - 13 The minimum level for balances of £500,000 to be held for each of the General Fund, Housing Revenue Account, General Capital Fund and Housing Capital Fund;
 - 14 Cabinet be authorised to release funding from the

- General Contingency budget and that the release of funding for Specific Contingency items be delegated to the Corporate Management Team in consultation with the Leader of the Council;
- 15 The proposed HRA Expenditure level of £13,993,100 for 2013/14;
 - 16 Rents for Council House Tenants in 2013/14 be increased by an average of £3.06 per week (3.8%) to £82.70, in line with the Government's Rent Restructuring rules;
 - 17 Rents for Council House Tenants due for 53 weeks in 2013/14 be collected over 49 weeks;
 - 18 The HRA deficit of £598,620 be financed through a transfer from Housing Revenue Account Balances in 2013/14;
 - 19 The proposed 3 year General Fund Capital Programme as detailed in Appendix I to the report;
 - 20 The proposed 5 year Housing Capital Programme as detailed in Appendix J to the report;
 - 21 To delegate authority to Cabinet to approve/add new capital schemes to the capital programme where grant funding is received or there is no net additional cost to the Council;
 - 22 The Treasury Management Strategy Statement, the Treasury Management Policy Statement, Minimum Revenue Provision Strategy and Annual Investment Statement 2013/14 (as detailed in Appendix N);
 - 23 The Prudential and Treasury Indicators and Limits for 2013/14 to 2015/16 contained within Appendix N;
 - 24 The adoption of the Treasury Management Practices contained within Annex 7, and;
 - 25 The detailed criteria of the Investment Strategy 2013/14 contained in the Treasury Management Strategy with Annex 3.

(Moved by Councillor D Cook and seconded by Councillor R Pritchard)

The Mayor

This page is intentionally left blank

COUNCIL

19 March 2013

Report of Chair of Audit & Governance Committee

Audit & Governance Annual Report

Purpose

To advise Members on the action taken by the Audit & Governance Committee for the municipal year 2012/2013.

Recommendation

Members are requested to note the findings of the contents of the report.

Executive Summary

Article 10 of the Constitution requires a report to be made to Council detailing action taken by the committee in the form of minutes and including any recommendations arising therefrom.

In this current municipal year Audit & Governance Committee have met on five occasions to date and the relevant minute entries from the meetings are as follows:

31 May 2012

STATEMENT ON THE ROLE OF THE CHIEF FINANCE OFFICER

The Report of the Executive Director Corporate Services providing members with information on the application of the Statement on the Role of the Chief Finance Officer, the benchmarking of existing arrangements and training for Members was considered. The Committee were invited to ask as the Executive Director Corporate Services for clarification on any matters.

Resolved: That the report be endorsed.

INTERNAL AUDIT QUARTERLY REPORT 2011/12

The Report of the Head of Internal Audit Services reporting on the outcome of Internal Audit's review of the internal control, risk management and governance framework in the 4th quarter of 2011/12 and providing members with assurance of the ongoing effective operation of an internal audit function and enabling any particularly significant issues to be brought to the Committee's attention was considered.

Resolved: That the report be endorsed subject to the agreed Audit Plan being circulated to Members.

FRAUD AND CORRUPTION UPDATE REPORT

The Report of the Head of Internal Audit Services seeking Member approval for the adoption of the revised Counter Fraud and Corruption Policy Statement, Strategy and Guidance Notes and Whistleblowing Policy and endorsement of the compliance with Counter Fraud best practice and to provide Members with an update of Counter fraud work completed to date.

- Resolved: That:
- 1 The Protecting the Public Purse for those charged with Governance and the associated recommendations from the Protecting the Public Purse and Fighting Fraud Locally reports be endorsed, and;
 - 2 The Counter Fraud and Corruption Policy Statement, Strategy & Guidance Notes be endorsed, and;
 - 3 The Whistleblowing Policy and compliance with the Code of Practice be endorsed, and;
 - 4 The Fraud Risk Register be endorsed

AUDIT & GOVERNANCE COMMITTEE SELF ASSESSMENT 2012

The Head of Internal Audit Services gave an update on Training.

Resolved: That the information was circulated to Members.

UPDATE FROM AUDIT COMMISSION

James Cook advised the Committee on the new Audit arrangements coming into force later in the year.

Resolved that the information be endorsed.

28 June 2012

COMMUNICATION WITH THE AUDITOR

The Audit Commission gave a presentation on their report relating to International Standards in Accounting (UK & Ireland) as they affect the Council.

ANNUAL GOVERNANCE STATEMENT & CODE OF CORPORATE GOVERNANCE

The Report of the Head of Internal Audit Services informing Members of the Committee of the process followed in producing a Corporate Annual Governance Statement and revised Code of Corporate Governance in accordance with statutory requirements, and seeking approval for the proposed draft Statement and Code of Corporate Governance was considered.

- Resolved: That:
- 1 The proposed Annual Governance Statement be agreed

- by the Committee as appropriate for presentation to the external auditor and for inclusion in the Annual Statement of Accounts, and;
- 2 The proposed Code of Corporate Governance be approved.

DRAFT STATEMENT OF ACCOUNTS 2011/12

The Report of the Director of Finance receiving the Draft Statement of Accounts (the Statement) for the financial year ended 31st March 2012 was considered.

Resolved: That Members review the Annual Statement of Accounts 2011/12.

PROPOSED CHANGES TO THE CONSTITUTION AND CODE OF CONDUCT

The Report of the Solicitor to the Council and Monitoring Officer seeking to consider the proposals put forward as amendments to the Constitution at Council on 17 May 2012 in terms of article 15 paragraph 15.02 and the sanctions available when a Member fails to comply with the Code of Conduct was considered.

Resolved: That:

- 1 The following amendments be made to 6.03 Specific functions:

(iv) question members of the executive and committees and chief officers about their view on issues and proposals affecting the area and receive a reply/progress statement from the responsible body or member within 3 calendar months, relating to any recommendations accepted by Full Council or Cabinet which have been referred from the scrutiny process; and

(Moved by Councillor M Thurgood and seconded by Councillor M Gant)

- 2 Article 10 A – Nominations Committee be changed to

10A. 01 The Council will establish a standing committee of five members to :-

Consider nominations to be made to the Council pursuant to section 249(1) of the Local Government Act 1972 for conferring the title of honorary alderman or honorary alderwomen on persons who have, in the opinion of the Council, rendered eminent services to the Council.

Consider nomination to be made to the Council pursuant to section 249(5) of the Local Government Act 1972 to admit to be honorary freeman or honorary freewomen of

the Borough of Tamworth persons who are of distinction and who have, in the opinion of the Council, rendered eminent services to the Borough.

The Committee shall be attended by the Monitoring Officer or the Deputy Monitoring Officer.

10A. 02 Composition

Membership. The nominations committee will be composed of at least:

five Councillors

one person who is not a councillor or an officer of the Council;

Chairing the Committee. The Chairman and Vice-Chairman will be appointed in accordance with Council Procedure Rules;

Independent members. Independent members will be entitled to vote at meetings.

10A. 03 Role and Function

The Nominations Committee will have the following roles and functions:

Consider nominations to be made to the Council pursuant to section 249(1) of the Local Government Act 1972 for conferring the title of honorary aldermen or honorary alderwomen on persons who have, in the opinion of the Council, rendered eminent services to the Council;

Consider nominations to be made to the Council pursuant to section 249(5) of the Local Government Act 1972 to admit to be honorary freemen or honorary freewomen of the Borough of Tamworth persons who are of distinction and who have, in the opinion of the Council, rendered eminent services to the Borough;

Maintain a publicly accessible application process for the two above honours;

Any approved applications are referred to Full Council for Full Council approval;

Act as a sponsor to a new application, make referral to, or support an existing application that nominates a Tamworth resident to any outside bodies' awards or recognition scheme;

Seek nominations from the Tamworth public, persons worthy of public recognition for their service or work for the Borough of Tamworth.

- 3 The following amendment be made to 11.2 Questions on notice at Ordinary Meetings of the Council:

Subject to Rule 11.4, a member of the Council may ask :
Any member in receipt of a Special Responsibility Allowance, except the Mayor and Deputy Mayor;
A question on any matter in relation to which the Council has powers or duties or which affects Tamworth.

- 4 The following be added:
1.8 Decisions to be taken by the executive
(c) The executive are to reply to recommendations accepted from Full Council or the Scrutiny Committees within a 3 month period;

27 September 2012

ANNUAL GOVERNANCE REPORT

The Audit Commission gave a presentation on their Annual Governance Report. This was the last report from the Audit Commission as the next report will be from Grant Thornton. The headline message is a clean audit report containing the best value for money conclusion in the last 4 years.

ANNUAL STATEMENT OF ACCOUNTS 2011/12

The report of Executive Director Corporate Services seeking approval of the Statements of Accounts for the financial year ended 31 March 2012 following completion of the external audit was considered.

Resolved: That Members approved the Annual Statement of Accounts 2011/12.

REVIEW OF TREASURY MANAGEMENT STRATEGY 2012/13 & ANNUAL REPORT ON THE TREASURY MANAGEMENT SERVICE AND ACTUAL PRUDENTIAL INDICATORS 2011/12

The report of the Director of Finance seeking to review the Treasury Management Strategy Statement, Minimum Revenue Provision Statement and Annual Investment Statement 2012/13 and Annual Report on the Treasury Management Services and Actual Prudential Indicators 2011/12 approved by Council on 28 February 2012 and 11 September 2012 respectively was considered.

Resolved: That Members considered the Treasury Management Reports, as detailed within the reports, and highlighted changes for recommendation to Cabinet.

INTERNAL AUDIT QUARTERLY REPORT 2012/13

The report of the Head of Internal Audit Services reporting on the outcome of Internal Audit's review of the internal control, risk management and governance framework in the 1st quarter of 2012/13 was considered.

Resolved: That the Committee endorsed the quarterly report

FRAUD AND CORRUPTION UPDATE REPORT

The report of the Head of Internal Audit Services providing Members with an update of Counter Fraud work completed to date during the financial year 2012/13 was considered.

Resolved: That:

- 1 The Committee endorsed the updated Counter Fraud Work Plan, and;
- 2 The Committee endorsed the Fraud Risk Register.

REGULATION OF INVESTIGATORY POWERS ACT 2000

The report of the Solicitor to the Council and Monitoring Officer was considered

Resolved: That the Audit and Governance Committee endorse the quarterly RIPA monitoring report.

LOCAL GOVERNMENT OMBUDSMAN'S ANNUAL REVIEW AND REPORT 2011/12

The report of the Solicitor to the Council and Monitoring Officer advising the Committee of the views of the Local Government Ombudsman in relation to complaints against the Borough Council and providing an opportunity for members of the Committee to raise any issues they consider appropriate and considering the effectiveness of investigations relating to Tamworth Borough Council was considered.

Resolved: That:

- 1 The Committee endorsed the Annual Review Letter, and;

2 The Committee endorsed the Annual Report

25 October 2012

ANNUAL AUDIT LETTER 2011/12

The Report of the Audit Commission was considered. This was the last report from the Audit Commission and future reports will be provided by Grant Thornton.

Resolved: That the contents of the report be endorsed.

PROPOSED CHANGES TO FINANCIAL GUIDANCE

The Report of the Head of Internal Services seeking member endorsement of the recently reviewed Financial Guidance which forms an important part of the Council's regulatory framework, and providing an opportunity for members of the Committee to raise any issues they consider appropriate on the subject was considered.

Resolved: That the changes to Financial Guidance be endorsed.

RISK MANAGEMENT REPORT

The report of the Head of Internal Audit Services reporting on the Risk Management process and progress to date for the current financial year was considered.

Resolved: That:

- 1 The Risk Management Policy be approved, and;
- 2 The Corporate Risk Register be approved

ANNUAL GOVERNANCE STATEMENT 2011/12 - UPDATE

The Report of the Head of Internal Audit Services advising the Committee of the current position regarding 'significant governance issues' raised in the authority's Annual Governance Statement (AGS) 2011/12 and providing an opportunity for members of the Committee to raise any issues they consider appropriate was considered.

Resolved: That the structure provided be endorsed.

INTERNAL AUDIT QUARTERLY REPORT 2012/13

The Report of the Head of Internal Services reporting on the outcome of Internal Audit's review of the internal control, risk management and governance framework in the 2nd quarter of 2012/13 and providing members with assurance of the ongoing effective operation of an internal audit function

and enabling any particularly significant issues to be brought to the Committee's attention was considered.

Resolved: That the quarterly report be endorsed.

TRAINING FOR MEMBERS

The Chair asked about potential training for the Committee around the following areas:

Audit
Financial
Risk Management

This will be looked into.

31 January 2013

STANDARDS ALLEGATION COMPLAINT

The Report of the Solicitor to the Council and Monitoring Officer advising Members on the number of complaints received in relation to alleged breaches of the Code of Conduct since local arrangements were put in place to deal with Standards allegations in terms on the Localism Act 2011 in June 2012 was considered.

Resolved: That following discussion the findings of the contents of the report be received.

REGULATION OF INVESTIGATORY POWERS ACT 2000

The Report of the Solicitor to the Council and Monitoring Officer was considered.

Resolved: That the quarterly RIPA monitoring report be endorsed.

EXTERNAL AUDITOR'S REPORT ON CERTIFICATION WORK IN 2011/12

The Report of the External Auditor was considered following the amendment of the housing and council tax benefit scheme fee 2011/12 from £26,496 to £26,353 on page 7 of the report and the subsequent amendment to the total fee 2011/12 from £35,041 to £34,898 on page 8.

Resolved: That the report be received.

GRANT THORNTON FEE LETTER FOR THE AUDIT AND GOVERNANCE COMMITTEE

The Report of the External Auditor was considered

Resolved: That the report was received.

INTERNAL AUDIT QUARTERLY REPORT

The Report of the Head of Internal Audit Services reporting on the outcome of Internal Audit's review of the internal control, risk management and governance framework in the 3rd quarter of 2012/13 and providing Members with assurance of the ongoing effective operation of the internal audit function and enabling any particularly significant issues to be brought to the Committee's attention was considered.

Resolved: That the Committee considered the quarterly report.

PUBLIC SECTOR INTERNAL AUDIT STANDARDS

The Report of the Head of Internal Services informing members of the new Public Sector Internal Audit Standards that will be effective from 1 April 2013 was considered.

Resolved: That the Committee supports Internal Audit's commitment to and compliance with the Public Sector Internal Audit Standards.

Financial Implications

There are no financial implications arising from this report.

For further information please contact Councillor M Gant, Chair of Audit & Governance Committee on Extn: 264

This page is intentionally left blank

19th March 2013**REPORT OF THE PORTFOLIO HOLDER FOR ECONOMIC DEVELOPMENT AND ENTERPRISE****Local Plan 2006 – 2028
Planning Inspector's Exploratory Meeting Recommendation &
Memorandum of Understanding****EXEMPT INFORMATION**

N/A

PURPOSE

The report seeks to inform Members on:

- The progress of the Local Plan 2006 – 2028 examination
- The Exploratory Meeting into the Local Plan
- The Planning Inspector's recommendation following the Exploratory Meeting

and to update Members on:

- Updating the Memorandum of Understanding between Tamworth Borough Council, Lichfield District Council and North Warwickshire Borough Council.
- Work arising from Inspector's notes and the Exploratory meeting recommendation letter.

RECOMMENDATIONS

1. **That the Tamworth Local Plan 2011 – 2026 as submitted in November 2012 is withdrawn from examination.**
2. **To endorse the updated Memorandum of Understanding between the three Local Authorities prior to it being signed by the Leader of the Council.**

EXECUTIVE SUMMARY**Local Plan Examination**

The Tamworth Local Plan was submitted to the Secretary of State in November 2012 for examination. After the submission of the plan, the appointed Planning Inspector raised concerns over the soundness and legal compliance of the Local Plan. To overcome these concerns the Inspector requested that an Exploratory Meeting (EM) should be held so that these issues could be discussed.

The EM allows for the Inspector to consider how best to proceed with the examination in light of the concerns raised. The EM would result in 1 of 4 options: a temporary suspension to allow additional work to be done, concerns are resolved at the EM, concerns are unresolved but the examination continues with possible risk to be found un sound, or Council decide to withdraw.

Council officers prepared a response to all the points which raised in advance of the meeting. The Council's response set out how these areas of concern would be overcome and what work would be required. The Inspector's detailed list of concerns and the Council response is

attached as a back ground paper.

Summary of the concerns raised by the Inspector.

- Further detail on the Anker Valley allocation including detailed viability assessments
- Further detail to guide the principle, timing and impact of the 1,000 dwellings outside of Tamworth
- Absence of specific allocations for housing, employment and town centre uses
- Out of date Gypsy and Traveller assessment evidence base
- More information for the proposed multi-purpose community sports facility
- Flexibility of the plan and how it can deal with change

At the EM held on Tuesday 12th February the Inspector and Council discussed each of the Inspector's issues, with the Inspector inviting comments from members of the public and developers in attendance at the meeting. The comments made by the Inspector at this point suggested that he may allow the Local Plan to proceed in accordance with the Council's note and work schedule.

However the Inspector, members of the public and developers did raise concerns over the scale of changes, and whether by resolving the Inspector's concerns the Local Plan would not comply with the legal public consultation requirements and European Directives for Sustainable Environmental Assessments (SEA/SA), which would leave the Local Plan at risk to legal challenges once adopted by Council.

The Inspector issued a letter and his notes to the Council on Friday 15th these summarised the EM and gave his recommendation to withdraw the Local Plan from examination. The Inspector's reasoning for his recommendation is:

- The extent of changes would result in a substantially and significantly different Plan to that which was publicly consulted upon and then submitted for examination.
- Participants would be denied the proper opportunity to affect the Local Plan's strategic direction and detail because of the changes required
- The SEA/SA of new or amended policies in the Local Plan may be carried out to justify the decision making process, rather than being used to inform policy decisions.

It should be noted that the Inspector had no issue with the overall strategy of the Local Plan in terms of number of houses, quantity of employment land, nor did he have issue with the specific work required, but his issue was with the processes required to carry out this work would leave the Council open to legal challenge on all of the above points if the Local Plan were to be adopted.

Dealing with these issues outside of the examination process will significantly reduce the risk of legal challenge upon adoption of the Local Plan. The risk of a legal challenge on this Local Plan would be quite high, especially as the Inspector has outlined in several instances where a legal challenge could take place. There is sufficient case law from similar examples to demonstrate that a claimant could be successful in their application under Section 113 of the 2004 Planning Act for a legal challenge. Recently other Local Authorities have been advised to withdraw Local Plans with similar issues from examination.

The Inspector's notes were distributed by the Programme Officer on Monday 19th February to all of those involved in the Local Plan process and were uploaded to the Local Plan examination web page.

Under the 2012 Planning Regulations the Local Plan can only be withdrawn by the Council or the Secretary of State therefore Full Council will need to approve a withdrawal.

Background

The issues with delivering Anker Valley and demonstrating a deliverable housing supply were known upon submission of the Local Plan. These are the areas identified by the Inspector which require substantial additional work to be carried out. It was felt that these issues could be overcome during the examination process, however, as detailed the scale of change needed could result in a legal challenge. Additional contributing factors to this are: the Local Plan was predominantly prepared under the old national planning policy guidance as a Core Strategy, the new NPPF requires more detail for Local Plans predominantly the need to demonstrate viability and a greater emphasis on housing delivery, the Anker Valley consortium's failure to deliver upon agreed work schedules for master planning, infrastructure and deliverability and latterly their break up and unwillingness to work together on this scheme.

Options available

Option One – as recommended, would be to withdraw the Local Plan from examination and a revised plan to be progressed to address the concerns raised. This would allow for the additional necessary detail to be included in the plan greater than previously submitted, on key areas such as retail policy, employment allocations, housing allocations and in particular the Anker Valley sustainable urban extension. A revised plan would overcome the main concerns of potential legal challenge raised by the Inspector as the additional work and consultation would be carried out, outside of the examination process.

If the decision to withdraw is taken, a letter will need to be sent to the Planning Inspectorate to inform them of the Council's decision. After this all persons on the consultation database must be informed and a notice placed in the local press. In addition to this the Council must cease to make available documents related to the Local Plan until the process for the next Local Plan starts again. Attached to this report is the withdrawal notice which will form the basis of any notice or letter to be sent out.

Option Two – as put forward to the Inspector at the Exploratory Meeting. This would be to continue with the examination to an initial Duty to Co-Operate hearing session, and then to suspend the examination and carry out work set out in the work schedule. The examination would re-start in late Autumn, if found sound the Local Plan could be adopted Spring 2014. This option is very high risk as ultimately even if the Local Plan is found sound, there is a potential for a legal challenge on the Local Plan over public consultation and sustainability appraisal.

If the decision to carry on is taken, we must inform the Planning Inspector so that arrangements can be made for the next stage of the examination. Although it is possible to carry on with the examination, the Inspector would likely to find the plan unsound in his final report for the same reasons he has outlined in his recent letter.

Next Steps if Option One is taken

If the Local Plan is withdrawn, legally the development plan preparation process will need to re-start again. Planning regulations must be followed and therefore new rounds of public consultation must take place. There is also a requirement to carry out the necessary Sustainability Appraisal work on strategy and site specific policies. These are the two areas of work which the Inspector believes the plan would be subject to legal challenges if the plan was not withdrawn. By carrying this work out in accordance with the regulations the risk of legal challenge will be reduced.

There will need to be an assessment of the evidence base used in the preparation of this Local Plan. This will examine what evidence might need updating. The updates could involve extending projection periods or may require a refresh if the evidence is significantly out of

date. Out of date equates to roughly 5 years, but this depends upon the significance of the policy and what the evidence is used for. The Inspector has already noted that the plan period would need to be extended so that it runs for 15 years from the date of adoption and that new housing and population data should be considered. .

Once this assessment has taken place work can begin on updating the evidence base and some policies can be reworked taking on board comments made by the Inspector. In addition to this the further work required to make land use allocations can begin. This initial work will look at potential options for land use allocations, once this is completed the necessary Sustainability Appraisal (SA) work can then be undertaken on strategy and allocations. The SA will inform the strategy for development in the Borough and the allocations required to achieve this. Once the allocations have been selected it will be necessary to carry out viability assessments to show that development will not be restricted by the Local Plan.

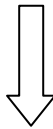
	Evidence Base Assessment
	Evidence Base Updating and some policy reworking
	Initial Allocation Work
	Sustainability Appraisal – strategy and allocations
	Viability Assessment

Table 1

Following the completion of the evidence base updates, technical work and sustainability appraisal the Local Plan would need to be consulted on in accordance with the regulations and the Council’s own Statement of Community Involvement.

The consultation work will need to demonstrate that all the strategic options and land use allocation options have been subject to an SA before any decisions were taken. The consultation must also allow for further realistic alternative suggestions to be made.

To achieve this, a Draft Local Plan should be produced. If a pre-submission version were to be the only consultation, this would have effectively removed the ability to submit realistic alternatives and for the Council to have fully considered any other options, therefore increasing the risk of a legal challenge.

Once the Draft Local Plan has been consulted on, comments can be taken on board and the pre-submission of the Local Plan can be produced and consulted on. The turn around time between these two stages should be as minimal as possible.

Once the pre-submission consultation has been completed the Local Plan can be submitted to the Secretary of State (Planning Inspectorate) for examination.

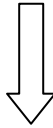
	Prepare Draft Local Plan
	Draft Local Plan Consultation
	Assess comments made on Local Plan
	Prepare ‘Pre-submission’ Local Plan
	Submit Local Plan to Secretary of State

Table 2

A work schedule has already been drawn up to address the issues raised by the Inspector at the Exploratory Meeting. This can be used as a starting point for a work schedule to progress the ‘new’ Local Plan to submission, a more comprehensive, specific and detailed schedule will be produced in due course.

Next Steps if Option Two is taken

If option two is taken then the schedule set out and discussed at the Exploratory Meeting will be followed. The immediate next step would be the duty to co-operate hearing session in

April / May, after this the examination would be suspended so that the work required to address the Inspector's concerns can be carried out. On completion of this a public consultation would take place, with the hearing sessions re-starting in November / December 2013, with a likely adoption date of the Local Plan in Spring 2014. As detailed in this report, if this option was taken there would be a significant risk of a legal challenge.

Regardless of which option is taken, the Development Plan team have progressed work areas which would be necessary for either option, this includes forming an evidence base to support a windfall allowance for housing in the Local Plan and progressing work on the Anker Valley allocation.

Positives which can be taken from this examination into preparing a new revised Local Plan

The Council has endeavoured to meet the Inspector's concerns and progress the plan as quickly as possible. However, it is clear that the legal framework would make it difficult to make the necessary changes to the Plan and allow public involvement. The Plan will be able to be progressed much more efficiently and with greater public involvement if it were to be withdrawn. The main benefits of withdrawing are:

- Move out of a reactionary (examination) into a proactive way of working to resolve these issues.
- Inspector has looked over the plan and significant areas of concern can be resolved using supporting evidence
- Gives time to re-calibrate the town centre regeneration and overall retail strategy
- Allow for work to be carried out on Anker Valley so that key issues can be resolved and the full infrastructure needs are identified
- Allow for proper consultation with statutory bodies and members of the public on changes to the plan, in particular housing and employment allocations. *Reduces the risk of legal challenge if the Local Plan is withdrawn*
- Allow for a new Sustainability Appraisal to be carried out. *Reduce risk of legal challenge if the Local Plan is withdrawn*
- Allow for the Council to re-assess its options for delivery of housing (including town centre, employment land, Greenbelt and green field) so that the necessary work (SA and consultation) has been carried out in the formative stages of plan preparation. *Reduce risk of legal challenge if the Local Plan is withdrawn.*
- Allow for proper consideration of/if sports centre allocation is required and how it can be funded.
- Able to easily make other 'minor' modifications to the Local Plan.
- The Inspector had no major issues with the strategy of the plan; he required further detail on how the strategic aims would be achieved.
- The Inspector agreed with the Council's approach to Gypsy and Traveller policy and agreed that to allocate a site for only one pitch would not be required.
- By submitting the Local Plan for examination it pushed North Warwickshire and Lichfield into consulting and moving towards submitting their respective plans for examination. Both Local Authorities had been reluctant to work with Tamworth in delivering some its housing needs. Duty to Co-operate issues will be dealt with at their Local Plan examinations, this will give a good indication as to whether Tamworth's Local Plan will require further work in this area.
- This process will result in a more effective and realistic Local Plan to tackle major issues facing Tamworth.

Memorandum of Understanding

Through the examination of the Local Plan and concerns raised by the Inspector it has become apparent that the Memorandum of Understanding (MoU) requires amending. Currently the following proposed amendments have been agreed at officer level between Tamworth and Lichfield.

- To remove the restrictions of land coming forward North of Anker Valley in Lichfield to meet Tamworth's needs based upon the construction of transport linkages, and for the delivery of homes in Lichfield to be informed by the ongoing master planning work.
- To agree the mechanisms for monitoring housing policy and residential land within Lichfield and North Warwickshire where policy indicates or land has been allocated to meet the housing needs of Tamworth.

Officers are still discussing the amendments needed with respect to the agreements between Tamworth and North Warwickshire; Cabinet will be updated of this progress in due course.

The proposed amendments are shown within enclosed document 6 in the appendix of this report.

Community Infrastructure Levy (CIL)

The Cabinet received a report on CIL in May 2012 and authorised the Director of Communities Planning and Partnerships to lead on the production of an evidence base and a preliminary draft charging schedule. The first piece of evidence has been collected on local values and further work needs to be undertaken to identify an appropriate Levy rate before being consulted on. It had been anticipated that the CIL timetable would follow that of the Local Plan. However, there is now an opportunity to run the two timetables closely together and undertake a joint consultation.

RESOURCE IMPLICATIONS

The Examination of the submitted Local Plan has incurred costs to pay for the Programme Officer and time for the Planning Inspector. The Planning Inspectorate estimate the cost to date for the Inspector is £23,000, this has not been paid yet as the Planning Inspectorate will only invoice the Council once the examination is closed. The Programme Officer has cost just under £950 to date. These costs can be met from the existing LDF budget.

It is estimated that the current LDF budget will be sufficient to cover the costs of preparing, submitting and examination of a new Local Plan, if the submitted Local Plan is withdrawn now. If the timetables for the Local Plan and CIL can be run together, there will be efficiencies to be gained from the cost of advertising and consultation.

If the submitted Local Plan examination was to continue and be found sound at examination but ultimately is unsuccessful in defending a possible legal challenge there would be the additional cost for the Council to be represented by a Barrister at the High Court. If lost at the High Court, a legal challenge may cost in the region of £30,000, if lost at the Court of Appeal this could increase by a further 20-30%. There is no budget to cover any legal challenge to the Local Plan.

LEGAL/RISK IMPLICATIONS BACKGROUND

The Inspector's letter and notes from the Exploratory Meeting have highlighted the possible legal risks to continuing with the submitted Local Plan. Again, these would be over:

- The extent of changes would result in a substantially and significantly different Plan to that which was publicly consulted upon and then submitted for examination.
- Participants would be denied the proper opportunity to affect the Local Plan's strategic direction and detail because of the changes required
- The SEA/SA of new or amended policies in the Local Plan may be carried out to

justify the decision making process, rather than being used to inform policy decisions.

Dealing with these issues outside of the examination process (by withdrawing the submitted Local Plan) will significantly reduce the risk of legal challenge upon adoption. The risk of a legal challenge on this Local Plan would be quite high, especially as the Inspector has outlined in several instances where a legal challenge could take place and the previous Local Plan was also subject to legal challenge. There is sufficient case law from similar examples to demonstrate that a claimant could be successful in their application under Section 113 of the 2004 Planning Act for a legal challenge. There are other examples of Local Authorities withdrawing Local Plan because of similar potential legal challenges.

There are risks and implications if the submitted Local Plan is withdrawn, these would be

- A delay in the adoption of a Local Plan will mean planning applications being determined using the National Planning Policy Framework (NPPF) and the old 2001-2011 Local Plan where those saved policies are in general conformity with the NPPF.
- Pressure for development in inappropriate locations, such as the Green Belt, less control over retail applications.
- No local planning policy to guide affordable housing targets, housing density, housing mix

SUSTAINABILITY IMPLICATIONS

The revised Local Plan will be subject to a Sustainability Appraisal and Strategic Environmental Assessment. This will ensure that sustainability issues are fully assessed in the preparation of planning policy and land use allocations.

BACKGROUND INFORMATION

REPORT AUTHOR

Alex Roberts – Development Plan Manager x279

Matthew Bowers - Head of Planning and Regeneration x 276

LIST OF BACKGROUND PAPERS

Please see links in appendices to; Inspector's Exploratory Meeting Concerns and Council's response, Inspector's Exploratory Meeting Notes, Inspector's Exploratory Meeting recommendation letter.

APPENDICES

Updated Memorandum of Understanding Between Tamworth Borough Council, Lichfield Borough Council and North Warwickshire Borough Council.

Inspector's Exploratory Meeting Concerns and Council's Response

Council's Proposed Work Schedule

Inspector's Exploratory Meeting Notes

Inspector's Exploratory Meeting Recommendation Letter

This page is intentionally left blank

**Tamworth Borough Council
Planning and Compulsory Purchase Act 2004
Town and Country Planning (Local Planning) (England) Regulations 2012**

Withdrawal of the Tamworth Local Plan 2011-2028

In accordance with the requirements of Regulation 27 of the Town and Country Planning (Local Planning) (England) Regulations 2012, Tamworth Borough Council hereby gives formal notice of the withdrawal of the Tamworth Local Plan 2011-2028. The resolution to withdraw the Tamworth Local Plan was made on the 19th March 2013 by decision of the Full Council. The resolution to withdraw was made under the provisions of Section 22(1) of the Planning and Compulsory Purchase Act 2004 (as amended) and provides for a local planning authority to withdraw a local development document at any time up to its adoption.

Further Information

If you have any queries concerning this matter please contact a member of the Development Plan Team:

Marmion House

Lichfield Street

Tamworth

Staffordshire

B79 7BZ

Telephone: 01827 709279

E-mail: developmentplan@tamworth.gov.uk

This page is intentionally left blank

Exploratory Meeting at 14.00 hours (2pm) on Tuesday 12 February 2013

Summary of the Inspector's Key Concerns

I have asked the Council to respond to these concerns before the Exploratory Meeting and to give me a timetable for any extra work considered necessary

Introduction

1. From my initial reading of the submitted Local Plan and supporting documents I have some significant concerns regarding its potential soundness and its compliance with the legal requirements.

The Council wish to demonstrate through the existing evidence base and by carrying out additional work that the significant concerns of soundness and legal compliance raised by the Inspector can be over come. The Council has responded where necessary to each of the concerns within this note. Accompanying this response is a timetable which sets out the Council's approach to carrying out the required work, including; the necessary public consultation and proposed hearing dates. As the time table crosses over the traditional UK summer holiday period, the Council try to will avoid holding consultation and hearing sessions over this time.

2. This is not an exhaustive list of all potential matters of soundness - there are a number of other issues that will need to be addressed should the Examination progress. A comprehensive list of matters and issues will be set out in due course if the Examination continues. I have asked the Council two sets of Initial Questions, some of which relate to my concerns here, and these can be seen on the Council's web site.

No response required

3. I have not at this point reached a definite conclusion that the Plan is unsound, either on the specific points set out in this note or in terms of other matters. Moreover, this Meeting does not mean that I have failed to appreciate the hard work that has gone into the Plan. But before progressing to arranging hearing sessions these key concerns merit further discussion. My objective is to take a proactive approach so that these potentially significant concerns are addressed before the Council and all other interested parties commit substantial resources to the hearing sessions.

No response required

4. My concerns are set out below, and they are either legal compliance matters or soundness issues concerning **what** will be delivered; **where** it will be delivered; **when** it will be delivered; and **how** it will be delivered through the Plan.

No response required

The distribution of development and its delivery

5. The Plan is the place to make key decisions about the distribution of development and to set out clear guidance for the allocation of sites either in this Plan or in future Plans. The strategy for the amount and distribution of development needs to

be clear and based on a robust justification. It also needs to be realistically deliverable. I am concerned that this may not be the case with the submitted Plan.

No response required

The distribution of housing

6. The Strategic Housing Market Assessment (B5) says on page 8 that around 15% of new housing should be located in each of Castle, Trinity & Walnecote, Belgrave, Glascoate & Stonydelph, and Amington/Bolehall wards, and that the remaining 40% should be located in the Spital & Mercian wards (the Anker Valley site). I cannot see how the Plan achieves this.

Local Plan policy SP5 states that housing will be delivered in the Anker Valley Urban Extension and the remaining to be delivered in the existing urban area.

The Strategic Housing Market Assessment (B5) summary indicates that housing distribution should meet the prescribed percentages on page 8. It should be noted that similar distribution recommendations were made to Lichfield and Cannock. However, these apply over a much larger geographical area and recommends in some cases distribution between different settlements within Lichfield and Cannock Local Authorities, in contrast to single urban area of Tamworth.

The SHMA (pages 167 to 179) analyses the population split, past delivery rates, future supply of housing, identified housing needs and a summary of constraints for each of the areas identified within Tamworth. This information was provided to inform debate if the Council decided to explore the possibility of distributing housing to a small scale within the Borough. Taking into account this information in document B5 the Council decided not to propose a policy to distribute housing across the Borough's wards, instead for housing to come forward within the existing urban area and Anker Valley Urban Extension. The reasons for this are the perceived high constraint risks to delivery across the Borough, the low risks associated with delivery in the Spital & Mercian Ward, the good accessibility levels across the Borough through public transport (Maps B1 to B11, Appendix 4 of document E2 shows the urban area to be under 30mins accessible to all services and amenities tested), footpaths and cycle ways and the availability of land at Anker Valley and that the Borough's Urban Area is just over 20.5km²;

Table 1 shows all sites within the SHLAA that could come forward in the plan period using the same groupings as the SHMA. The table clearly demonstrates that the amount of land available for development is in line with the suggested distribution of the SHMA, apart from Amington and Bolehall.

Tamworth Borough Council Ward Groupings	Percentage Split	Total dwellings	SHMA figures
Castle	16%	556	15%
Trinity and Wilnecote	15%	517	15%
Belgrave, Glascote and Stonydelph	16%	546	15%
Amington and Bolehall	10%	329	15%
Spital and Mercian (assumes Anker Valley to start in Yr6 and contribute 900 dwellings in plan period.)	44%	1,508	40%
		3,456	

Table 1

The Allocations

- The only clear housing allocation made in the Plan is the SP6 Anker Valley strategic site. The Plan devolves important decisions to Supplementary Planning Documents (SPDs) – namely various town centre sites associated with policy SP2 and some sites in policy SP7 for the Wilnecote Regeneration Corridor. The Plan’s Appendix 1 refers to a number of these sites, as does the proposed Policies Map, but the policies themselves do not specifically allocate them (policy SP2 ‘identifies’ them, but I am not sure what that means), and it is clear from Appendix 1 that the important detail is left to future SPDs. As I have mentioned in my Initial Questions, allocating sites in a SPD is contrary to the 2012 Local Planning Regulations.
- The Council has a number of choices as to how it rectifies this. One might be to allocate the sites in the Plan now, which will have the implications for further work that I set out in question 19 of my second Initial Questions. Another might be to clarify that these SPDs would be later Local Plans, and to ensure that the policies in this Local Plan provide sufficient guidance for those subsequent Local Plans.

The Council do not wish to pursue the allocation of the town centre and Wilnecote Regeneration Corridor allocation sites through this Local Plan. However, the Council will propose changes to the Local Plan, particularly SP2, SP7 and supporting text which will allow for a future additional Local Plan (s) to provide further detailed planning policy in these areas.

The proposed changes to town centre policy will be incorporated as part of the proposed changes in response to paragraphs 21 and 22. These changes will ensure that the focus for regenerating the town centre remains retail led.

The Wilnecote Regeneration Corridor is still a regeneration priority area for the Council and will remain in policy SP7. The area will be defined on the Local Plan’s key diagram.

- Some large housing sites in the Strategic Housing Land Availability Assessment (SHLAA - Document B3) appear not to be allocated in the Plan despite their significant size and present different land-use designations. I give as examples site 602 for 86 dwellings, site 406 Coton Lane for 180/200 dwellings, and site 350 for 109 dwellings, which are all allocated on the proposed Policies Map for open space. There may be others which are outside the settlement boundary and/or significantly large in size or numbers and/or alter an existing policy designation.

10. A SHLAA *"is a key component of the evidence base to support the delivery of sufficient land for housing to meet the community's need for more homes"* – see paragraph 1 of the SHLAA Practice Guidance. Paragraph 8 goes on to say that the SHLAA *"is an important evidence source to inform plan-making, but does not in itself determine whether a site should be allocated for housing development."* Thus, a SHLAA does not allocate sites but instead gives an initial overview of their potential in order to inform future planning policy. It identifies the choices available to meet the need and demand for more housing and provides a basis for making decisions about how to shape places in the future. Therefore, the Council will need to allocate the necessary SHLAA sites in the Plan. And this will have the same implications for further work as set out in question 19 of my second Initial Questions.
11. Several of the sites in the 2001-2011 Local Plan appear to 'lapse' their housing allocations in this Plan and also have deliverability problems e.g. access and contamination. Should these allocations be continued in this Plan? If not, why not? Are the sites actually deliverable given the acknowledged problems and the fact that they have not yet been implemented despite previous allocation? Where is the financial viability information to indicate their deliverability?

Response for Paragraphs 9, 10 and 11

The SHLAA shows that the capacity of available land for housing can meet Tamworth's needs (excluding the 1,000 out of the Borough). Tables 2a and 2b show the supply of the SHLAA and the supply of the SHLAA if Anker Valley were to be removed from the 0-5 period. Both sets of figures show that there would be sufficient land within the Borough to meet the identified needs, and there is sufficient supply to meet the five year housing supply.

	Phase of Local Plan			
	1-5	6-10	11-15	Total
Expected rate of housing delivery	1386	1510	1009	3905
Past completions and Under construction				1345
Housing Requirement (4500 Dwellings between 2006-2028)	1076 (5% Buffer) 1230(20% Buffer)	1025	1025	4500
Surplus or Deficit (-)	310(5% buffer) 150 (20% Buffer)	485	16	750

Table 2a

	Phase of Local Plan			
	1-5	6-10	11-15	Total
Expected rate of housing delivery	1136	1385	884	3405
Past completions and Under construction				1345
Housing Requirement (4500 Dwellings between 2006-2028)	1076 (5% Buffer) 1230(20% Buffer)	1025	1025	4500
Surplus or Deficit (-)	60 (5% buffer) 94 (20% Buffer)	360	-141	250

Table 2b

The decision was taken to allow for housing to come forward in any part of the Borough and to not allocate specific sites for housing development; this was intended to allow for the market to bring forward the most viable sites in the early stages of the plan period.

The Council recognise that some sites contained in the SHLAA presently have different land use designations shown on the policies map and that it is not clear from the policies map or Local Plan itself where housing allocations apart from Anker Valley will be located within the Borough. Table 3 sets out sites over 10 dwellings in the SHLAA which currently have a different land use.

Name	ID	Source	0-5 Years	6-10 years	11-15 years	Total Capacity	Land Use	Commentary
Land to the West of Co-op filling station	593	Out of Planning Process-Submission	0	10	0	10	Open Space	The site features a significant amount of flood zone 3a and 3b which could not be developed. Mitigation for the loss of open space on this portion of the site could be provided by improving the quality of the open space on the remaining part of the site.
Garage Units to the East of Honeybourne	615	Out of Planning Process-Survey	0	0	11	11	Open Space	The site features a number of mews properties with open space in between. Mitigation against the loss of open space could be provided by retaining some open space as part of the sites redevelopment
Playground, Lothersdale	455	Out of Planning Process-Survey	0	0	14	14	Open Space	The site features an underused car park adjacent to the playground. It is not considered that the playground proportion of the site would be built on as part of the sites development.
Caledonian, Glascote Heath	548	Out of Planning Process-Survey	0	0	15	15	Open Space	The site features a number of commercial units, car park and open space. Loss of the open space could be mitigated against through retaining some open space as part of the redevelopment.
Former Martial Arts Centre, Birds Bush Road	629	Out of Planning Process-Survey	0	17	0	17	Open Space	A substantial proportion of the site is car parking, mitigation against the loss of the small proportion of open space could be provided by retaining that part of the site as open space.
Kerria Centre	545	Out of Planning Process-Survey	30	0	0	30	Open Space	The site features a number of commercial units, car park and open space. Loss of the open space could be mitigated against through retaining some open space as part of the redevelopment.
Part of Kettlebrook Road Industrial Estate	553	Out of Planning Process-Survey	0	0	30	30	Employment Land	The loss of this part of the employment area of the site is not considered to impact on the ability of Tamworth to meet its employment needs.
Coton Van Hire, Lichfield Road	399	Out of Planning Process-Survey	35	0	0	35	Employment Land	The site is a peripheral part of Lichfield Road Employment Area with limited capacity for expansion. The loss of the site to housing it not considered to impact on the ability of Tamworth to meet its employment requirements.
Coton Hall Farm, Coton Lane North	390	Out of Planning Process-Survey	0	52	0	52	Open Space	Site is currently greenfield agricultural land.

Land at Silver Link Road	626	Out of Planning Process-Submission	0	75	0	75	Open Space	The site is currently identified as playing pitches adjacent to TORC campus (vocational centre). Mitigation against the loss of the playing pitches could be provided through the creation of additional playing pitches on land to the East of TORC, within the athletics track and/or retaining part of the site as open space.
Coton Hall Farm, Coton Lane South	387	Out of Planning Process-Survey	0	77	0	77	Open Space	Site is currently greenfield agricultural land.
Land South of Hedging Lane	286	In Planning Process-Outline	78	0	0	78	SBI	Site has outline planning permission for 78 dwellings. Mitigation against the loss of some of the SBI will be provided through improving the long term management of the SBI which exists outside the site boundary. This will be carried out in consultation with Staffordshire Wildlife Trust who have been consulted on the site to date.
Part of the Golf Course	602	Out of Planning Process-Survey	86	0	0	86	Open Space	The site consists of 2 holes of the golf course, mitigation could be provided through remodelling part of the golf course to accommodate the 2 holes.
Land off Pennine Way	350	Out of Planning Process-Submission*	109	0	0	109	Open Space	This site, which is privately owned and entirely amenity open space was granted planning permission on 29/01/13 (0349/2012). Mitigation for the loss of the open space will be provided through provision of some open space on site and through the enhancement of surrounding areas of open space through a s106 agreement.
Land North of Coton Lane	406	Out of Planning Process-Survey	0	209	0	209	Open Space	Site is currently greenfield agricultural land.
			338	440	70	848		

*Land off Pennine has planning permission for 94 dwellings

Table 3

Sites contained within the 2001-2011 Local Plan which are still available for development are contained within the SHLAA. Because they were in the SHLAA they were not allocated as specific housing allocations. Table 4 lists these sites, it shows that of one site has been completed, one is currently under construction and two have planning permission.

Name	Local Plan Site Capacity	Planning Status/Notes	ID (SHLAA)	Assessment	Dwellings completed/ Under Construction	0-5 Years	6-10 years	11-15 years	Total Site Capacity
Anker Valley	800	Extensive pre application discussions and viability work	651	Deliverable	0	250	575	575	1400
Glascote Farm	74	Completed in December 2009 for 80 dwellings			80	0	0	0	0
Land South of St Peters Close	104	Site has outline pp (0556/2011) granted 14/02/2012	332	Deliverable	0	87	0	0	87
Parkfield House	6	Site is suitable for conversion	342	Developable	0	0	7	0	7
Land off Cottage Farm Road	40	Extensive pre app discussions have taken place	343	Deliverable	0	36	0	0	36
Land south of Hedging Lane	78	Site has outline pp (0439/2009) granted 04/02/2010. Application to extend time limit has been received	286	Deliverable	0	78	0	0	78
Land at Brookside Way	25	Site has commenced-planning permission for 14 dwellings (0090/2012)	314	Deliverable	12	2	0	0	2
	1127				92	453	582	575	1610

Table 4

The Council will propose changes to the Local Plan in the form of additional housing allocations and where needed identify broad locations. The housing allocations will meet the need for the first five years of the plan and where possible years 6-10 and 11-15. Where the full quantum of land for the later stages of the plan period can not be allocated in full, broad locations for housing development in the Urban Area of Tamworth will be identified in this period of the plan.

The Council understands that to make these allocations further work will be required, technical work to identify constraints (such as open space, highways access, land contamination etc), full Sustainability Appraisal of each site, viability assessments and public consultation. The proposed changes will come forward as new policies identifying the housing allocations. In each policy there will be a description of the site accompanied by an outline of the allocation on the policies map, this will describe where it is, the policy will detail the quantum of housing and identify any constraints which need to be overcome, any cumulative infrastructure requirements will be added to the infrastructure delivery plan in the Local Plan.

Each housing allocation will be added individually to the Housing Trajectory to show when it will come forward for housing.

With regard to specific deliverability problems for the 2001-2011 Local Plan sites, no sites have any outstanding access issues, Land off Cottage Farm Road's access issues have been overcome through land acquisitions; the boundary for this can be amended to show these new access arrangements. Land at St Peter's Close is a brownfield site currently in employment use and would require remedial work on any land contaminated on the site, it currently has planning permission for 104 dwellings, discussions are on going with the developers of the site to assist with viability issues. Land South of Hedging Lane has planning permission and an extension to the time limit has been received, the site is an old tip and mitigation measures have been established. Parkfield House is a small allocation; the wider site was largely complete before it was allocated in the 2001-2011 Local Plan.

The SHLAA already contains a large amount of information relating to constraints and the deliverability and developability of potential housing allocations. This includes; Green Belt, Open Space, Flood Zone 3a & 3b, Biodiversity, Contaminated land, Conservation Areas, Listed Buildings, Land Ownership and a preliminary look at mitigation measures. A SHLAA review panel (Council officers, Lichfield Officers, North Warwickshire Officers, representative from a registered social landlord, private sector planning agents, Environment Agency) was established to review the methodology for the SHLAA, and to comment on the sites and results of the SHLAA assessment. This will assist the process of allocating the necessary sites.

Residential development

12. Policy SP6 allocates Anker Valley as the Plan's only strategic housing site. Unfortunately, it leaves too much to the master planning stage. The principles should be established in this Plan. For instance, I would expect the identification of any site constraints - both those that are fixed and those that need to be overcome or mitigated; all the different land uses/proposals and their scale that the site is to accommodate (e.g. xx housing, yy employment, community facilities etc); what infrastructure (e.g. transport, education, social and community services) is needed to make that development a viable, attractive, sustainable location, and if any homes can be provided in advance of the provision of identified pieces of infrastructure (e.g. how many homes can be provided in advance of the link road?); what of the above needs to be provided by when (i.e. inter-related phasing of all elements) and who will fund it and deliver it; whether further detail is to be worked up in a master plan (if so, specify timescales for delivery); milestones for the progression of the development, e.g. application submission and commencement on site, phasing and consequences if missed. Some of the above is covered, but not enough.

The Council will work with Lichfield District Council, Staffordshire County Council, the agents, developers and land owners with an interest in the Anker Valley site within Tamworth and Lichfield. Since the publication of this note the Council has already had initial meetings with Lichfield, Staffordshire Country Council (Highways), agents, developers and landowners with an interest in the site, and ATLAS.

The Council recognise that to support the strategic housing allocation, existing work will need to be presented to the examination and additional work will need to be carried out. The concerns outlined in paragraph 12 will be addressed through the production of a comprehensive document which will include: schedule of land uses for Anker Valley, schedule of required infrastructure, schedule of constraints and mitigation measures, time table of housing delivery and infrastructure delivery which will outline what development can take place before key infrastructure is required; how the scheme will be funded and who will pay for it, and a viability assessment of the site; and a schedule of achieving delivery which will set milestones for the progression to the submission of an application to commencement on site. Ultimately this document along with any

accompanying master planning will set out the spatial framework and a clear vision of the allocation; it will build certainties into the Local Plan and allow for the timely delivery and implementation of the site.

Through this work the Council will propose changes to the existing policy SP6, so that principles for the Anker Valley allocations are established in the Local Plan.

To achieve this Tamworth Borough Council will take the lead in establishing the project management and project governance to the delivery of Anker Valley. Tamworth, Lichfield and Staffordshire County Council senior officers and members will be invited to join a project board/executive, Tamworth will lead the project management, officers from all three authorities will form part of the steering group, and working groups will be formed by relevant council officers and will include developers, land owners and agents, as well where necessary officers from statutory bodies. Tamworth Borough Council has already established a corporate project team for Anker Valley; this will form part of the project management and governance of delivering the site.

The immediate next step after the Exploratory Meeting is for officers from Tamworth Borough, Lichfield District and Staffordshire County Council's to meet for an initial discussion, which will be facilitated by ATLAS. This is scheduled to take place by the end of February, and will discuss primarily the spatial mapping and framework of the allocation; confirming what facilities are needed, identify all constraints, and the infrastructure required. This meeting will also be used to establish the project and work towards producing a tender brief for further detailed work and the master planning to be carried out.

This work will also work towards resolving the concerns in paragraph 15.

Further information about ATLAS can be found at the following link:

<http://www.atlasplanning.com/lib/liDownload/37/About%20ATLAS.pdf?CFID=10184565&CFTOKEN=35732273>

13. It would be helpful for the Plan to be supported by evidence which illustrates how the various development elements might be accommodated within the Anker Valley allocation. This might include an indicative or first draft of a master plan. I would not endorse any such material but it would help to demonstrate that the proposal was achievable.

A draft master plan has already been produced for Anker Valley. Through the work outlined in response to paragraph 12, it is envisioned that this master plan will be updated accordingly. The Council agree that it would assist in demonstrating the principles of Anker Valley and that the proposal is achievable.

14. Both the Housing Trajectory in the Plan and the recently updated K4 Housing Trajectory are unclear about what numbers, where and when all the required housing will be accommodated in the plan period, especially during its end period. The table which forms part of K4 Trajectory is too broad brush to enable me to identify which sites provide what houses during what part of the plan period. The required housing need for Tamworth includes the 1000 houses which are proposed to be built in the Lichfield and North Warwickshire areas, and it forms an integral part of the housing supply for Tamworth. Unfortunately, the Housing Trajectory fails to include it – it should do so.

The Council intend to further amend and update document K4. The response to paragraphs 9 to 11 and paragraph 12 in this note will provide more detailed information for housing allocations in the Housing Trajectory, in which individual housing allocations will be shown within the table. The amended trajectory will include: the full housing needs of 5,500 dwellings for Tamworth, set out that 500 dwellings will be delivered in Lichfield through the wider Anker Valley allocation and 500 will be delivered in North

Warwickshire within a broad location in the later years of the plan. As detailed in paragraphs 15 and 16 Tamworth Council have begun working towards an updated Memorandum of Understanding (MOU) with Lichfield and North Warwickshire. The updated MOU will provide further detail on when and how dwellings in Lichfield will come forward to meet Tamworth's needs, and where, when and how dwellings will come forward in North Warwickshire to meet Tamworth's needs.

15. Similarly, I am concerned at the lack of detail in the Plan to guide the principle, timing and impact of the 1000 homes to be built outside the Borough in Lichfield and North Warwickshire. The homes in Lichfield would lie immediately to the north of Anker Valley, which the draft Lichfield District Local Plan proposes to be around 1000 homes in total (including the 500 for the Borough). Thus their direct impact will be felt on Tamworth itself because it will be concentrated 'North of Tamworth'. When is it to be provided (presently only stated in the Memorandums K1 and K2)? Under what conditions? What infrastructure is needed for these 1000 homes and when by? Can the main highway network cope? I ask the latter question because the site (and some other SHLAA sites) do not appear to be included in the Highways Agency Modelling Report (Document F2 – see its paragraph 4.15). Can the local road network cope? Who pays for the necessary infrastructure?

The work outlined in the response to paragraph 12 will take the overall impact of Anker Valley into account when looking at constraints, mitigation and infrastructure requirements for the site as a whole.

The Council has begun working with Lichfield to amend the MOU agreed with them in 2012. The amended MOU will be guided by the work detailed in paragraph 12. Together they will inform policy for each Local Plan, in relation to housing and infrastructure will be phased. The MOU will set out how Tamworth's housing needs will be met in Lichfield at Anker Valley through the monitoring framework.

Highways Agency Modelling

The Highways Agency modelling report (2012) considered the previous RSS based housing target of 2,900 dwellings, this also looked at specific sites which are listed in paragraph 4.15. After the update to the SHMA was complete, Council officers requested the Highways Agency to update their modelling work.

The Highways Agency responded that they did not have sufficient capacity to carry out the work, and despite this they were comfortable to work with developers on a site by site basis to then identify the appropriate Strategic Road Network mitigation measures and that their 2012 modelling work would be used as a starting point.

The Council will re-engage with the Highways Agency and request them again to undertake the necessary work to assess the cumulative effect on the strategic highways network arising from proposed development in the Borough.

The Highways Agency carried out modelling work for Lichfield District Council, which includes the 1,000 dwellings for land to the north of Tamworth.

16. North Warwickshire is to provide 500 houses in its Core Strategy (policy NW3), but its proposal is to disperse the houses amongst a number of settlements and to provide a distinct green gap between the Borough and Polesworth and Dordon in North Warwickshire. Again, when is this to be provided and under what pre-conditions? But, more importantly, is the dispersed nature of the 500 homes sufficiently physically related to the Borough such that it will adequately serve as part the Plan's overall housing supply? Or is it so unrelated that it will be ineffective for Tamworth's needs?

The Council has begun working with North Warwickshire to prepare a background paper and amend the MOU agreed with them in 2012.

The background paper will explain and describe the links to the two boroughs, including travel to work patterns and services used. This will be used to establish a broad location in North Warwickshire where Tamworth's housing needs will be met.

The amended MOU will seek to remove the restriction on land coming forward for Tamworth's needs based upon the proportion of completed dwellings at Anker Valley and establish a monitoring framework for completions in North Warwickshire which meet the needs of Tamworth.

Officers from North Warwickshire Borough Council have prepared a note to accompany this response. This note details the progress made on their development plan, travel to work patterns and land supply information in the later part of their plan period. This will inform the preparation of the background paper.

17. I am aware that some representors believe that the Council has under-allocated in terms of housing numbers. If the Examination shows these to be justified concerns, then any necessary increase in housing numbers would exacerbate the ability of the Plan to deliver the required housing. And, in any event, all of the above concerns mean that the Plan's housing numbers might not be deliverable.

The Council has an up to date housing needs assessment, which was completed in 2012 (B5), which looks at the future housing needs for Tamworth, Lichfield and Cannock Councils, this showed Tamworth's overall need to be 5,500 dwellings. The work outlined within this response shows that the Council wish to allocate housing sites to meet a flexible 5 year housing supply, and where possible sites for years 6-10 and 11-15 of the plan based upon the housing need findings in SHMA (B5). The SHLAA (B3) and Future Development and Infrastructure Study (E2) demonstrate that Tamworth has a limited capacity and that land is needed outside of the Borough to meet housing needs. A proportion of the need outlined in B5 is to be brought forward in Lichfield and North Warwickshire.

In addition to this, document B1 describes the RSS figures the Council were previously working towards before the updated (B5). The RSS figures show that Tamworth had a housing requirement of 2,900 dwellings, significantly lower than the 5,500 dwellings estimated in the SHMAA updated (B5), which the Council is aiming to achieve through this Local Plan.

Employment development

18. Policy SP4 sets out the Plan's target to provide 36 hectares of additional employment land up to 2028, and to provide 20,000 square metres of office floorspace. It also defines Strategic Employment Areas and the Wilnecote Regeneration Corridor which, together with the town centre, are the areas proposed to deliver this amount of employment. However, there is no proper analysis in the Plan of this target balanced against committed sites and allocated sites, by site and over time – that is, there is no 'employment land trajectory'. This major question cannot be avoided – what is being allocated, when and where?
19. The Employment Land Review (C1) says that this Plan "*will need to decide which sites come forward in terms of their appropriateness, focusing at issues such as sustainability, economic viability and compatibility with the chosen strategy. In addition the [Plan] will also need to look at when sites will come forward with regards to their phasing over the plan period*" (page 70).
20. The Review also shows that there is an oversupply of employment land and a significant reliance on Greenfield sites (pages 68 and 69). What does the Plan

intend to do about this? Is some employment land to re-allocated for other purposes such as that at Kettlebrook Road (policy SP4, 4.48, EM7), TC10 or WRC2 in Appendix 1? What is the balance to be between Greenfield and Brownfield employment allocations? Can the office requirement be met within or adjacent to the town centre (paragraphs 4.53 and 4.54 in the Plan), as recommended in the Office Development document (C3) at paragraph 63 and page 19? As the Review says (page 70), there are choices for the Plan to take - but it has not taken them.

Employment Land

The Employment Land Review (2012) assessed the amount of employment land that would be required to address Tamworth’s employment needs during the life of the Local Plan. It used three different approaches to determine this such as assessing; past employment land development patterns, labour demand patterns for different employment uses and the labour supply. All of the approaches had their merits and weaknesses.

The findings of the three approaches were analysed and both the past employment land approach and the adjusted labour demand approach agreed that approximately 36 hectares of employment land was required to address the needs of Tamworth. This was considered the most realistic and appropriate target for the area.

As part of this review, the existing commitments (i.e. sites with planning permission), completions and sites under construction were analysed and totalled 17.32 hectares. This leaves an outstanding requirement of 18.68 hectares.

Employment Requirement		36 (HA)
Existing Commitments (sites with permission)	14.76	
Completions (2006-11) and Sites Under Construction	2.56	
Total Provision		17.32 (HA)
Outstanding Requirement		18.68(HA)

Table 5

The ELR (2012) also identified a large number of sites that could potentially be redeveloped or developed for different types of employment uses in order to meet the future need of the borough. The ELR assessed the identified sites suitability, availability and achievability for employment related development. The assessment shows there to be a total of 17.64ha brownfield land and 34.33ha Greenfield land available for development in the plan period to meet the outstanding requirement of 18.68ha. The work carried out in this assessment will form the basis of the further work required.

The current Local Plan employment allocations and strategy would allow for the market to develop the most viable sites to meet the outstanding employment need of the Borough. The assessment found that 29.17ha of potential employment land is deliverable within the first five years of the plan.

However, the Council will carry out additional work including a sustainability appraisal on each potential site, a viability assessment and technical work looking at site constraints and mitigation measures. This will determine which sites are the most appropriate and sustainable for addressing the future employment needs of the Borough.

The Council will propose modifications to the Local Plan for Employment land use allocations to address the remaining employment need. Modifications will also be made to show existing strategic employment areas which the Council wish to be protected and enhanced through policies SP4 and CP2. To accompany the Employment allocations the Council will produce an employment trajectory to demonstrate, the overall employment need and how this has already been met and will be met through the allocations.

Offices

A study called Meeting the need for office development in Tamworth was undertaken in 2009. It identified a large number of employment sites and assessed their suitability, availability and achievability for office related development or use. In order to address a requirement of 20,000 SQM of additional office floor space.

The study concluded that 6 sites were considered available, suitable for office development and could deliver 7,932 SQM of floor space within the town centre. Also a further 10 sites were considered achievable for office development within the town centre, if they become available that could deliver 24,236 SQM of floor space.

The Council accepts that further work is required to assess the maximum capacity of the town centre or edge of centre sites to accommodate additional office floor space, as well as whether other sites within the employment areas will be required. This will be incorporated into the general employment work detailed above.

Town centre development

21. I am not convinced that the defined town centre can provide the required retail and office development set out in the Plan. I have mentioned above my concerns about the ability of the area to meet the office needs as set out in policy SP4 and elsewhere. Policy SP2 identifies the need to deliver an additional 38,400 square metres (gross) of comparison goods floor space, which results in 20,000 square metres once the planning permission granted for 18,400 square metres on Gungate Precinct is excluded. Paragraph 4.32 identifies a need to deliver an additional 1,600 square metres (gross) of convenience goods floorspace during the plan period. In addition, the later paragraphs outline more detail on the scale of additional retail and leisure floorspace that is required and a restriction on out of centre retail park development. Unfortunately, this part of the Plan's explanatory text is not in its retail policies, which they should be.

See paragraph 22

22. The retail Studies (D3 and D5) confirm that there is capacity in the town centre to meet the retail needs and set out sequentially preferable sites to do this (see paragraphs 5.7, 5.8, Tables 7 and 8 in the D1 Retail and Town Centre Topic Paper). Again, unfortunately this is not reflected in the Plan's policies, but I assume that it is intended and, if so, it should be clearly set out in the Plan. Because of this probable sequential retail site allocation approach, one key aspect of the later part of the Examination will be the viability of the Gungate scheme, the reasons for the delay in its implementation, and its likely date of implementation.

Existing evidence and additional work is required to demonstrate the capacity of the Borough and the Town Centre for retail and particularly office. This will be brought together as an addendum to D1.

The Council will propose changes to the Local Plan to amend text and insert the necessary land use requirement and sequential site information into policy. The sequential approach will identify those sites which the Council considers to have the capacity to regenerate the town centre and to meet the anticipated retail needs arising from the Borough, as shown in D1.

The work identified in 18,19 and 20 will incorporate looking at the office element of employment land use needs, and how this can be met in the town centre and across the Borough.

The concerns outlined in paragraphs 7, 8, 21 and 22 will be considered together.

The Council will address the issues raised over Gungate in the later part of the examination; however the Council will begin working with the developers of Gungate presently.

Sport and recreation development

23. The need for a new multi-purpose community sports centre is identified in policy CP8, but the policy fails to say where, when or how this will be provided. When and how is the new eastern Urban Park to be implemented (policy SP8)?

Community Sports Centre

The Council is currently looking at different sites within the Urban Area and models of delivery working with partners including Staffordshire County Council and Sports England to deliver the centre within the plan period. The policy will be updated to provide more detail on the where, when and how questions. The use of CIL may be one future source of funding.

Urban Park

The designation of the Urban Park in the east of the Borough is to address a short fall of a particular type (park) of accessible open space. The Wild About Tamworth (WAT) partnership, which is made up of officers from the Borough Council and Staffordshire Wildlife Trust will deliver the site. The open space currently exists as the Kettlebrook Local Nature Reserve (LNR2); effectively this is not to create new open space, but to make improvements or to enhance the existing reserve. The Urban Park designation will improve public access and facilities at the site. Currently the WAT partnership is preparing a bid to Parks 4 People for a grant for the Urban Park. In addition to this, the Council is currently in receipt of S106 monies which could be used to fund these improvements.

The Council will propose modifications to the Local Plan to increase the boundary currently shown on the policies map, this is take a flexible approach to designation of the Urban Park within the LNR boundary.

Gypsy and Traveller development

24. Policy CP7 appears to be based on an outdated Gypsy and Travellers Accommodation Needs Assessment (2008 – Document B10). This is contrary to Government policy in paragraphs 8 and 9 of its *Planning Policy for Traveller Sites*. The Assessment's estimates from 2012 to 2026 are based on household formation rates which do not take account of the many factors which need to be considered when making a robust assessment. The Plan could indicate that the allocation of further sites may be necessary if a later up-to-date assessment of needs (when is this to be done?) indicates that there is a shortfall (or vice versa).

An updated Gypsy, Traveller and Travelling Showpeople Accommodation Assessment for Lichfield and Tamworth was finalised in 2012 (K5). In summary the updated assessment shows that Tamworth has a need arising of 1 pitch between 2012 and 2028, and a need of 0 plots for Travelling Showpeople.

The assessment makes it quite clear that Tamworth has a very low historical level of authorised and unauthorised developments and encampments of 0, dating back to 2006. The whole Gypsy and Traveller population of Tamworth currently resides in 'bricks and mortar'. There is no Travelling Showpeople community in Tamworth.

The previous need for 9 pitches between 2007 and 2028 was over inflated and not reflective of the needs for Tamworth. The previous assessment was carried out across a large sub-regional area and distributed the needs of the sub-region across several local planning authorities. The 2012 assessment shows that there has not been an under supply in Tamworth, in that there have been no authorised or unauthorised encampments in the Borough. The 2012 assessment takes into account

the needs of families living with the Borough, it is clear that only 1 family wishes to move from 'bricks and mortar' to a pitch. The survey work carried out for the 2012 was very detailed and achieved a very high response rate for questionnaires and interviews.

Policy CP7 will be updated to reflect the findings of K5 and will indicate that allocations may be necessary if any future updates to the assessment show a shortfall in supply. The Council consider that the need of 1 pitch is too small to allocate within the Local Plan. Policy CP7 states that the Council will work with surrounding authorities, the County Council, landowners and the Gypsy and Traveller community to bring forward pitches. In accordance with paragraph 9 of Planning Policy for Traveller Sites the Council will prepare an assessment to demonstrate sufficient capacity to meet the identified need.

Deliverable and so effective

25. To be effective (a soundness criteria) the Plan should be deliverable over its period. There appear to be significant infrastructure costs for the Anker Valley strategic housing allocation, for the Link Road(s), rail bridges, schools, community centre, shops, health facilities, pedestrian and cycling links, open space (including the eastern Urban Park) and sports facilities, emergency services facilities, and rail station improvements. The Plan's Appendix 6 Infrastructure Delivery Plan does not detail all of these. It is not at all clear which infrastructure requirements are needed to be completed before each phase of the development site can proceed. The need for the Anker Valley Link Road and the Amington Transport Link is a key matter of principle (paragraph 7.11) and must be resolved before the site is allocated, taking into account the potential 1000 houses in Lichfield District directly to the north of Anker Valley.

The Council's response to paragraph 12 and 13 has outlined that work will be done to examine and list the infrastructure requirements of Anker Valley and how these will be paid for. Policy SP6 and The Infrastructure Delivery Plan will be updated with these critical infrastructure requirements and how they will be delivered.

26. The Plan does not provide much, if any, information about the financial viability of any of the key sites, such as Anker Valley and those in the SHLAA, the Strategic Employment Areas, the Town Centre or the Wilnecote Regeneration Corridor areas. Given the apparent reliance on these locations to provide nearly all the housing and employment development, it is not clear that the Plan is realistically deliverable.

As previously stated in the Council's response to Q20 of the Inspector's 2nd set of questions, a viability assessment for Anker Valley has already been carried out. This information can be released to the examination, however it may be updated once the additional work outlined in paragraphs 12 and 13 is completed.

The Council will propose modifications to the Local Plan in the form of land use allocations for housing and employment. Viability Assessments will be carried out on all of these proposed allocations. The Council are shortly going to go out to tender for this work to be done.

27. To enable the Plan to be deliverable, the sites and the amount of development identified in it should not be subject to such a scale of obligations and policy burdens that their ability to be developed viably is threatened. There appear to be a large number of different costs in the Plan likely to be applied to development, such as requirements for affordable housing, vehicle parking, education, road schemes, open space and parks, renewable energy, and sustainable construction. There is a mention at paragraph 7.14 that some A5 highway improvements might have to be funded by the Plan's developments, but I have not seen any total or

individual figures for each development. Overall, I have not seen any evidence which shows that development would be deliverable when taking account of these additional cost requirements together with the normal cost of development and on-site mitigation. Would there still be acceptable returns to a willing land owner and willing developer as required in the NPPF?

Local Plan policies CP4 (Affordable Housing), CP5 (Housing Types), CP6 (Housing Density), CP14 (Sustainable Development), CP17 (Infrastructure) take into account the varying levels of viability for development by seeking to maximise the requirement set in policy, but also allowing for flexibility where it can be demonstrated viability would be threatened. The Council will propose a change to appendix 3 (Parking Standards) to allow for the same level of flexibility as the policies listed above. The requirements on development such as policy CP9 (Open Space), highways and education to the proposed allocations, will be assessed when the additional viability work in paragraph 26 is carried out. Infrastructure requirements such as improvements to the A5 will be factored into site viability assessments if they are required to remove any transport constraints. The Council will work with the Highways Agency to add further detail to the A5 improvements within the Infrastructure Delivery Plan, outlining which developments will pay and how much. Policy for sustainable construction (CP14) will be implemented where viable; this will aim to achieve Zero Carbon targets. CP14 will be implemented through Part L of Building Regulations which under the current consultations is seeking to move the construction of new buildings closer to zero carbon.

28. On Anker Valley, I am particularly concerned that the proposal does not have an overall viability assessment (as required in NPPF paragraph 173 onwards) to demonstrate that it can actually be delivered. The viability assessment provided in E2 is not up-to-date or comprehensive. More importantly, it does not comply with the advice in the "*Viability Testing Local Plans*" document of June 2012 by the Local Housing Delivery Group¹. The Council must provide full viability information to justify the allocation, and because this is a public examination commercial sensitivity is not a justification for not providing the figures.

An up to date viability assessment will be carried out along side the work that is required for Anker Valley in paragraph 12. However, the current viability assessments on Anker Valley can be brought together in a background paper.

29. My deliverability concerns about Anker Valley are heightened for two reasons. Firstly, because of the proposed early contribution that it would make to housing (2014/15) and, secondly, because a major part of it has already been allocated in the 2001-2011 Local Plan (policy HSG4 for 800 homes) with no or little progress to date. I am told that no planning applications have been made on the site, despite hopes, and none appears to be imminent. Moreover, I am told by the Council that it "*has worked with the developers to agree the: minimum capacity of the site, site boundary, delivery links to the Northern part of the site in Lichfield District, the minimum level of infrastructure, agreed a flexible approach to affordable housing, housing tenure and density*", but I do not know what these are or whether they are clearly set out in the Plan's policies.

The Council has outlined in this response it will lead on and carry out necessary work to demonstrate the deliverability of Anker Valley. However, as detailed in the responses below, the Council intend to form a five year housing supply without Anker Valley and therefore not rely on it to bring forward housing in the short term.

In response to the Inspector's direct question, these agreements are reflected in the wording of supporting text 5.17 to 5.22 and policy SP6 and subsequent policies CP4, CP5 and CP6 which are flexible in their wording towards any proposed housing development within the Borough.

¹ <http://www.nhbc.co.uk/NewsandComment/Documents/filedownload,47339,en.pdf>.

The Plan's flexibility to deal with changes

30. Paragraph 21 of the NPPF says that "*policies should be flexible enough to accommodate needs not anticipated in the plan and to allow a rapid response to changes in economic circumstances.*" It is clear that the housing needs of the Borough are largely dependant on the provision of the Anker Valley strategic site, which is due to start providing homes by 2014/15.
31. Given the uncertainty about development viability, the contingency 'risk' planning in the Plan is inadequate. I am concerned that the Plan does not give a clear indication of what it would do if a vital infrastructure project or a requirement necessary to develop a site was cancelled or delayed.
32. Arising from my concerns mentioned earlier about the likelihood of Anker Valley's delivery, I cannot see in the Plan, particularly in its Appendix 4, any effective flexibility or contingency planning for if it does not provide the required homes, either at the right time or even at all. What then is the Council's plan for any alternative action? Given the early date for homes to be provided on Anker Valley, what is the trigger for undertaking that alternative action? What does "*identifying opportunities to bring forward the release of land*" in Appendix 4 SP6 mean? What opportunities? When and what triggers the search? How are opportunities to be identified? Does that mean another Local Plan? If so, when? My initial view is that the early start to Anker Valley means that this Local Plan must clearly identify and allocate the contingency housing land that would come into play at a stated time if development was stalled on this site.
33. In conclusion, the Plan has to show what alternative strategies it has to handle the likely uncertainties, such as the late provision of needed infrastructure or the delivery of required development. The Plan must be seen to be flexible and thus effective, or else it is unsound. Flexibility comes through monitoring and management mechanisms and contingency planning in response to likely uncertainties.

Response to paragraphs 30 to 33.

The Council acknowledges that the long term housing needs of the Borough are largely dependant on the Anker Valley site, primarily as it the only significant area of land which is not constrained by flood risk or Green Belt, because it allows for the release of land within Lichfield to meet some of Tamworth's housing needs. To mitigate against the risk of an inadequate supply of housing, the Council will propose modifications to the plan. This will comprise of:

- Allocating land to provide at least 5 years worth of deliverable housing land within the Borough
- Flexible enough to provide at least 5% additional supply
- Flexible by spreading the 5 year housing need across several allocations
- Removing the expectation within the Housing Trajectory that Anker Valley will come forward to meet part of the first 5 year supply, however this will not prevent it coming forward sooner.
- Removing restrictions in the MOU and within policy which prevents the Lichfield part of Anker Valley coming forward until 75% of the part in Tamworth is completed.
- Removing restrictions in the MOU which prevents land coming forward to meet Tamworth's needs in North Warwickshire until 75% of Anker Valley is complete.
- Making an allowance for windfall sites within the plan, initial work shows that this could be between 15 and 20 dwellings per annum.
- Anker Valley will be allocated to meet housing growth in years 6-10 and 11-15 of the plan.

- Specific sites will be allocated within the Borough to meet housing growth in years 6-10 and 11-15.
- The Council will propose new policy which will require a review to be carried out examining the availability of land within the Borough for housing development. A review would be triggered if the future housing supply was significantly and persistently under performing. Firstly this would assess the Anker Valley urban extension and examine progress which will be set out in Policy SP6 and in the Anker Valley Spatial Framework and Vision document. If unsatisfactory progress has been made on Anker Valley, the Council would commence work on a new Local Plan to specifically deal with housing supply. This would assess Anker Valley, other broad locations and any new potential allocations in the Urban Area. The outcome of this would be to allocate sufficient sites to meet medium to long term housing growth of the Borough. If satisfactory progress has been made on Anker Valley the Council will consider its options to bring forward sufficient sites to boost supply, this could involve the Council supporting housing development through grants to stimulate development or using funding to unlock sites.

Legal Compliance - Duty to Co-operate, Sustainability Appraisal, and Public Consultation

Duty to Co-operate

34. Amended section 20(7B) of the 2004 Act establishes that the duty to co-operate imposed by amended section 33A is incapable of modification by me at this Examination. Therefore, this is one of the first things that I have to examine because if the legal requirement is not fulfilled then I have no choice other than to recommend non-adoption of the Plan.
35. Whilst helpfully two Memorandums of Understanding have been signed with the neighbouring councils of Lichfield and North Warwickshire for each to provide 500 homes of Tamworth's housing need towards the end of the plan period, I have not seen any evidence of what infrastructure implications this number of dwellings would have on the Tamworth area and how these would be resolved. I have mentioned above similar concerns which might need some additional policies in the Plan as part of the effectiveness test of soundness.

The work detailed in paragraph 12 will set out any infrastructure implications of the whole of the Anker Valley allocation on Tamworth and how they will be resolved.

The homes which are to come forward within North Warwickshire to meet Tamworth's needs will not have any significant infrastructure implications on Tamworth. The work carried out by North Warwickshire Borough Council in the preparation of their Core Strategy DPD and Site Allocations DPD shows that there is no infrastructure requirement arising on Tamworth through any development in North Warwickshire, particular from the broad location set out which will provide the 500 dwellings to meet Tamworth's needs.

Tamworth and North Warwickshire Councils will prepare a joint topic paper to demonstrate this.

36. The Duty requires a council to show that it has engaged constructively, actively and on an on-going basis in the preparation of its Plan on all matters concerning development which would have a significant impact on at least two planning areas. I am not convinced, as yet, that this has been done. If the Council has done this work, please present it to the Examination.

The Council has actively engaged and worked with neighbouring authorities in a constructive manner on an on-going basis throughout the preparation of this plan. The Council prepared document A8 the Duty to Co-operate topic paper, which demonstrate

who the Council has worked with, on what issues and which parts of the evidence base. The Council could incorporate the work to be carried out in paragraph 35 (NWBC) and paragraph 12 (LDC) to demonstrate how significant issues have been considered throughout the preparation of this plan.

Sustainability Appraisal

37. The Council will be aware of the various court cases on Sustainability Appraisals (SA) of Plans, including that at Forest Heath and the case involving the Joint Greater Norwich Core Strategy. The judge in that last case said that "*the need for outline reasons for the selection of the alternatives dealt with at the various stages*" of a Plan's preparation has to be addressed in the final SA of that Plan.

In Forest Heath², please see in particular paragraphs 15 to 17 and 40. In the Greater Norwich judgement³, the Court upheld one of the grounds of challenge that the local planning authorities there had not complied with the requirements of the Strategic Environmental Assessment (SEA) regime because they had not properly considered alternative options that did not rely on significant housing growth in one part of the plan area.

38. Thus, the final SA here has to outline the reasons why the various alternatives are still not as good as the proposals now being put forward in the Plan. So far as I can see, the final SA (A7) does not undertake this assessment with regards to the many potential sites that might, in fact, be allocated in the Plan for housing, retail, offices or employment (see above). The SEA Directive requires the SA to set out the performance of different options, and this has not been done for many sites.

The Council will update the final SA to include the sustainability appraisal on all the proposed land use allocations (to be made through modifications) and any realistic alternative sites. The issues raised in paragraph 37 will also be addressed when updating the final SA document. The Council will instruct consultants to carry out this work.

39. At submission I became the joint SA authority with the Council, and this joint responsibility continues until my final report is issued. The Council will become the competent authority on adoption and so it alone will have to deal with any resulting s113 challenge under the 2004 Act. Thus, it is important to get the SA right.

The Council understand this importance and will strive to ensure that upon adoption of the Local Plan the SA is not subject to a S113 challenge.

Public consultation

40. As mentioned above, it is not clear from the Plan that it might be (or actually is) allocating sites in the Town Centre or in the Wilnecote area. In addition, the SHLAA is erroneously used to effectively allocate some very large sites for housing. And the Plan does not make clear its choices for employment allocations. In these circumstances there is a very real risk that members of the public and other stakeholders did not comment on these aspects of the Plan because they were unclear, or were not made explicit, or were hidden in supporting documents.
41. This is contrary to the Council's Statement of Community Involvement (A21) which recognises "*that knowledge and information is essential in order to participate in the planning process*" (page 7). In my view it would be contrary to the spirit, if not the letter, of public consultation as set out in legislation (the 2004 Act and the 2012 Local Planning Regulations). It could also be held to be contrary to the principle of natural justice. Key stakeholders and the local community would not have had a

² <http://www.bailii.org/ew/cases/EWHC/Admin/2011/606.html>

³ <http://www.bailii.org/ew/cases/EWHC/Admin/2012/344.html>

meaningful opportunity to consider genuine alternatives as part of the plan preparation process. They would not have been provided with sufficient information to enable them to make informed choices and comments.

The Council will carry out an additional 6 week public consultation of the submitted Local Plan and any proposed changes through the work set out in this note to overcome the Inspector's key concerns. The public consultation will be carried out in accordance with the Council's SCI and the 2012 Local Planning Regulations. Upon completion of the public consultation the Council will assemble all comments made and present them to the Inspector.

Duty to Co-operate

42. Amended section 20(7B) of the 2004 Act establishes that the duty to co-operate imposed by amended section 33A is incapable of modification by me at this Examination. Therefore, this is one of the first things that I have to examine because if the legal requirement is not fulfilled then I have no choice other than to recommend non-adoption of the CS.

The Council understand the legal requirements of the amended 2004 Act, and as such we would request that the Inspector considers any duty to co-operate information at the earliest opportunity.

43. The lack of detail in the Plan in dealing with the principles of the 1000 homes to be provided in Lichfield and North Warwickshire (see above) may indicate that the Council has not complied with its Duty to Co-operate by dealing constructively and actively with developments which would have a significant impact on its area. Nor can I see where the impacts of development in the Plan on adjacent authorities, e.g. at Anker Valley or Coton Lane, have been dealt with under the Duty. These cross-boundary housing and infrastructure aspects need to be carefully explained because it is not clear to me that they have been adequately dealt with.

This will be explained through the work carried out in the rest of this response.

Additional Concern raised by the Inspector on 28th January

44. The impact of High Speed Two (HS2) routing on Tamworth.

The inspector has not raised this as a particular area of concern or a specific question to the Council in relation to work it has already done.

The Council understand that this is an 'initial preferred' route for HS2 and that through forthcoming consultations and any technical work, this route could be amended, or ultimately not undertaken.

The Council will consider the current routing of HS2 as an additional constraint to development in the Borough, if proposed land use allocations were to be in close proximity to the route then sufficient mitigation measures will be written into policy. Similarly the potential impact of HS2 on infrastructure on the Borough will also be taken into account. If the HS2 route were to change significantly and have a major impact upon development in Tamworth then this could trigger a review of the Local Plan.

As it stands the HS2 route will pass through a very small portion of the Borough. The main impact it will have is on a temporary re-routing of the M42 and changes to J10 of the M42 which by large will occur in North Warwickshire. The proposals show that the current access will remain into the employment areas around J10.

This page is intentionally left blank

Tamworth Borough Council Local Plan 2006 – 2028 Examination

Proposed Schedule of Additional Work Required Post Exploratory Meeting

This proposed schedule should be read in conjunction with the Council's response to the Inspector's concerns raised at the Exploratory Meeting held on 12th February 2013.

As part of this proposed schedule the Council will update the Inspector on a regular basis. This will be done to inform the Inspector, the examination and the general public of the progress the Council is making with the work outlined below, including any unforeseen delays and how they will be overcome and areas of work which have been completed.

Several areas of work will be put out to tender, so that the Council can maximise its resources to complete this schedule of work, tender briefs are currently being prepared for several areas of work. If necessary it will be indicated in the time table if work is to be put out to tender.

The schedule of additional work can be broken down into three main stages.

Stage 1	To carry out the additional technical work required outlined in the schedule.
Stage 2	(i) To produce a schedule of proposed changes to modify the Local Plan.
	(ii) To produce an addendum and to update the final Sustainability Appraisal.
Stage 3	To carry out a public consultation for a period of six weeks in accordance with the Council's Statement of Community Involvement and 2012 Local Planning Regulations.

The public consultation could begin week commencing 26th August and end week commencing 7th October. On completion of the public consultation the Council will assemble all comments received and present them to the Inspector.

To allow for comments to be sent to the Inspector, sufficient time to consider them and sufficient notice to give on the hearing dates, the Council can suggest an initial range of dates: week commencing 11th November, or week commencing 18th November.

Proposed Schedule or Work

	Subject Area and detail of work	Link to Inspector's EM note – paragraph number.	Proposed completion time scale
	Town Centre – retail and office To update Core Document D1 Viability Assessment of Gungate scheme	Paragraphs 21 and 22	Core Document D1 update 20 th May
	Housing Technical paper showing constraints to bringing sites forward and possible mitigation measures (expand on current SHLAA information). To be done for proposed allocations	Paragraphs 9,10 and 11	W/C 1 st July
	Housing Viability assessment of each	Paragraphs 9,10, 11 and 26	W/C 22 nd July
	Housing Sustainability Appraisal for all possible housing options – proposed allocations and reasonable alternatives	Paragraphs 9,10, 11, 37 and 38	W/C 22 nd July
	Housing Housing Implementation Strategy	Inspector's second set of questions	W/C 17 th June
	Housing Produce a Windfall Allowance background paper to inform modification to the Local Plan.	Paragraphs 9,10,11, 30, 31, 32 and 33	W/C 4 th March
	Housing – Anker Valley Anker Valley Spatial Framework and Vision document: <i>Land uses, infrastructure required, housing delivery, infrastructure delivery, funding, viability assessment, master planning.</i>	Paragraphs 12, 13, 15, 25 and 29	W/C 5 th August
	Housing – Anker Valley Prepare paper bringing together current viability assessments.	Paragraph 28	W/C 25 th February
	Housing – Growth Outside the Borough Amend Lichfield MoU to reflect delivery of Anker Valley and to include guide for monitoring framework	Paragraphs 15, 16, 29 and 33	W/C 1 st July and to fit with LDC Members schedule
	Housing – Growth Outside the Borough Produce background paper on relationship between Tamworth and North Warwickshire, and how it will meet Tamworth's needs.	Paragraphs 15, 16, 29 and 33	W/C 11 th March and to fit with NWBC Members schedule

<p>Establish that North Warwickshire has a supply of housing to meet this and that sites will be allocated in their development plan.</p> <p>Amend North Warwickshire MoU to remove Anker Valley restriction, define/describe area within North Warwickshire, include guide for monitoring framework.</p>		
<p>Housing – Long Term Growth Produce a background paper to identify possible broad locations of growth. To properly investigate and consider different policy mechanisms to allow for a review of the Borough's housing supply.</p>	Paragraphs 30, 31 and 33	W/C 1 st April
<p>Housing – Gypsy and Traveller To produce an assessment to demonstrate sufficient capacity to meet identified needs of 1 Gypsy and Traveller pitch.</p>	Paragraph 24	W/C 25 th March
<p>Employment Technical paper showing constraints to bringing sites forward and possible mitigation measures (expand on current SHLAA information). To be done for proposed allocations.</p>	Paragraphs 18, 19 and 20	W/C 1 st July
<p>Employment Viability assessment of each</p>	Paragraphs 18, 19 and 20	W/C 22 nd July
<p>Employment Sustainability Appraisal for all possible employment options – proposed allocations and reasonable alternatives</p>	Paragraphs 18, 19 and 20	W/C 22 nd July
<p>National Infrastructure The Council will take into consideration the possible constraint of HS2 on development in the Borough.</p>	Paragraph 44	W/C 20 th May
<p>Highways Agency Request the HA to carry out further modelling work and to provide further information on the impacts to the A5 from development arising in Tamworth.</p>	Paragraph 15	W/C 22 nd July

Proposed schedule of modifications to the Local Plan

It should be noted that this schedule does **not** replace core document K3. It is a list of modifications the Council will seek to make in response to the Inspector's Exploratory Meeting note and through the additional work to be carried out.

All proposed modifications to the Local Plan are to be completed in time for the six week public consultation. The specific modifications will be added to K3.

	Subject Area and modification suggestion
	<p>Town Centre – retail and office Wilnecote Regeneration Corridor Propose a change to the Local Plan to allow for a further Local Plan to come forward that will make land use allocations and further guidance on development in specific locations.</p>
	<p>Town Centre - retail and office Propose a change to the Local Plan to insert explanatory text (para 4.32 of Local Plan) into policy</p> <p>Propose a change to Local Plan for policy to identify land use requirements & phasing/time scale requirements, and the list of sequentially preferable sites.</p>
	<p>Housing Propose changes to the Local Plan to include housing allocations. Propose changes to Local Plan policy for a Windfall allowance</p> <p>Propose changes to the Local Plan to define Urban Area and clarify it as a broad location for years 6-10 and 11-15 if required.</p> <p>Propose further changes to the Housing Trajectory (K4) to reflect modifications to Local Plan (Anker Valley, Housing Allocations, Windfall allowance, housing growth outside the Borough)</p>
	<p>Housing – Anker Valley Propose changes to Local Plan policy SP6 to reflect the work carried out on Anker Valley and Lichfield MoU.</p>
	<p>Housing – long term growth Propose a new policy which will trigger a review of housing supply in the Borough. The purpose of the policy would be to review progress on the Anker Valley urban extension. After this review has taken place and dependant on the progress of Anker Valley this could result in a new Local Plan.</p>
	<p>Housing – Gypsy and Traveller To update policy CP7 to reflect the findings of the 2012 GTAA study. To modify policy CP7 to state that allocations may be needed if future assessments show a shortfall in supply.</p>
	<p>Employment Propose changes to the Local Plan to include employment allocations.</p> <p>Propose changes to the Local Plan to redefine strategic employment areas.</p>
	<p>Standards To amend policy to allow for flexibility.</p>
	<p>National Infrastructure The Council will propose modifications to the Local Plan which would trigger a review of Local Plan policies if the final route of HS2 and construction of the route was deliverable in the lifetime of the plan. Where necessary and</p>

	identified as a constraint land use allocations will make reference to HS2 and state possible mitigation measures.
	<p>Open Space and Sports</p> <p>Propose a modification to the Urban Park boundary to match the boundary for Kettlebrook Parks and Lakes (LNR2).</p> <p>Propose modifications to policy regarding delivery of a community sports centre.</p>
	<p>Infrastructure Delivery Plan</p> <p>To update accordingly with any additional infrastructure requirements, or further detail arising from all the further work undertaken.</p>

This page is intentionally left blank

Tamworth Borough Council

Local Plan Examination

Mr A Roberts
Development Plan Manager
Tamworth Borough Council
Marmion House
Lichfield Street
Tamworth
B79 7BZ

Amanda Willis
Programme Officer for Tamworth Borough Council
South Staffordshire Council
Council Offices
Wolverhampton Road
Codsall
South Staffordshire
WV8 1PX

15th February 2013

Dear Mr Roberts,

Tamworth Local Plan – Exploratory Meeting 12 February 2013

I said at the close of the Exploratory Meeting on Tuesday 12 February 2013 that I would write to the Council with my recommendation for the way forward for the Examination having heard the points raised at the meeting by its officers, its councillors, representors and local residents.

I understand that the Council's main suggested modifications to the Local Plan will be:

- to allocate up to 72 additional housing sites from the SHLAA (presently there is only one housing allocation in the Plan at Anker Valley);
- to allocate an unknown number of employment sites (presently none are allocated) with consequential alterations to the Strategic Employment Area boundaries;
- to allocate a new sports centre;
- to increase the boundary of the eastern urban park (policy SP8);
- to devolve decisions on retail and office allocations in the Town Centre and Wilnecote Regeneration Corridor to later Local Plans;
- further detail to clarify the implementation of the present strategic housing allocation at Anker Valley;
- to align the two separate Anker Valley policy housing allocations in Tamworth Borough and Lichfield District on either side of the B5493 Ashby Road to form a comprehensively developed housing site of some 2150 homes;
- an additional policy on how any housing shortfalls would be handled;
- more evidence on infrastructure and development viability to satisfy the requirements in the National Planning Policy Framework;
- more detail on how the 1000 homes outside the Borough to meet its housing requirements will be dealt with by Lichfield and North Warwickshire Councils;
- a windfall homes allowance, with evidence;
- a definition of the 'Urban Area';
- a new HS2 rail route safeguarding policy; and
- a revised Gypsy and Traveller policy based on a new 2012 needs assessment.

The last two pages of the Council's Schedule of Additional Work on the web link below sets out the Council's likely suggested modifications:

http://www.tamworth.gov.uk/pdf/Exploratory_Meeting_Work_Timetable.pdf

I am concerned that these modifications might open the Local Plan to legal challenge on two counts:

- 1) The modifications could be a clear indication that the Council had not submitted a plan for examination that it considered to be "sound", as required at paragraph 182 of the National Planning Policy Framework; and
- 2) The Sustainability Appraisal of the new policies in the Local Plan might be held to be merely justifying decisions on strategy and detail that have already been made. The results of the Sustainability Appraisal might not, therefore, inform the policy decisions which are now being suggested by the Council, or deal adequately with the assessment of possible alternatives.

I was told at the Exploratory Meeting that your Council will be requesting that I make these "main modifications" to make the Local Plan "sound". I consider that the nature and extent of the changes that you will be asking me to make go well beyond what is reasonable and would, in effect, involve a fundamental review of the Local Plan. The Local Plan would be very substantially and significantly different to the Plan publicly consulted upon and then submitted for examination. Making the modifications that your Council is suggesting would be unfair to those who engaged on the basis of the Local Plan as submitted and who would be denied the opportunity to affect the Plan's strategic direction, and thus its consequent detail, at its early formative stage. This was a point forcefully made by some of those who attended the Exploratory Meeting.

I have therefore concluded, contrary to my original hopes of continuing with the Examination, that the most appropriate course of action is for the Council to **withdraw** the Tamworth Local Plan; to carry out a proper Sustainability Appraisal to inform its decisions on the new Local Plan; to make the modifications and changes necessary to address the Local Plan's present unsoundness; to provide the evidence necessary to justify those modifications and changes; to republish the Local Plan for public consultation; and to submit the revised Local Plan for a new examination.

As you know, under Section 22(1) of the Planning and Compulsory Purchase Act 2004 and the 2012 Local Planning Regulations the Council may withdraw the Local Plan at any time prior to adoption.

Yours sincerely,

David Vickery

Inspector

Notes of the Exploratory Meeting held on Tuesday 12 February 2013 at 1400 hours

Main Participants:

Inspector: David Vickery
Programme Officer: Amanda Willis

Main Council representatives:

Matthew Bowers: Head of Planning and Regeneration
Alex Roberts: Development Plan Manager
Mohammed Azram: Development Plan Officer
Rob Mitchell: Director, Communities Planning and Partnerships

and some 44 people representing themselves, clients, wards of the Council, Residents Associations, other nearby Councils, and other organisations and bodies.

Introduction

1. The Inspector, Programme Officer and the Council's officers introduced themselves.
2. The Inspector stressed that at the Exploratory Meeting no evidence would be heard or discussion allowed on the merits of cases or representations. It would be limited purely to the matters on the Agenda. He would not discuss, or allow discussion on, any site specific proposals such as land at Coton Lane or Pennine Way. All those present in the room elected to stay for the meeting on these terms.
3. The meeting was then suspended for 10 minutes as the room's holding capacity had nearly been reached. The Inspector asked the Council to find a larger room, such as the Council Chamber, but he was told after investigation that this was not possible. He asked that as many participants who had confirmed they wished to attend the Exploratory Meeting should to be allowed into the room, and for copies of his Key Concerns with the Council's responses and the Council's Schedule of Additional Work to be distributed to those who were unable to be allowed into the room for safety reasons. This was done.
4. When the meeting continued, the Inspector explained that on a preliminary reading of the Local Plan, the submitted evidence base, and the representations, he had some serious concerns about the soundness of the Plan which he had set out in an earlier paper sent to participants. He had not found the Plan unsound at this point, and he had not failed to appreciate the hard work that had gone into it. This Meeting had been called to explore his concerns, to establish the best way to proceed with the Examination, and to enable the Council to consider the risk of the Plan being found unsound if the Examination proceeded. He thanked the Council officers for their technical work in preparing the responses to his concerns.
5. The Inspector explained that the Examination is about the soundness of the Plan, and that whilst he will have regard to the representations made he is not required to respond to each of them individually. The Examination started with the submission of the Plan and ends with the submission of the Inspector's report, unless the Examination is halted or suspended at an earlier stage. The Inspector's starting point for the Examination is the assumption that the Council has submitted what it considers to be a sound plan.

6. The Council is not bound to adopt the Plan if it chooses not to do so. Any necessary modifications to achieve a sound and legally compliant plan that have not been subject to public consultation and/or Sustainability Appraisal are likely to be beyond the Inspector's remit and would result in the Plan being found unsound, necessitating the Council returning to an earlier stage and re-running the process.
7. The Inspector explained the possible outcomes of the Meeting, namely: the Examination is temporarily suspended to enable further work on the Plan (which the Council had indicated was its preferred outcome); or the concerns are resolved and the Examination continues; or the concerns are not resolved but the Examination continues; or it is decided to withdraw the Plan.
8. Whilst the Inspector aimed to be pragmatic, positive and proactive (the 'three Ps'), the final decision on the submitted policies and evidence rested with the Council. The Inspector's task is to make a judgement on the Plan's soundness and legal compliance, not to improve it, and not to re-write the Plan.
9. The Inspector said that he would need time to make a decision on the way forward for the Examination in order to consider all the views expressed at the Meeting, but that at the moment he was minded to agree to the Council's request. He would make his decision later in writing, at the latest by the following week. The Inspector was asked (**John Mitchell**) whether a Pre Hearing Meeting would take place, and replied that his inclination at the moment was not to hold one, but he would assess the need for one later in the Examination and his decision would be made clear.
10. The Council confirmed that it was requesting the Inspector to suspend the Examination until mid-October 2013, and for him to continue with the Examination only insofar as to establish as soon as possible whether the Council had complied with the legal Duty To Co-operate. The Inspector said that if, after the Meeting, he complied with that request then any hearing session on the Duty would be likely to take place during the week commencing 15 April 2013. Based on the Council's Schedule, the Inspector said the main hearings would be unlikely to take place until December 2013 or possibly January 2014.

Strategic Housing Market Assessment (SHMA)

11. **Mr Roberts** said that the level of detail in the SHMA for devolving housing numbers down to wards was not appropriate for Tamworth Borough but that, in any event, the end result will be very nearly similar to that in the SHMA.

Town Centre and Wilnecote Regeneration Corridor

12. **Mr Roberts** said that the retail and office allocations in the above two areas would be devolved down to a later Local Plan or Plans, and that this Local Plan would provide detailed guidance for this. **Mr Forest** expressed concern about the viability of the town centre.

Strategic Housing Land Availability Assessment (SHLAA)

13. **Mr Roberts** said that the Council would allocate all of the developable and deliverable SHLAA housing sites, and would produce a Sustainability Appraisal (SA) and justifying evidence including technical work on highways, viability and land contamination. In reply to the Inspector, **Mr Roberts** said that there would be up to 72 additional housing allocation sites, although it was likely to be less than this number as the Council was confident that there was an excess of land for the plan periods. He undertook to provide the Inspector by Thursday 14 February with a note on what the Council meant by 'broad locations' in the context of future provision if the housing requirements cannot be met in the later plan period.

14. The Inspector expressed concern that any SA might be judged to be merely justifying decisions that have previously been made. He referred to the Cogent Land LLP v Rochford DC and Bellway Homes Ltd 2012 court case on this point, as well as those already referred to in his Key Concerns. (Note: see the commentary by Richard Harwood on the Cogent Land case in Issue 2 of the 2013 edition of the Journal of Planning and Environment Law. The court case can be viewed on: <http://www.bailii.org/ew/cases/EWHC/Admin/2012/2542.html>)
15. **Janet Hodson** (JVH Planning) said that the Plan would change significantly, showing more 'brown' housing sites on the Policies Map. She queried whether a SA would be carried out on all the SHLAA sites: **Mr Roberts** said that all the sites in the SHLAA, including failed sites, would be the subject of SA. She asked if the Council would then allocate the preferred choice sites from the SA: **Mr Roberts** said 'yes'. She asked what was the Council's 'Plan B' if not enough housing sites were allocated: **Mr Roberts** said this was explained in the Council response to the Inspector's Key Concerns paragraphs 30 to 33, which set out the trigger mechanism.
16. **Janet Hodson** said that the changes would in total result in the Plan being "a different creature in its entirety". The Inspector commented that the only two practical options available were either to carry on with the Examination (which the Council desired) or to withdraw the Plan, which only the Council or the Secretary of State had the power to undertake.
17. **Councillor Chris Cook** said that he agreed that the Plan would end up as a different creature. Sites are already going through the planning process, and what would happen to those? The Inspector replied that they would be included in the Plan as housing commitments in its Housing Trajectory. **Mr Forest** made similar comments and queried some of sites cited by the Council. The Inspector said that his site specific concerns were considerations for the later hearings.

Anker Valley – Policy SP6

18. **Mr Roberts** confirmed that additional detail to policy SP6 would be added, together with supporting evidence and a draft master plan, as set out in the Council's Responses. **Alastair Jones** (Marrons) welcomed this, but expressed concern about the intended complicated management to achieve the changes. The Inspector said that the way in which the Council achieved the changes was up to it, and he could not micro-manage that process – it was up to the Council to produce the changes and evidence by the time it had stated. **John Mitchell** asked what ATLAS was: Mr Bowers said that it was the Advisory Team for Large Applications.

Housing Trajectory

19. **Mr Roberts** said that the Housing Trajectory would be updated as set out in its Responses. **Mr Forest** asked if there would be more information: **Mr Roberts** said the Trajectory would include a table following on from and detailing the proposed housing allocations.

Housing allocations in Lichfield and North Warwickshire

20. **Mr Roberts** said that the Council intended to remove the restrictions in the various Memorandums of Understanding (MoU) and that these 1000 homes would appear on the Housing Trajectory as part of the Borough's housing land supply. In response to queries, such as that from **John Mitchell**, **Mr Roberts** explained that the Lichfield MoU would be amended to remove restrictions so that both it and the Plan's Anker Valley allocation could be treated as one comprehensive site (removing the restrictions on working starting only after 2021 or once the necessary linkages were complete). The North Warwickshire MoU would be amended to remove its restrictions, which are primarily not to deliver its homes until 75% of the Anker Valley or Borough homes had been completed.

21. **David Lander** (Boyer Planning) asked what was the Council trying to achieve by this at Anker Valley? **Mr Bowers** replied: the treatment of the Tamworth and Lichfield sites as one comprehensive site. **David Lander** commented that it was unusual to have MoUs and would they be sufficient to deliver the schemes? **Mr Roberts** said that the MoUs were helpful in dealing with the complicated and delicate interrelationships of the sites. The Inspector commented that he would expect that detail to be incorporated into the Plan's policies and text: **Mr Roberts** agreed.
22. **Janet Hodson** commented that there seemed to be two trigger points for the Lichfield and North Warwickshire housing provision, and yet another trigger for if more sites were to be needed, so how would this be handled overall? **Mr Roberts** replied that these queries would be answered in the additional work that the Council intended to carry out. **Graham Talbott** wondered if the Amington Link Road would be included? **Mr Roberts** said that this was to be decided. **Mr Forest** was concerned about the need for additional highway modelling as the combined Anker Valley sites would have a substantial effect on the highways network.

Employment

23. **Mr Bowers** and **Mr Roberts** said that employment sites would be allocated and Strategic Employment Areas would consequently have their boundaries altered. In answer to a question from the Inspector, the Council did not know how many employment sites would be allocated.

Town Centre

24. As previously stated, **Mr Roberts** said a later Local Plan would deal with allocations in the Town Centre for retail and office floorspace. This Local Plan would set out sequential preferences for such sites.

Sport and recreation

25. **Mr Roberts** confirmed that the Plan would allocate a sports centre, and that the urban park allocation (SP8) would be increased to match the local nature reserve boundary. **Mr Forest** expressed concern that the urban park allocation would be on an important biological area, and that it should be relocated to Pennine Way.

Gypsy and Travellers

26. **Mr Roberts** said that Tamworth and Lichfield had undertaken a gypsy needs assessment update in 2012, and that policy CP7 in the Plan would be altered to reflect the requirement for 1 pitch between 2012 to 2028.

Financial Viability

27. **Mr Roberts** said that the Council would provide financial viability information on the key and critical development sites.

Plan flexibility

28. **Mr Roberts** said that in terms of the financial effects of Plan requirements the Plan was either already sufficiently flexible, or its policies would be made flexible. The Plan would be changed to make it more flexible in dealing with any potential housing shortfall (a "Plan B"), able to find alternative sites; Anker Valley moved to later in the plan period; MoU restrictions removed; and a windfall allowance. The last bullet point of the Council's response to paragraphs 30 to 33 details the principles of such a new flexible policy.

29. **Mr Forest** said that he had researched the failure rates of housing site delivery which he had put into a letter to the Inspector and the Council. **Mr Roberts** said he was aware of the research and that the Council's windfall's policy would take it into account, whilst concentrating on windfall completions. **Councillor Chris Cook** was concerned that the Council's NLP report (on future house building requirements) did not take into account what local people think, and that its conclusions were putting pressure on public open space, which was a danger. The Borough's housing needs could be smaller than stated. **Neil Cox** (Lichfield Council) was concerned about unintended consequences flowing from the proposed Plan changes.
30. **Mr Forest** asked if the plan period would be extended. The Inspector replied that so long as the 15 year minimum period from the Plan's adoption was maintained as required in Government policy, then any further extension of time was up to the Council.

Duty To Co-operate

31. See above earlier note on this topic. The joint topic paper mentioned in the Council's responses was a reference to the 'Housing – Growth Outside the Borough' background paper on its Schedule of Additional Work. Mr Roberts said that it, and any other necessary work on the Duty, would be added also to Document A8 on the subject. The Inspector referred to queries raised (by **André Hefer** of Beacon Street Residents Association) about the Duty and the SA on the Birmingham Plan. **Mr Roberts** replied that this had been produced after this Plan was submitted and that Birmingham was still only at an option stage (i.e. not certain).
32. **André Hefer** asked whether the Duty could be satisfied by co-operation in the future. The Inspector replied that he understood that this was not legally possible as the Duty only applied to the Plan's preparation, not a future eventuality. **John Mitchell** queried sites in Polesworth, but the Inspector said that was a matter for the later Examination.

Sustainability Appraisal

33. The Council said this would be updated, and the Inspector drew attention again to his legal concerns mentioned earlier in these notes. **André Hefer** mentioned that the Government were about to release new housing statistics (including household formation figures) in February or March. The Inspector said that he would expect the Council to use any new housing figures in its additional work on the Plan.

Public Consultation

34. **Mr Forest** was concerned that many people would be on holiday in the first week of September which was partly covered by the Council's proposed consultation period. **Mr Roberts** said that the Council was satisfied that the period was adequate, bearing in mind that 5 weeks of the 6 week period were outside the week mentioned.

HS2 rail route

35. **Mr Roberts** said that the Plan would take the preferred HS2 route into account when allocating land. There would be a policy which would safeguard the route and which would, if necessary, trigger a review of the Plan if the route is altered. **Councillor Margaret Clarke** was concerned about the impact of the route on Pennine Way. She asked whether the Council needed to employ consultants to undertake the SA. The Inspector said that this was not a requirement, that many Councils undertook the SA work themselves, but that how it was managed and undertaken was up to the Council.

Possible outcome of the Exploratory Meeting

36. The Inspector asked the participants if they had any views or recommendations for him on the decision he should make on the outcome of the Meeting. No-one expressed any views or comments.

The Inspector's Decision

37. The Inspector announced again that he would not make a decision at the meeting on the way forward for the Examination. If he did as the Council requested, then he would accept the Fradley Airfield late objection and would expect the Council to reply to all the queries raised about the Plan's compliance with the Duty at a later hearing session – guidance on which would be issued later. He would write to all of the participants in the Examination with his decision as soon as possible, probably during the next week.
38. **Mr Forest** thanked the Inspector for his professionalism in his handling of, and the running of, the meeting.
39. The Inspector thanked everyone for their assistance. The meeting closed at around 17.05 hours.

David Vickery: 15 February 2013



Memorandum of Understanding relating to the delivery of housing within Tamworth Borough Council's Local Plan

This memorandum of understanding establishes a framework for co-operation between Tamworth Borough Council, Lichfield District Council and North Warwickshire Borough Council with respect to the delivery of a proportion of Tamworth's future housing requirement. It is framed within the Localism Act 2011 and the duty to cooperate set out in Section 110. This sets out the way in which the Councils will consult one another and work together on matters which affect more than one local authority area.

PARTIES TO THE MEMORANDUM

The Memorandum is agreed by the following Councils:

- Tamworth Borough Council
- Lichfield District Council
- North Warwickshire Borough Council

LIMITATIONS

The Councils recognise that there will not always be full agreement with respect to all of the issues on which they have agreed to cooperate. For the avoidance of doubt, this Memorandum shall not fetter the discretion of any of the Councils in the determination of any planning application, or in the exercise of any of their statutory powers and duties, or in their response to consultations, and is not intended to be legally binding.

OBJECTIVES

The Memorandum has the following broad objectives:

1. For both Lichfield District Council and North Warwickshire Borough Council to agree to deliver a proportion, identified as at least 500 new homes per authority (representing at least 1,000 in total), of Tamworth's future housing needs within their respective administrative boundaries.
2. To agree and approve the number of houses to be accommodated; their broad locations and the phasing mechanism for their delivery.
3. That in the case of Lichfield District Council, the broad location be restricted to land north of the Anker Valley allocation. **A firm allocation within Lichfield District will be identified through the Lichfield District Local Plan: Allocations document.**
4. That in the case of North Warwickshire Borough Council they will determine the location of the housing in their Site Allocations DPD;
5. To agree that delivery of the 500 new homes within North Warwickshire Borough will not commence until 75% of the 1150 proposed homes at Anker Valley Sustainable Urban Neighbourhood and 75% of the remaining housing target are completed, or by 2022, whichever represents the later date.
6. To agree that delivery of new homes within Lichfield District to meet Tamworth Borough's needs will **be informed by an Anker Valley masterplanning exercise that**

will inform the Tamworth Local Plan and the Lichfield District Local Plan: Allocations document. ~~to not commence until 2021 or until the necessary linkages have been delivered within Tamworth Borough, whichever represents the later date.~~

7. To confirm the potential for joint authority mechanisms to deliver the housing growth, through joint **Local Plan** Documents; if considered appropriate and deliverable.

8. **To agree the mechanisms for monitoring housing policy and residential land within Lichfield District Council and North Warwickshire Borough Council where policy indicates or land has been allocated to meet the housing needs of Tamworth Borough Council.**

9. To agree the mechanisms for collecting and administering monies arising as a consequence of allocating and approving the housing growth. That both Lichfield District Council and North Warwickshire Borough Council are the respective sole collecting authorities for the New Homes Bonus and Section 106/CIL monies resulting from delivering the homes within their administrative boundaries. This however does not prejudice any future negotiations between all three Councils, in relation to agreeing contributions to infrastructure that may be provided within Tamworth Borough Council's administrative boundary to support the housing development.

10. To ensure that all three Councils reflect the memorandum through agreed policy wording within their respective Local Plans, and any subsequent LDF Documents.

LIAISON

Member level representatives of the Local Authorities will meet yearly or more frequently when appropriate, in order to;

- Maintain and update the memorandum, as necessary.
- Monitor the preparation of LDF Documents across the three authorities and discuss strategic issues emerging from them
- Act as a working party to oversee the production of any joint authority LDF documents; should this approach be agreed and will maintain an 'Officer Working Group' to take forward an agreed programme.

TIMESCALE

The Memorandum of Understanding is intended to run up to 2029 to align with the timescale of the three authorities' respective Local Plans but will be reviewed in April 2015 to establish how effective it has been.

Signed on behalf of Tamworth Borough Council
Councillor Daniel Cook, Leader of Tamworth Borough Council
Date:

Signed on behalf of Lichfield District Council

Councillor Mike Wilcox, Leader of Lichfield District Council
Date:

Signed on behalf of North Warwickshire Borough Council
Councillor Mike Stanley, Leader of North Warwickshire Borough Council
Date:

This page is intentionally left blank

COUNCIL

19 March 2013

REPORT OF THE SOLICITOR TO THE COUNCIL AND MONITORING OFFICER

REVIEW OF MEMBERS ALLOWANCES

Purpose of Report

To advise Council of the recommendations of the Members Independent Remuneration Panel who have recently undertaken a review of Members Allowances in accordance with regulations. The report of the panel is attached at **Appendix 1**.

Executive Summary

Regulations came into force in May 2003 which requires the Council to review and adopt a scheme of allowances for members.

All Councils are required to convene an Allowances Panel and seek its advice before they make any changes or amendments to their allowance scheme and they must "pay regard" to the Panel's recommendations before setting a new or amended Members Allowances Scheme.

The Members Remuneration Panel was convened on 28 February 2013.

It is a statutory requirement that a summary of the remuneration panel recommendations are published in a local newspaper and this has to be undertaken.

The recommended changes to be implemented from the date of the Annual Council meeting in 2013/14 can be summarised as follows:

1. No increase to the basic allowance or to any Special Responsibility Allowances. Thus the proposed basic allowance remains £5,054.
2. All of the current Allowances payable to Members be discounted by 10%. That the 10% discount is only paid to the Members who attend 75% of the scheduled meetings of the Committees that they are appointed to. The payment then takes the form of a lump sum paid retrospectively at the end of the municipal year. The meetings that count for Members attendance are those published in the attendance summary on the Council website.
3. Post holders in receipt of Special Responsibility Allowance are subject to a double discount penalty.
4. The panel reconvenes in 12 months time to review the Members Allowances Scheme with particular regard to assessing the success of the new performance related element of remuneration and refine accordingly.
5. The SRA paid to the leader of £12,814 remains unaltered for 2013/14 subject to the aforesaid performance criteria being met.

6. The payment of SRA to Vice Chairs of Scrutiny be discontinued.
7. The provision for a co-optee allowance of £311 be deleted from the Members Allowance Scheme and replaced by a remuneration of £45 for each meeting under 4 hours duration, £90 for each meeting over four hours duration.
8. Subsistence Allowance can no longer be claimed by Members attending approved duties within the Borough unless there are exceptional circumstances as defined by the person calling the meeting and approved by the Monitoring Officer.
9. The current definition and scope of approved duties for which Members can claim travel allowances remains unaltered. With no change to allowances where Members travel by public transport, with all claims requiring to be backed up with receipts.
10. Payments under the Dependents Careers Allowance Scheme remain unaltered.
11. As previously recommended the panel considered all members should be eligible to join the Local Government Pension Scheme for another four years.
12. That all the aforesaid Allowances and Subsistence rates are indexed accordingly.

Costs for items 8, 9, 10 and 11 are not easily quantifiable given that they are dependent on the level of duties, the uptake of members joining the LGPS and claims in the year. Based on past experience the recommendations should not have a significant financial effect, it may in fact result in a small saving.

Council is requested to consider the recommendation of the panel and either agree with the proposals or put forward reasonable alternatives.

The amended scheme as approved following the Panel's recommendations (or following Council Proposals) is to be adopted from the beginning of the Municipal Year 2013/14.

This report does not seek a key decision, but Council is responsible for reviewing and adopting a scheme of allowances for members.

Financial Implications

In the next financial year 2013/14 the proposals would mean no increase in the budget. It is expected that this can be managed within existing budgets.

The risk of not updating the allowance scheme is that the political management structure of the Council may not be accurately acknowledged in accordance with statutory and regularity requirements.

Recommendation(s)

Council is recommended to consider the Panels report and adopt one or a combination of the following:

- a) Receive the recommendations in full
- b) Receive the recommendations in part.
- c) Put forward alternative recommendations in addition to or as opposed to those not accepted.
- d) Reject the recommendations.

If Members would like further information or clarification prior to the meeting, please contact Jane Hackett on Ext. 258

Background Papers:-	Appendix 1
----------------------------	------------

This page is intentionally left blank

By virtue of paragraph(s) 1 of Part 1 of Schedule 12A of the Local Government Act 1972.

Document is Restricted

This page is intentionally left blank

By virtue of paragraph(s) 1 of Part 1 of Schedule 12A
of the Local Government Act 1972.

Document is Restricted

This page is intentionally left blank

By virtue of paragraph(s) 1 of Part 1 of Schedule 12A
of the Local Government Act 1972.

Document is Restricted

This page is intentionally left blank

By virtue of paragraph(s) 1 of Part 1 of Schedule 12A
of the Local Government Act 1972.

Document is Restricted

This page is intentionally left blank