

## **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