

**Lichfield District Council**  
**Examination of the Lichfield District Council Local Plan 2040**

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8 August 2022

Dear Mr Stray

**Inspectors' Initial Letter**

1. Thank you for submitting the Lichfield District Local Plan 2040 (the Local Plan) for examination. We are still at an early stage in our preparation and reading. However, we have initial questions for the Council on which clarification and further information would be appreciated. Our requests are set out in the relevant sections of this letter.
2. Your responses will help us to determine how the Examination should proceed. These initial questions and requests for information are not exhaustive and further reading may give rise to additional queries relating to soundness and/or legal compliance.
3. All formal correspondence, including this letter, will need to be placed on the Examination website in the interests of transparency.

**The Plan and submission documents**

4. The Local Plan, in part, responds to the requirement in Policy LPR of the Local Plan Allocations (2019) (Allocations Plan) to undertake an early review. The intention of that early review was to replace the Local Plan Strategy (2015) in all respects and to cover the matters set out in Policy LPR, as a minimum. Paragraph 1.3 of the Local Plan says that it is intended to replace all previous local plan documents that have been adopted. This is said to comprise the Local Plan Strategy and the Allocations Plan.
5. Appendix D of the Local Plan contains a schedule of saved policies from both existing plans. This appears to contradict the intention set out in paragraph 1.3. Our reading of Appendix D also suggests that some of the policies are only being saved in part. In this context, we would appreciate the Council's view on whether saving in part is possible, as opposed to the whole policy remaining extant, and what the authority for this is.

6. It should also be noted that the repetition of policy numbers across saved policies and policies within the Local Plan at Examination are likely to give rise to confusion.
7. Section 19(1) of the Planning and Compulsory Purchase Act 2004 (the 2004 Act) requires local plans to be prepared in accordance with the Local Development Scheme (LDS). Section 15 of the 2004 Act sets out that the LDS should specify the subject matter and geographical area to which a plan relates, as well as the timetable for preparation. While the Local Plan refers to saved policies and allocations in previous development plan documents, how those development plan documents have been considered as part of the Council's LDS dated May 2022 [SD1-26] is unclear.
8. The submission documents include what the Council identifies as Schedule of proposed modifications dated April 2022 [SD1-3]. It is unclear whether the modifications have been subject to public consultation prior to the submission of the Local Plan. If they have not, we will examine the submitted version of the Local Plan [SD1-1] which has been subject to public consultation. Modifications put forward by the Council will be given due regard during the Examination based on whether they are considered by us to be Main Modifications that are necessary for soundness.

#### Inspectors' request 1

- a. What is the Council's intention regarding replacement/superseding of policies in existing plans? If saving is proposed, what is the Council's view on whether it is possible to save a policy only in part and where is the authority for this?
- b. In the light of our comments above in relation to saved policies does the Council consider that the Local Plan has been prepared in accordance with the LDS?
- c. Has the Schedule of Proposed Modifications [SD1-3] been subject to any public consultation? If so, what were the dates of consultation?

### **Procedural and Legal Compliance**

#### *Duty to Co-operate (the Duty)*

9. We note the provision of the Council's Duty to Co-operate Statement Update to the Submission version as at 30 June 2022 [SD1-8a]. This provides information about engagement with local planning authorities and prescribed bodies on strategic matters during the preparation of the Local Plan in relation to Section 33A of the 2004 Act.

Inspectors' request 2

- a. What were the main mechanisms that were used to engage constructively, actively and on an ongoing basis with the relevant local planning authorities and other prescribed bodies to address the strategic matters during the preparation of the Local Plan?
- b. Have any local planning authorities or other prescribed bodies made representations under Regulation 20, or subsequently in discussions about the Duty and development of Statements of Common Ground, that claim it has not been complied with?
- c. What, if any, outstanding strategic matters are subject to ongoing discussions with any local planning authorities or other prescribed bodies and what is the latest position with regard to those?
- d. A number of Statements of Common Ground have been provided in draft or with officer agreement only, while others are awaited. Have signed Statements of Common Ground now been secured between the Council and all relevant parties?
- e. Are there any significant concerns expressed by interested parties regarding the Duty which remain a matter of dispute?
- f. SD1-8a makes repeated reference to the development and agreement of strategies and plans in relation to matters such as the A5, the Cannock Chase Area of Outstanding Natural Beauty, the Cannock Chase and River Mease Special Areas of Conservation (SAC). What progress has been made on these strategies and plans?
- g. SD1-8a refers to various memoranda of understanding and supporting documents with regard to cross-boundary strategic matters. What status do these documents have and should they be provided to the Examination?
- h. Please address matters a-g as part of a single further Duty to Co-operate statement.

*Sustainability Appraisal*

10. The Council has provided three recent versions of the Lichfield District Local Plan 2040 Sustainability Assessment (SA), one of which is dated June 2021 [SD1-17], one dated December 2021 and the most recent which is dated June 2022 for the Submission Plan [SD1-16]. While we appreciate the iterative nature of SA, all of the aforementioned documents appear to have omissions in respect of employment and transport matters.

Inspectors' request 3

- a. Is there an SA non-technical summary in line with The Environmental Assessment of Plans and Programmes Regulations 2004 (the SEA Regulations)?
- b. Can Appendix F – Matrix of Submission Plan Policies be amended to show the SA objectives and questions on each page so that it is possible to read the results for each policy against the SA objectives and questions?
- c. Has the SA appropriately addressed employment land? In the absence of proposed employment allocations, as discussed below, is it possible to establish any likely significant effects in the short, medium and long-term?
- d. In the absence of strategic transport modelling, as discussed below, has the SA been able to appropriately account for any likely significant effects in relation to transport?

*Habitats Regulations Assessment*

- 11. With regard to Habitats Regulations Assessment (HRA) of the Lichfield District Local Plan 2040 (dated 28 June 2021) [SD1-21], appropriate assessment has been undertaken. However, in the absence of traffic studies and air quality analysis, the HRA confirms that there is no evidence available at this time for evaluation and the Council is therefore unable to ascertain that the Local Plan will not adversely affect the integrity of a number of SAC and Ramsar sites.
- 12. Furthermore, Natural England considers there is insufficient evidence to rule out the potential for harm from development in the Local Plan. Having read the Statement of Common Ground between Lichfield District Council and Natural England dated July 2022 [SD5-5], the principal outstanding concerns relate to visitor impact and air quality for Cannock Chase SAC and water quality for the River Mease SAC.

Inspectors' request 4

- a. With particular regard to the need to predict likely levels of nitrogen deposition resulting from increased airborne concentration of nitrogen oxides and ammonia, has any transport modelling and air quality analysis been completed which would feed into the HRA process? When is this likely to be carried out and completed? Does any work on air quality involve assessment in-combination with plans and projects in neighbouring authorities?

- b. What does the updated Memorandum of Understanding for the Cannock Chase SAC Partnership cover? What progress has been made in respect of financial arrangements for mitigation of visitor impact on the Cannock Chase SAC?
- c. What progress has been made in mitigating water quality issues within the river catchment of the River Mease SAC, with particular regard to phosphate levels?
- d. Given the aforementioned questions and the time that has elapsed between the production of the HRA and submission of the Local Plan, does the HRA require updating?
- e. In light of the acknowledgement of further work being necessary in paragraphs 16 and 19 of the Statement of Common Ground [SD5-5] please set out what the timeline for this work is and how progress will be evidenced (for example, through updated Statements of Common Ground)?

## Housing

### *Housing need*

- 13. Policies SP1 and SP12 rely on evidence of local housing need (LHN) set out in the Housing and Economic Development Needs Assessment (HEDNA) [SD4-37 and SD4-38]. This document was originally prepared in September 2019 and was updated in some respects in November 2020. Planning Practice Guidance is clear that LHN numbers should be kept under review and revised where appropriate<sup>1</sup>. To ensure that the examination reflects an up to date picture, we require a calculation and methodology that rebases the figure to the period 2022 - 2032 and uses the most up to date affordability data. More broadly on the HEDNA, in light of the age of this document, the Council should explain how they consider it to still be up to date, including any steps they have taken to keep the contents under review.

### *Site selection process*

- 14. The evidence base includes a number of documents relating to housing site selection that have influenced the Council's choice of the four strategic allocations set out in Policies SP1 and SP12. The Local Plan Review Housing Site Selection Paper [SD4-45] includes an overview of the site selection methodology at figure 1. Paragraphs 3.18 to 3.25 set out a methodology relating to Stage 5 (Assessment outputs) and Stage 6 (Review of preferred sites following consultation).

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<sup>1</sup> Paragraph: 008 Reference ID: 2a-008-20190220

15. In relation to Stage 5 set out in the Site Selection Paper, it is unclear to us how the 254 sites from the Strategic Housing Land Availability Assessment that were screened in were then reduced to the 7 sites that make up the 4 strategic allocations in the Local Plan. Paragraph 3.21 of SD4-45 says that the site selection followed assessment against the relevant outputs and the alignment with the preferred growth strategy. However, we do not see a document that sets out comprehensively how that assessment was carried out or the growth strategy that it was being considered against. This creates a gap in the evidence base resulting from the lack of a clear and consistent explanation as to why the 7 sites were chosen.
16. Turning to Stage 6, there is an absence of evidence to explain the outcome of the review of the preferred sites in response to consultation and any updated technical information, including information on infrastructure requirements and outcomes from the viability study. Our expectation would be that the evidence base would explain how Stage 6 had been undertaken, including any technical information that has arisen as a result and how the Council has responded to it.
17. The relationship between site selection, consideration of reasonable alternatives, and SA is also unclear to us from the evidence base. In relation to reasonable alternatives, the methodology in the site selection paper does not fully reflect what is set out in paragraphs 2.63 - 2.68 of the SA [SD1-16] and the site selection paper is difficult to align with the different iterations of the SA.
18. This makes it hard to verify the robustness and consistency of the site selection process the Council have followed. We therefore require a topic paper on site selection that covers these issues.

#### *Housing requirement*

19. Delivery of the housing requirement in the Local Plan relies on the four strategic allocations set out in Policies SP1 and SP12 coming forward. In order to assesses the deliverability of each site we require more information about how the Council has identified, considered, and responded to any challenges. This includes in relation to timings (such as dependencies on other related sites delivering as planned), site constraints and capacity, infrastructure requirements and dependencies, and timing/phasing of delivery and any relationships with sites that are expected to come along earlier in the plan period. We also require information on the degree to which any assumptions relating to delivery are based on market intelligence, for example discussions with site promoters/developers about phasing. Is the outcome of any such work reflected in the consideration of viability?

20. Paragraph 1.3 of the Local Plan acknowledges the need for existing neighbourhood plans to be updated to reflect the proposed policies. As set out in paragraph 66 of the National Planning Policy Framework (the Framework), please provide details of what the housing requirement would be for each designated neighbourhood planning area.

*Housing supply*

21. In relation to smaller sites, the Housing Need and Supply Topic Paper [SD4-60] provides some information about delivery. However, there is an absence of evidence to confirm whether at least 10% of the housing requirement would be accommodated on sites no larger than one hectare, in line with paragraph 69a of the Framework and how that would be achieved.
22. To assist with our consideration of housing supply, please provide an update on completions to reflect the latest data and a housing trajectory in an Excel format.

*Provision for Gypsies, Travellers, and Travelling Showpeople*

23. Part of the rationale behind Policy LPR of the Allocations Plan relates to the provision of sites for Gypsies, Travellers and Travelling Showpeople. The Local Plan Strategy at Policy H3 confirmed that the forthcoming Allocations Plan would allocate sites for Gypsies and Travellers and Travelling Showpeople. Only Site GT1: Land at Bonehill Road, Mile Oak was allocated within the Allocations Plan for a single additional pitch.
24. Policy SP12 refers to the delivery of 7 residential pitches to meet identified needs of gypsies and travellers to 2040, while Policy H3 clarifies that the identified need for 4 of those 7 pitches will need to be met by 2024. Intensifying provision in existing locations is identified as a means of delivery, with a fallback position of the Council considering all available delivery mechanisms if provision has not increased by 2024. We require greater clarity on the Council's approach as set out below. It appears that the additional pitch allocated as Site GT1 has not yet been provided and the allocation is being saved, but this is not referred to in either Policy SP12 or Policy H3 of the Local Plan.

Inspectors' request 5

- a. Provide a detailed calculation of LHN at 1 April 2022, along with an explanation of how it has been calculated against the methodology set out in the Planning Practice Guidance (PPG). What is the reason for the Local Plan adopting the figure at April 2020, rather than 2022?
- b. Given its age, how can the HEDNA be relied upon as up to date evidence? What steps have been taken to keep the assessment under review and to consider revising, where appropriate?

- c. Provide a topic paper on site selection that covers the issues set out in paragraphs 14 to 18 of this letter.
- d. Supply any further supporting information/technical work available relating to the suitability, availability and deliverability of the proposed strategic allocations, for example, draft Masterplans, technical reports and other evidence.
- e. What is the anticipated housing requirement resulting from the Local Plan for each designated neighbourhood planning area?
- f. Would at least 10% of the housing requirement be accommodated on sites no larger than one hectare? If so, how would that be achieved?
- g. Provide a table to show the net completed dwellings for each of the settlements set out in Table 7 of the Local Plan arising from data on annual completions for periods after April 2020. When is the publication of the next Authority Monitoring Report anticipated?
- h. Provide a housing trajectory (which takes account of all sources of supply and builds on the Local Plan's Appendix A: Housing trajectory) in an Excel format.
- i. With regard to provision for Gypsies and Travellers, provide further detail to show whether there is scope for intensification of existing sites to create more pitches and to clarify what all available delivery mechanisms would consist of in order to provide a supply of specific, deliverable sites.

## **Employment**

- 25. Policy SP13 advises that approximately 85 hectares of land will be allocated for employment uses, informed by the Employment Land Availability Assessment [SD4-7a] amongst other evidence. However, the Local Plan is opaque on what sites will be allocated for employment uses.

### Inspectors' request 6

- a. How was the figure of 85 hectares of employment land reached and where would it be accommodated? Please set this out in a topic paper on employment that includes the employment land requirement and estimated land supply relating to this Plan period (broken down by source of requirement/supply); whether the requirement and supply figures are gross hectares, or net; and a detailed breakdown of sites which will be allocated, with the expected type and mix of use classes.
- b. Is the Council is intending to meet any employment needs from within the wider Greater Birmingham and Black Country Housing Market Area?



## Green Belt

26. The Plan identifies strategic changes to the Green Belt around Fazeley, Mile Oak and Bonehill and Whittington with sites to be removed from the Green Belt and allocated for development.
27. Proposals to re-draw Green Belt boundaries should generally follow a two-stage approach. The first stage consists of evidence gathering and assessment that leads to the Council finding that review of the Green Belt boundary is necessary to help meet development needs in a sustainable way, as set out in paragraphs 142 and 143 of the Framework. The second stage determines which site or sites would best meet the identified need having regard to Green Belt harm and other relevant considerations. It is only after satisfactory completion of the two stages that exceptional circumstances are capable of being fully demonstrated.
28. Typically, the first stage involves several steps, starting with a thorough investigation of the capacity of the existing urban areas and whether this has been maximised. Subtracting this from the LHN leaves the amount of development to be provided outside the urban areas. The next step is to consider whether there is any non-Green Belt rural land which could meet all or part of the unmet need in a sustainable manner and having regard to any other significant constraints. These two steps address the requirements of paragraphs 141 - 143 of the Framework and give a scale of unmet need which can only be met by Green Belt release.
29. It may then be necessary to consider whether, in principle, this residual need is one which should be met by Green Belt release. This might involve examining not only the justification for meeting the LHN or the housing requirement (or the consequences of not meeting LHN or the housing requirement) but also addressing sustainability considerations and consistency with the Local Plan's overall strategy reflecting paragraphs 141 - 143 of the Framework.

### Inspectors' request 7

- a. The Council should produce a topic paper on Green Belt which explains the steps taken by the Council prior to making the decision to allocate sites currently within the Green Belt for development, including how it has influenced decision making around site selection for housing, as discussed above. This should include reference to relevant parts of the evidence base. The topic paper should include detail on how the Council considers it has addressed paragraphs 141 – 143 of the Framework, with reference to supporting evidence.

- b. Furthermore, as Burntwood is intended to contribute towards the delivery of the Council's housing requirement and the settlement appears to be tightly bounded by Green Belt, could the Council clarify if it intends the forthcoming Burntwood Area Action Plan to include Green Belt release?

## **Transport**

- 30. The PPG at paragraph 54-001-20141010 confirms that it is important for local planning authorities to undertake an assessment of the transport implications in developing or reviewing their Local Plan so that a robust transport evidence base may be developed to support the preparation and/or review of that Plan. It also highlights the infrastructure requirements for inclusion in infrastructure spending plans linked to the Community Infrastructure Levy, section 106 provisions, and other funding sources.
- 31. However, there appears to be an absence of up to date transport evidence base, strategic transport modelling work, or understanding of what specific transport infrastructure would be required for the strategic allocations and how it would be delivered.

### Inspectors' request 8

- a. Is the Local Plan supported by strategic transport modelling?
- b. Reference is made at SD1-8a (Annex B) to the production of a Transport Assessment with Staffordshire County Council and Highways England (now National Highways). Has this been submitted to the Examination?
- c. What consideration has been given to supporting transport infrastructure for the strategic allocations, saved previously allocated housing sites, and employment provision within the district? What will the implications of the Local Plan's spatial strategy be for the strategic road network?
- d. When is Staffordshire County Council's updated Integrated Transport Strategy for Lichfield expected? Have any more recent transport strategy documents been produced by Staffordshire County Council, National Highways, or any other relevant organisations? If so, should they form part of the Local Plan's evidence base? Has the Council provided relevant wider road project work for the A5 and A38 to the Examination?

## **Infrastructure and Viability**

- 32. Policy SP5 confirms that both strategic and local infrastructure will be linked to the phasing of new development. It also states that phasing and specific infrastructure requirements are set out within the Infrastructure Delivery Plan [SD4-14] and the policies and concept statements relating to the strategic allocations.

33. In addition to the aforementioned concerns about transport, there is an absence of detail on infrastructure requirements, delivery agencies, funding sources, costs, and the phasing of development within the Local Plan with particular reference to the strategic allocations.

Inspectors' request 9

- a. The Council should provide a Gantt chart showing the delivery of overall growth over the plan period (including commitments, windfall etc). It should also show each housing, employment and mixed-use allocation and the infrastructure necessary to bring forward each site with timescales and phasing, so we are able to see when items of infrastructure are required to unlock specific development.
- b. What evidence is there to confirm that any likely infrastructure requirements have been taken into account in assessing the effect of policies on the viability and phasing of development?
- c. Did the Local Plan and CIL Viability Assessment (September 2020) assess the submitted Local Plan or an earlier version of it? Does the Council consider that the Local Plan and CIL Viability Assessment is up to date?

**Next Steps**

34. The progress of the Examination will obviously depend on receipt of the information requested in this letter and then the extent of further questions prompted by further reading. However, in order to progress matters, the Council is requested to provide a timetable for the provision of all the requested information.
35. If you have any questions, please do not hesitate to contact us via the Programme Officer.

Yours sincerely

*Joanna Gilbert*

*Darren McCreery*

Inspectors