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# **Report to East Staffordshire Borough Council**

**by B J Sims BSc(Hons) CEng MICE MRTPI**

**an Inspector appointed by the Secretary of State for Communities and Local Government**

**Date: 7<sup>th</sup> October 2015**

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PLANNING AND COMPULSORY PURCHASE ACT 2004 (AS AMENDED)

SECTION 20

**REPORT ON THE EXAMINATION OF THE  
EAST STAFFORDSHIRE LOCAL PLAN**

Document submitted for examination on 11 April 2014

Examination hearings held 28-31 October 2014 and 12-21 May 2015

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## Abbreviations

<i>[xxx]</i>	<i>Examination Library Document Reference xxx</i>
5YHLS	Five Year Housing Land Supply
AA	Appropriate Assessment
BCIS	Building Costs Information Service
BRES	Business Register and Employment Survey
DCLG	Department for Communities and Local Government
dpa	dwellings per annum
DPD	Development Plan Document
DTC	Duty to Co-operate
ELR	Employment Land Review
ERSA	Examination Revised Sustainability Appraisal
ESLP	East Staffordshire Local Plan
GBSLEP	Greater Birmingham and Solihull Local Enterprise Partnership
HCSPD	Housing Choice Supplementary Planning Document
HLS	Housing Land Supply
HMA	Housing Market Area
IDP	Infrastructure Audit and Delivery Plan
LDS	Local Development Scheme
LEA	Local Education Authority
LEP	Local Enterprise Partnership
MM	Main Modification
NP	Neighbourhood Plan
NPPF	National Planning Policy Framework
OAHN	Objective Assessment of Housing Need
OCA	Overall Catchment Area
PHM	Pre-Hearing Meeting
PPG	Planning Practice Guidance
PSED	Public Sector Equality Duty
RSA	Revised Sustainability Appraisal
SA	Sustainability Appraisal
SCC	Staffordshire County Council
SCI	Statement of Community Involvement
SCS	Sustainable Community Strategy
SGG	Strategic Green Gap
SHLAA	Strategic Housing Land Availability Assessment
SHMA	Strategic Housing Market Assessment
SNHP	Sub National Household Projections
SO	Strategic Objective
SoS	Secretary of State
SP	Strategic Policy
SPD	Supplementary Planning Document
SUE	Sustainable Urban Extension
VS	Viability Study
WMS	Written Ministerial Statement

## Summary

This Report concludes that the East Staffordshire Borough Council Local Plan 2012-2031 – “Planning for Change” - provides an appropriate basis for the planning of the Borough, provided that a number of modifications are made to the Plan. The East Staffordshire Borough Council has specifically requested me to recommend any modifications necessary to enable the Plan to be adopted.

All of the modifications recommended were proposed by the Council in response to representations made on the draft Plan, discussion at the Hearings and Interim Findings by the Inspector and were then subject to further public consultation. Where necessary, the detailed wording has been amended in light of the representations received.

The modifications are summarised as follows:

- a specific commitment to early review of the Plan, if necessary to accommodate changes in material planning circumstances or a failure of the chosen spatial strategy to bring forward the requisite amounts of housing and other development;
- an additional policy to clarify the role of Neighbourhood Plans in the context of the Borough Local Plan;
- a stepped housing requirement and trajectory of 466 dwellings per annum (dpa) to 2018 rising to 682 dpa to 2031 commensurate with the anticipated trajectory of housing provision by strategic sites allocated in Sustainable Urban Extensions;
- revised and expanded provisions for affordable housing contributions; and
- a range of other revisions to the policies, text and settlement boundaries to ensure that the Plan is sound, including with respect to transport, education and health infrastructure, biodiversity, gypsy and traveller accommodation and detailed development management especially in connection with allocated sites, town centres, water-based recreation and in areas outside defined settlements.

## **Introduction**

### ***Basis of Examination***

1. This Report contains my assessment of the East Staffordshire Local Plan 2012-2031 (ESLP - the Plan) in terms of Section 20(5) of the Planning & Compulsory Purchase Act 2004 (as amended). It considers first whether the preparation of the Plan has complied with the Duty to Co-operate (DTC), in recognition that there is no scope to remedy any failure in this regard. The Report goes on to consider whether the Plan is compliant with all legal requirements and whether it is sound. The National Planning Policy Framework (NPPF), at paragraph 182, makes clear that, to be sound, the Plan should be positively prepared, justified, effective and consistent with national policy.
2. The starting point for the Examination is the assumption that East Staffordshire Borough Council (the Council) as local planning authority has submitted what it considers to be a sound plan. The basis for the Examination is the submitted draft Plan which is the same as the document published for pre-submission consultation in October and November 2013. Therefore, whilst extensive written and oral representations have been made concerning not only the development sites allocated by the Plan and alternatives to them ('omission sites'), the latter are not considered in detail within this Report, save where such consideration relates directly to the essential soundness of the Plan.

### ***Post-submission Documentation and Pre-Hearing Meeting.***

3. The Council submitted with the draft Plan a 'Pre-Submission Revised Sustainability Appraisal Report' dated March 2014 (RSA) [A.6-7]. This was intended to clarify matters including the assessment baseline, consideration of options and selection of sites in the light of representations made in the pre-submission consultation on the Plan. The RSA was itself still subject to public consultation at the time that the Plan was submitted for examination. Representations upon it, and Council responses to them, were therefore provided during the Examination. [F.8-9]
4. Concurrently with the submission of the Plan, the Council undertook public consultation upon its draft Housing Choice Supplementary Planning Document (SPD) [B.32]. Whilst this matter is procedurally quite separate from the examination of the ESLP, the Housing Choice SPD (HCSPD) includes policy provisions for affordable housing which the National Planning Policy Framework (NPPF) states should be set out in the Local Plan. Moreover, Representors to the HCSPD understandably sought to cross-reference their responses to both documents. Accordingly, I exercised my prerogative to invite Representors to the HCSPD to appear in connection with the issue of affordable housing provision set out below. Representations upon the HCSPD [F.11], and Council responses to them [F.16], were therefore conjoined for consideration with those to the ESLP.
5. A significant amount of other post-submission material was introduced by the Council, including several updated versions of previous documents. These are catalogued in the Examination Library List.

6. In the circumstances, for reasons publicly explained [E.5], I held a Pre-Hearing Meeting (PHM) on 16 September 2014 to ensure that Representors to the ESLP and the HCSPD understood the procedure being adopted. Hearings were deferred until October 2014 to allow time for Representors to become acquainted with the latest evidence and to prepare Position Statements to include comments on the post-submission material prior to discussion at the Hearings.

### ***Interim Findings and Further Work during the Examination***

7. After the first four Hearing sessions in October 2014, which were devoted mainly to strategic matters, I published Interim Findings [E.19]. These gave rise to further work by the Council in connection with housing need, supply and site selection [F.43-47, F.53-54]. Representors were invited to include their responses to this additional evidence in further or revised Position Statements and in discussion on resumption of the Hearings in May 2015. In addition, the Council produced a further revision of the sustainability appraisal entitled 'Local Plan (Examination) Revised Sustainability Appraisal' dated December 2014 (ERSA) [F.41-42]. This was subject to public consultation in January 2015. The ERSA is taken into account in this Report together with the public representations upon it and responses to them by the Council [F.51-52].
8. Subsequently, in April 2015, the Council published its Five Year Housing Supply and Completions Reports [F.66-67] and after the final seven Hearing sessions in May 2015, the Council provided a series of illustrative Five Year Housing Land Supply (5YHLS) calculations for the Plan period [F.68-73]. Further written representations were accepted concerning these documents during June 2015 and are taken into account in this Report [Addenda to PS-37, 41, 42, 43, 46, 47, 48, 49, 51, 52; F.75].
9. This report supersedes all my previous Interim Findings in the light of subsequent evidence and discussion.

### ***Modifications***

10. This Report deals essentially with the Main Modifications that are needed to make the Plan sound and legally compliant. These are identified in bold script (**MM**). In accordance with section 20(7C) of the 2004 Act, the Council requested that I should recommend any modifications needed to rectify matters that make the Plan unsound or not legally compliant and thus incapable of being adopted. These Main Modifications are set out in a two-part Appendix to this Report.
11. The MMs that are necessary for soundness all relate to matters that were discussed at the Examination Hearings. Following these discussions, the Council prepared a Schedule of Proposed Main Modifications [F.76] which has been subject to sustainability appraisal in an ERSA Addendum [F.78-79] and to public consultation. The representations made during the MM consultation are summarised in a report by the Council together with its responses [F.83-84]. These include a note on its current affordable housing position [F.85]. These documents raise no issues which were not discussed during the Examination and the responses are treated as the conventional final reply by the Council. All are taken into account in this Report, together with the representations themselves, but only where these properly relate to the MMs.

12. I have made some amendments to the detailed wording of the MMs, including with respect to developer contributions towards affordable housing, in relation to which national policy thrice changed during the Examination, as set out below under Issue 4. These amendments do not significantly alter the content of the MMs as published for consultation, nor undermine the participatory processes and SA that has been undertaken. I have explained these amendments in the Report. Further reference is made to the consultation process in connection with Legal Compliance below.
13. For the avoidance of doubt, it is noted that the Council proposes a number of Additional Modifications, or minor changes to the Plan [F.77]. Neither these nor other such minor alterations have any effect upon the soundness of the Plan but comprise corrections, updates and changes consequent upon the MMs, in the interests of clarity and internal consistency. The Additional Modifications are entirely a matter for the Council and no further recommendation is made upon them in this Report.

### ***Planning Practice Guidance***

14. Whilst national policy for plan making is contained in the NPPF, in March 2014, shortly before the Plan was submitted for examination, the Government launched Planning Practice Guidance (PPG), replacing much former guidance which was current during the preparation of the pre-submission Plan. The Examination was conducted, and this Report is prepared, with reference to the PPG, including certain amendments made to it during the course of the Examination and public comments upon them. These changes and their implications for the Plan are described in the Assessments below.

### **Assessment of Compliance with the Duty to Co-operate**

#### *Legal Duty*

15. Section 20(5)(c) of the 2004 Act requires that I consider whether the Council has complied with any duty imposed by section 33A of the 2004 Act in relation to the preparation of the Plan. In order to maximise the effectiveness of Plan preparation, Section 33A requires constructive, active and on-going engagement with local authorities and other prescribed bodies with respect to strategic matters affecting more than one planning area. Those bodies are prescribed by Regulation 4 of the Town and Country Planning (Local Planning)(England) Regulations 2012. Relevant strategic issues are set down in the NPPF at paragraphs 156 and 178. It is necessary for the Council to demonstrate that the Plan, on submission, is compliant with the DTC. This requires evidence that the Council sought a level of co-operation with prescribed bodies beyond mere consultation, leading to the outcome that strategic cross-boundary issues are addressed in the Plan.

#### *Engagement and Co-operation*

16. The Council submitted evidence in connection with the DTC by way of a Duty to Co-operate Statement [B.25]. This demonstrates that, throughout the preparation of the Plan, including before the DTC came into force in November 2011, the Council engaged with all prescribed bodies, formerly by way of regional joint working activity.

17. There has been co-operation on strategic matters with Staffordshire County Council (SCC) and the Borough Council has established cross-boundary links with neighbouring authorities as well as relationships with other Midlands authorities not sharing an immediate common boundary. Specific links are evident with Derby as a retail destination and with Lichfield in terms of development along the A38 trunk road corridor. Strong housing and labour market links are identified between East Staffordshire and South Derbyshire immediately to the east. The Council is a member of the Greater Birmingham and Solihull Local Enterprise Partnership (GBSLEP), involving consultation upon the spatial accommodation of future growth between its constituent authorities. The Council provides a documentary account of its engagement with other local authorities [*PS-30.1, PS-30.6b*].
18. It is evident, and essentially undisputed, that the provisions of the Plan for strategic matters of employment, retail and leisure development and for major strategic site allocations, together with supporting transportation and other infrastructure, are all properly informed by the outcomes of this level of co-operation. However, several Representors substantially question whether the Council has complied with the DTC in its objective assessment of housing need (OAHN) with respect to the identified Housing Market Area (HMA). This matter is therefore addressed in some detail.

*HMA and OAHN*

19. The Strategic Housing Market Assessment of October 2013, updated in April 2014, (SHMA) [*C.1*], defines the HMA as being equivalent to the administrative area of East Staffordshire. That is despite acknowledged market relationships between the Borough and other planning authority areas. In particular, the SHMA itself demonstrates strong strategic and local housing market relationships between East Staffordshire and South Derbyshire. This is due to the close proximity of their respective main towns of Burton upon Trent and Swadlincote, as well as the major redevelopment proposed for the former Drakelow Power Station site, which lies within South Derbyshire but forms an urban extension to Burton upon Trent. The SHMA also acknowledges the potential requirement for unmet housing need in Birmingham to be accommodated in other member districts of the GBSLEP.
20. The SHMA ultimately concludes that it would be inappropriate and unnecessary to assess housing needs outside the Borough boundary. Briefly summarised, the reasons for this conclusion are as follows:
  - 20.1 The demise of regional planning and the introduction of the DTC led to extended strategic co-operation with other authorities to continue historic attempts to co-ordinate housing provision. It was accepted that the Drakelow development would be seen as contributing only to the housing supply of South Derbyshire.
  - 20.2 On commencement of the assessment of the East Staffordshire housing requirement, the Derby HMA group, including South Derbyshire, continued with established joint working to meet the full OAHN of the Derby HMA aligned to the Derby journey to work area with a plan base date of 2008.

- 20.3 The South Staffordshire Councils, including Lichfield, jointly prepared a further SHMA, consistent with the strategic relationship of these authorities, as set out in the former Midlands Regional Spatial Strategy.
- 20.4 None of the Derby or South Staffordshire authorities, including neighbouring South Derbyshire and Lichfield, sought agreement from East Staffordshire to accommodate any of their identified housing needs and Lichfield specifically declined joint working with East Staffordshire. These matters are confirmed in Statements of Common Ground. [C.94-95, C104]
- 20.5 East Staffordshire has not been requested to accommodate any unmet housing need from the City of Birmingham. This aspect of need is further considered as part of Issue 1 below.
- 20.6 Derbyshire Dales did make such a request at a late stage but this was not pursued, whilst the Derbyshire Dales Local Plan was found to be non-compliant with the DTC and unsound as submitted.
- 20.7 There is substantial migration and commuting from South Derbyshire and Lichfield, encouraged by comparatively favourable house prices and types of dwelling, with the strongest relationship existing between Burton upon Trent and Swadlincote. However, East Staffordshire does not relate to any defined HMA between Derby and Birmingham. This is illustrated when framework HMAs are identified based on varying commuting self-containment from 72 to 77.5 per cent, resulting in different HMA geographies.
- 20.8 Moreover, neighbouring districts have generally met their responsibility to assess their own needs which are primarily based upon district projections.
21. From the foregoing it is evident that, for the practical and technical reasons outlined, it is appropriate to treat the boundary of the Borough as defining a self-contained HMA and that this provides a suitable basis for assessing the OAHN of East Staffordshire for the purposes of this Plan.
22. However, the situation arises in part from the comparatively recent move away from former regional planning with a legacy of established joint working, which has in effect excluded East Staffordshire. The result is a degree of uncertainty as to the most appropriate definition of the HMA as distinct from the most pragmatic in current circumstances.
23. Early review of the Plan would beneficially afford an opportunity to reassess this matter and would facilitate ongoing compliance with NPPF paragraphs 178-181 on cross-boundary co-operation. It would also be in line with the PPG on Preparing Local Plans, wherein paragraph 08 states that Plan policies will age at different rates depending on local circumstances and the relevance of the Plan should be reviewed at regular intervals to assess whether some or all of it may need updating. The same paragraph concludes that a plan may be found sound conditional upon a review in whole or in part within five years of the date of adoption.
24. This practical approach is reinforced in a Written Ministerial Statement (WMS) of 21 July 2015 wherein it is stated that a commitment to an early review may



be appropriate as a way of ensuring that a local plan is not unnecessarily delayed by seeking to resolve matters which are not critical to the soundness or legal competence of the Plan as a whole. In an accompanying letter to the Chief Executive of the Planning Inspectorate it is explained with reference to the foregoing provision of the PPG that, 'As inevitably a plan cannot exactly account for future circumstances there is a real value in getting a Local Plan in place at the soonest opportunity, even if it has some shortcomings which are not critical to the whole plan'.

25. The desirability of early review of the Plan is further discussed in the following assessment of soundness and appropriate provision for early review is made by **MM25** and **MM26** to SP6.
26. The related question of the amount of the OAHN within East Staffordshire is the subject of the first issue of soundness identified below.

#### *Other Matters and Conclusion in relation to the Duty to Co-operate*

27. Certain other matters are raised by representors in connection with the DTC. It is alleged by some communities that local consultation on the preparation of the Plan has been inadequate. However, these concerns are more properly related to the requirements of the Statement of Community Involvement (SCI), considered in the Assessment of Legal Compliance below. Objections are also made by potential developers to the omission of certain sites, for example the proposed Brookhay (formerly Twin Rivers) new settlement, spanning the boundary with Lichfield District. However, these are considerations of soundness, discussed below, rather than matters of compliance with the DTC.
28. On the evidence provided, and notwithstanding the concerns raised by Representors, I conclude that the Council has met the DTC in the preparation of the Plan.

## **Assessment of Soundness**

### **Main Issues**

29. On consideration of all the representations, written evidence and the discussions that took place at the Examination Hearings, I have identified the following six main issues upon which the soundness of the Plan depends.

#### **Issue 1 Housing Need and Requirement**

*Whether the Plan meets the full, objectively assessed needs of the Borough for market and affordable housing within an appropriately defined housing market area.*

#### **Definition of the Housing Market Area**

30. The definition of the housing market area forming the basis for the determination of the OAHN for the Borough is reviewed within the Assessment of Compliance with the DTC above. It is concluded that, for the purposes of this Plan, it is practical and appropriate for the Council to assess housing needs by regarding the HMA as the extent of the Borough itself.

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## **Population and Household Growth**

31. The PPG methodology for assessing housing need makes clear that the trend-based Household Projections published by the Department of Communities and Local Government (DCLG) should provide the starting point estimate of overall housing need before local factors are taken into account. Paragraph 016 states that, wherever possible, local needs assessments should be informed by the latest available information, albeit assessments are not automatically rendered outdated every time new projections are released.
32. This national data was varied during the course of the Examination. On 27 February 2015, DCLG issued 2012-based Household Projections, corresponding to 2012-based Population Projections published by the Office for National Statistics (ONS) on 29 May 2014.
33. Accordingly, it is necessary to examine the soundness of the Plan in this regard on the basis of the pre-submission SHMA [C.1] but, in doing so, to take into account an update provided by the Council during the Examination in response to the 2012-based Population Projections [F.24] and also in the light of the 2012-based Household Projections, including the evidence of the Council on their impact [F.59].
34. In calculating the OAHN for the Borough HMA, the pre-submission SHMA [C.1] began with the 2008-based, DCLG Sub National Household Projections (SNHP). These were the latest household figures then available for the period up to the Plan horizon date of 2031 and showed an average household growth of 479 dwellings per annum (dpa) over the Plan period. However, they were already based on obsolete population projections.
35. The SHMA therefore rebased the household projections on the then latest available ONS 2010-based Sub National Population Projections (SNPP) which forecast substantially higher population growth. The SHMA also used available data from the 2011 Census which showed a greater than expected rise in population due largely to a prior underestimate of international migration.
36. The SHMA then took into account dwellings already completed and added a standard 2.5 per cent margin for market turnover to arrive at a demographically based range of net housing requirement figures for the Plan period of between 571 and 601 dpa, depending on the assumed level of household formation, or headship rate, over the same period. The lower figure is derived using headship rates fixed at 2011 levels, recognising the depressive effect of the economic downturn on household formation after 2008, whilst the higher value represents 2008-based pre-recession headship rates.
37. In response to the publication in May 2014 of the ONS 2012-based SNPP, the Council provided written evidence, further to that contained in the pre-submission SHMA [F.24]. This indicated a significantly reduced range of population-led forecasts of between 472 and 498 dpa, around 20 per cent less than that calculated in the SHMA.
38. There is no substantial challenge to these figures or the methodology used by the Council and its consultants in deriving them.
39. However, considerable dispute arises from developers concerning the necessary local adjustments for employment growth, other market signals and

the headship rates to be applied in assessing the change in household numbers and the associated new dwelling requirement for the period to 2031. On the other hand, there are also objections from local communities that the stated Plan requirement is too high.

### ***Employment and Economic Growth***

40. With respect to employment growth, the SHMA draws upon the East Staffordshire Employment Land Review Update Final Report of August 2013 (ELR) [C.17]. This forecasts an employment growth of 5,728 full time equivalent jobs over the Plan period. The SHMA assumes that current rates of in-migration and unemployment will continue but applies a 10 per cent increase in the economic activity rate to take account of rising pension ages over the same period. On that basis, the SHMA predicts employment-led net housing requirements in the range of 596 to 630 dpa, exceeding the demographically based SNHP figures and similarly depending on the headship rate.
41. The SHMA goes on to recommend the mid-point total of 613 dpa from which the total Plan requirement of 11,648 dwellings for the 19 year Plan period is calculated<sup>1</sup> and set down in SP3 of the pre-submission Plan. That is on the basis of the widely held view that that, whilst substantial economic recovery is anticipated, household formation rates are unlikely to return to their pre-2008 levels in the lifetime of plans currently in preparation.
42. Given a broadly improving economy, the in-migration and unemployment assumptions appear relatively conservative and uncontroversial. Challenge is directed mainly to the judgements and assumptions made in the ELR between the several forecasts and scenarios of future employment demand on which it is based. These predict jobs growth lower than historic levels and lower than was contemplated in earlier Council work related to former Growth Point status.
43. The ELR utilises Experian Business Strategies Additional Forecast and Cambridge Econometrics Labour Demand models and compares the results with 15-year and 25-year past trends, as well as with a Labour Supply scenario related to the SNPP. The ELR identifies the Additional Forecast as the preferred scenario, closest to the labour supply figure and substantially below past trends.
44. In certain of the representations, these models are compared with Oxford Economics data as forecasting higher rates of job creation. The main differences are in the base data used and the degree to which the Business Register and Employment Survey (BRES), on which the ELR relies, takes account of self-employment.
45. However, the BRES does include sole traders and proprietors and provides information at a local level, with the further advantage of detailed subdivision by sector. It also demonstrates a relatively modest rate of growth in recent years.

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<sup>1</sup> Figures are quoted from the Plan and written evidence ignoring insignificant discrepancies due to rounding error

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46. Before discounting the higher past trend results, the ELR undertook a series of benchmarking exercises, including studies related to economic trends and market drivers. These established that there is no current evidence, for example by way of any GBSLEP study, that the Business, Professional and Financial Services sector in East Staffordshire will grow as assumed in past trend analysis and that some areas of manufacturing are predicted to contract in favour of less labour-intensive storage and distribution land uses.
  47. A further benchmarking study estimated potential employment yield from existing and planned floorspace of 12,670 jobs. It then applied 'medium' factors for 'leakage' and 'displacement', respectively of 25 and 50 per cent. This was with reference to the Homes and Communities Agency (HCA) (formerly English Partnerships) Additionality Guide 2008, updated 2014 [F.38-39]. The result is a reduction of more than 60 per cent in the potential jobs yield which supports the predicted levels of the Additional Forecast scenario. The reliance by the Council upon this particular exercise is strongly criticised by Representors as underestimating employment generation and inappropriate to plan making. This is on the basis that lower values for leakage and displacement should be applied if this methodology is used at all.
  48. This and other criticisms were expressed in some detail at the initial Hearings in October 2014 by consultants appointed by Representors but were not substantially rebutted by the Council which did not have all its equivalent specialist advisers present for the discussion. This led to the Interim Finding that the Council should provide further written justification of its OAHN figure before any conclusion could be reached upon it, contributing to postponement of the remaining hearings and delay in the progress of the Examination.
  49. However, consideration of the further Council evidence, and the written and oral responses to it, leads me to accept that the employment yield calculation is only one of several benchmarking exercises and that it simplistically applies a coarse set of values to a wide range of employment locations. By itself, therefore, it cannot be accorded great weight. At the same time, it is not generally questioned that East Staffordshire has a substantial supply and variety of employment land, both existing and allocated in the Plan on the basis of the ELR. However, it must be recognised that the mere availability of employment land does not mean that it will necessarily be developed in preference to land elsewhere, outside the Borough.
  50. On a balance of judgement of the SHMA, properly read as whole with the interrelated ELR, the predicted employment-led housing requirement, in the range of 596 to 630 dpa, is positively based on reasonable assumptions of current need and likely future economic performance.
  51. On full consideration in the circumstances, the application of a blended headship rate to allow for an increased rate of household formation within the Plan period, but not to pre-2008 levels, appears reasonable, appropriate and consistent with a number of other plans already found to be sound at examination. Accordingly, the mid-point value of 613 dpa, equivalent to the stated Plan total of 11,648 dwellings, is justified on the evidence as the OAHN for the Borough.

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**Other Market Signals**

52. Other market signals appear to relate to past under supply of both market and affordable housing which the Plan now seeks to address. In particular, there is no evidence specific to East Staffordshire that house prices have risen disproportionately in the recovering economy. It follows that there is no indication of any direct relationship between housing supply and overcrowding or increased demand for housing benefit or reduced vacancy rates, the latter being still above the widely accepted 2.5 per cent allowed for market turnover. The whole of the calculated need for affordable homes would be supplied by the average 25 per cent contribution from market housing (discussed below). No further adjustment to the OAHN is therefore necessary in the absence of market signals to the contrary, such as might indicate pent up demand, for example.

**South Derbyshire**

53. With respect to the acknowledged housing and labour market links between East Staffordshire and South Derbyshire, and between Burton upon Trent and Swadlincote in particular, it is noteworthy that the South Derbyshire SHMA concludes that its population-led projection of housing need is greater than its economic-led projection. This is the reverse of the situation in East Staffordshire and is in line with the pattern of in-commuting from South Derbyshire. This in turn indicates that the two SHMAs, in effect, complement each other and that no adjustment to the East Staffordshire OAHN is necessary to cater for this cross-boundary consideration.

**Unmet Housing Needs of Other Authorities**

54. As indicated in connection with the DTC above, no other planning authority has requested East Staffordshire to elevate its OAHN in order to accommodate unmet need from outside the Borough.
55. In the City of Birmingham there is an acknowledged unmet housing need. However, with respect to the Birmingham Development Plan, which was under examination simultaneously with the ESLP, it has emerged that, on the basis of the evidence of the City Council and the GBSLEP, East Staffordshire is neither a neighbouring District nor part of the Birmingham HMA whereby the Borough might currently be expected to provide for any part of the Birmingham shortfall.

**Recent Population Data**

56. Following the release in February 2015 of the most recent DCLG 2012-based SNHP, the Council provided additional evidence [F.59] that these figures confirm a substantially lower household projection than the SHMA. Although there is no direct comparison with the employment-led projection, this indicates that the calculated OAHN of 11,648 dwellings is likely to prove more than adequate. Given that there is no policy provision that the Plan housing requirement acts as a ceiling to development, there is no need to state the requirement as a minimum figure, as was considered in the Examination.

## **Conclusions on Issue 1**

57. No question has arisen that the housing requirement for the Borough should be constrained by any policy considerations within the Plan. Accordingly, it is appropriate that the Plan should provide at SP3 for a total housing requirement equal to the OAHN as calculated above.
58. Arguments will remain on the one hand that the country as a whole is simply not building enough homes to meet the overall national target of some 250,000 dpa and on the other that, in villages particularly, communities are in danger of being overwhelmed by unwarranted new development. Be that as it may, the evidence now provided in support of the submitted Plan robustly justifies the Plan housing requirement in terms of NPPF paragraph 47 and PPG on housing and economic development needs assessments, as positively meeting the full OAHN of the Borough for market and affordable dwellings within an appropriately defined HMA.
59. The question has also been raised as to how a historic backlog in the supply of housing, dating back to 2006 under currently adopted development plan provisions, is accommodated. In practice, this is covered by the OAHN undertaken in connection with the preparation of this Plan, whilst the question of prior persistent under-delivery is considered further below in connection with current 5YHLS.
60. At the same time, there is much uncertainty following the demise of regional planning concerning the future unmet need of the Birmingham conurbation and the rate of economic recovery. This further justifies introducing into the Plan, at policy level, a definite commitment to early review, supported by monitoring based on a series of measurable, quantitative criteria of housing performance. This is secured by MM25 to SP6, as noted in relation to the DTC and a recent WMS, and by the Monitoring Framework at Part 5 of the Plan subject to its correction and updating by way of **MM66 to MM81 inclusive**.

## **Issue 2 Overall Spatial Strategy**

*Whether the Plan adopts a sound overall spatial strategy and settlement hierarchy for the provision of sustainable development, including with respect to its relationship to Development and Supplementary Planning Documents (DPDs and SPDs) and Neighbourhood Plans (NPs).*

### **Overall Strategy and Settlement Hierarchy**

61. The overall spatial strategy of the Plan evolved from the former West Midlands Regional Spatial Strategy, and from subsequent stages of public engagement, to favour a distribution of new development between Burton upon Trent and Uttoxeter, as the two main towns, together with larger villages (Option 2 of the Issues and Options consultation). Following the abandonment in 2010 of Growth Point status for East Staffordshire, Strategic Options were published in 2011. These recognised influential key constraints, including flood risk and adjacent Green Belt, which limit the potential direction of outward growth for both Burton upon Trent and Uttoxeter. There is also a range of biodiversity and conservation interests constraining development.
62. Consideration of the Strategic Options led to the confirmation of Preferred Option 2, subdivided into four sub Options 2a-d of which Option 2c would disperse growth around Burton upon Trent and Option 2d would concentrate

growth south of Burton upon Trent, with some development in Uttoxeter and Strategic Villages in both options.

63. The Council undertook considerable research into the settlement hierarchy of villages in 2012 [B.19], expanding and updating it in March 2014 [B.20]. This work included local survey and consultation and applied a range of numerical assessment criteria. These related to the accessibility and availability of public transport, employment and community facilities. It was concluded that the four top-ranking villages, scoring 56 or more in the assessment, should be categorised as Strategic, or Tier 1, Villages in a three-tier hierarchy. These are Tutbury, Barton under Needwood, Rocester and Rolleston on Dove. No other village scored more than 51 in the assessment. The Plan sets out this categorisation in SP2 under the heading 'A Strong Network of Settlements', more aptly entitled 'Settlement Hierarchy' and duly cross-referenced to the Sustainable Development Strategy by way of **MM14** and **MM15**.
64. In order to be able to meet the Borough housing requirement, the Council selected a combination of greenfield as well as brownfield sites in a range of sizes but all with a capacity of 100 dwelling units or more. The aim was to create a series of Sustainable Urban Extensions (SUEs) to Burton upon Trent and Uttoxeter, with some individual allocations in Strategic Villages. However, for this to be achieved, **MM7** to text paragraph 2.12 is necessary to 'encourage', rather than 'prioritise', the redevelopment of brownfield land, consistent with the combined strategy for SUEs.
65. For a variety of practical reasons of site capacity and availability, the allocations selected in 2013 for inclusion in the Plan reflected a hybrid combination of Options 2c and 2d. This took into account that, by then, several large sites had been approved by the Council, or allowed at appeal, in the absence of a 5YHLS. The chosen strategy was taken forward in the pre-submission Plan and was assessed in the RSA, the conclusions of which were further explained during the Examination by the ERSA. Additional housing provision is made by way of development allowances per village, in effect delegating further consideration of the location of other village development to NPs or windfall applications.
66. The site selection and sustainability appraisal processes were criticised by Representors. These matters are also discussed later in this Report under Issue 3 and Legal Compliance respectively. However, there is no substantive disagreement that the overall spatial strategy of the Plan is logically chosen from a comprehensive range of reasonable alternative options and is justified and potentially effective. To that extent the Plan is sound in terms of the broad settlement hierarchy for the distribution of necessary sustainable development throughout the Borough.
67. Specific dispute arises, however, with regard to: the policy concept of the residential development allowances; provisions for major housing, employment and leisure developments outside defined urban areas; the designated status and settlement boundaries of certain villages; and the definition of Strategic Green Gaps (SGGs). It is also contended that recent and imminent future improvements to accessibility along the A38 and A50 road corridors enhance the potential for development outside, and alternative to, the submitted Plan strategy. These matters are now considered in turn.

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### *Development Allowances*

- 67.1 The relationship between this Plan and NPs is bound up with the allocation of village development allowances. The definition and purpose of these allowances is unclear in the Plan as submitted and is confused as to whether they are, in effect, village allocations or subdivisions of an assumed windfall contribution to the HLS. In this, there is an inherent contradiction and a danger of double counting in HLS calculations. The remedy lies in amending the aim and terminology of the Plan to refer to 'development requirements', as a clear expectation that the stated quantum of housing will come forward in the respective villages, including an overall figure covering Tier 3 villages and the countryside. This alteration is brought about by **MM21** and **MM23** to SP4 and its supporting text<sup>2</sup>. Accordingly, hereafter in this Report, reference is made to 'development requirement', consistent with MM23.
- 67.2 As to the amount of the development requirements, these are qualitatively assessed but appear realistic in relation to the overall scale, availability of community services and facilities available in each case, also taking into account the need to foster sustainable rural communities.

### *Major Developments Outside Settlements*

- 67.3 It is claimed that, where major development exists outside defined urban areas, such as the JCB complex outside Uttoxeter or the waterside development at Barton Marina, specific policy provision should be made for any further development within them. In practice, such developments outside settlement boundaries are properly governed by SP8 in conjunction with other relevant policies, depending on the land use concerned.
- 67.4 However, in one respect, a change is required to SP8 to avoid undue constraint within major residential extensions outside, but adjacent to settlements. Several of these have been permitted out of compliance with the Plan strategy, mainly due to HLS shortfall. The necessary change is achieved by **MM29**, which adds a general provision that such developments will be excluded from SP8 for the purposes of deciding future applications for domestic extensions to, or replacement of dwellings within the built up urban area. The same amendment appropriately transfers and extends lists of development criteria and categories from the supporting text as submitted, in order to accord them effective policy status.

### *Rolleston on Dove*

- 67.5 The Tier 1 status of Rolleston on Dove within the Plan hierarchy and the amount and location of planned development within the settlement has

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<sup>2</sup> Further consequential corrections are also required as an adjunct to MM21 - ref paragraphs 2.22-24, box after 2.45, 3.35 (second occurrence) and Appendix 3 as set out in illustrative Document F.80



been the subject of great local controversy, including with respect to the emerging Rolleston on Dove NP.

- 67.6 As a result of the Tier 1 designation, the strategic College Fields site is allocated for residential development as an extension to the built settlement of Rolleston on Dove. Strongly opposed by local people and excluded from the draft NP, planning permission for its development was refused by the Council and dismissed at appeal by the Secretary of State (SoS). This was on grounds of prematurity with respect to the NP, which had not been taken to referendum due to non-compliance with the ESLP. Subsequently, however the appeal decision was subject to High Court challenge but not defended by the SoS in the light of other recent case law.
- 67.7 Accordingly, it remains within the scope of this Report only to consider the soundness of this Plan with respect to the status of Rolleston on Dove within the settlement hierarchy, its development requirement and the specific College Fields allocation.
- 67.8 The strength of local feeling is respected and the frustration of the village community, and potential developers alike, at the several reversals of planning circumstances affecting the progress of the NP is understood. It is also recognised that, compared with the other three Tier 1 villages, Rolleston on Dove is a relatively dispersed settlement with fewer community facilities. However, its Tier 1 designation follows detailed assessment and consultation on a wide range of criteria. Although necessarily subjective to some extent, the conclusions that Rolleston on Dove should be accorded Tier 1 status and be allocated a non-specific development requirement of 25 units, in addition to any individual allocations, appear justified on the basis of the available evidence.
- 67.9 The College Fields allocation is considered further in relation to site selection under Issue 3 below.

#### *Barton under Needwood*

- 67.10 There has been rapid uptake of the residential development of the 130-unit Efflinch Lane allocation, extending the main settlement of Barton under Needwood. There has also been a recent grant of permission for 75 dwellings in conjunction with the outlying Barton Marina. These circumstances signal both the success of this Tier 1 village as a development location, as well as ongoing pressure for further housing there.
- 67.11 In particular, it is suggested that the development area of Barton Marina should be designated as part of the settlement within a separate defined boundary and that the Efflinch Lane development be enlarged southward to occupy the full area of its original allocation to adjoin existing built development.
- 67.12 There is logic in both suggestions. However, mere demand based on current success is insufficient justification to vary the settlement or allocation boundary. The Efflinch Lane allocation has been met and **MM96** to reduce its extent to the development permitted is justified in

the circumstances, albeit the undeveloped portion of the original allocation is still pursued as an omission site. The Marina complex is subject to SP8 governing development outside settlements and there is no ground to accord it the status of an integral part of the village when it is clearly detached from the main settlement and still largely associated with water-based leisure activity.

67.13 Neither has the Council evidently been called upon to consider a comprehensive overall plan for Barton Marina, such as might have given rise to the formulation of a specific detailed policy of the kind included as DP12 for the National Football Centre at St George's Park.

67.14 Consideration of such proposals, as well as potential further urban extensions will, however, naturally fall to be considered in connection with the next review of the Plan.

#### *Marchington*

67.15 The main local concern emerging in the Tier 2 village of Marchington is not with its status in the settlement hierarchy or the amount of the development requirement ascribed by SP4 but the degree to which the Plan prescribes the location of future development by way of two small extensions to the settlement boundary. In view of the evident progress being made on the NP, it is reasonable to expect that alternative development sites will emerge within the existing built up area, whilst it is noted that the population, net of the element associated with the local prison, is comparatively modest at around 1,160. This tends to support the equally modest development allowance of 20 units, taking into account separate potential for mixed redevelopment of the Marchington Industrial Estate outside but close to the village.

67.16 At the same time, there is no evidence of insurmountable planning constraints on the proposed village extensions whilst there is known developer interest in further housing proposals in Marchington. On balance, it is appropriate that the development requirement and the site boundary remain as submitted, given the development allowance is not a prescribed minimum quantity in any event.

#### *Strategic Green Gaps*

67.17 The concept of SGGs is not strictly supported by the NPPF which contemplates protecting valued local green spaces, as distinct from extensive tracts of land. In this instance, however, the designation of the four SGGs, at Rolleston on Dove, Anslow, Tatenhill and Bramshall, is justified on the evidence [B.21] to provide additional protection against the coalescence of communities, so reinforcing the spatial strategy to direct development to defined settlements and leaving SGGs visibly open. Certain uncontroversial corrections to drafting errors to the Rolleston on Dove and Tatenhill SGGs require to be made to the Policies and Inset Maps, although these are not strictly part of the Plan itself.

#### *Improved Highway Accessibility*

67.18 It must be acknowledged that there are rapidly advancing improvements to highway infrastructure of the A38 and A50 corridors coupled with a

large proportion of sites allocated in the Plan gaining planning permission. This is potentially altering the optimum balance between central brownfield redevelopment and greenfield urban extensions in the main towns, as perceived by site promoters and local objectors respectively. Nevertheless that does not amount to clear evidence that the Plan as submitted is unsound in its spatial strategy or that it should be further delayed for it to be reconsidered. However, **MM1** appropriately acknowledges this factor in relation to the flexibility inherent in the Plan and this consideration militates further in favour of the specific commitment to timely review of the Plan as whole.

***Further DPDs and SPDs and Neighbourhood Plans***

68. There was initial concern that the Plan, in properly seeking to be flexible, nevertheless tended to transfer too great a proportion of the necessary consideration of forward planning and policy formulation to later stages of development plan preparation or to supplementary guidance. This was the impression conveyed by paragraphs 1.18-19 and SP6 of the submitted Plan, which express a contingency option to prepare further DPDs in order to deliver growth if delay occurs to key developments or NPs.
69. Following examination of the Plan however, it is evident that the majority of strategic sites allocated by the Plan are already permitted whilst there is substantial progress toward the establishment of NP cover over much of the Borough, enabling local communities to shape and direct sustainable development in their areas. This is in compliance with the intentions of NPPF paragraphs 183-185.
70. The Council has now proposed changes clarifying the flexibility of the Plan to accommodate unforeseen circumstances. These comprise alterations to the introductory text at paragraphs 1.18-19 and an addition to SP6 to cover specifically the contingency of NPs not coming forward. As proposed however, the amended introductory text would still contemplate further DPDs in terms that they 'may' be provided. For consistency with SP6, the more definitive formulation that further DPDs 'will' be programmed should be substituted.
71. Those changes to SP6 and the relevant supporting text are to be read in conjunction with the stronger commitment to early review introduced by MM25. Thus modified, the Plan can reasonably be judged to provide sufficiently for the contingency that future events, confirmed by annual monitoring, might show that planned development is not forthcoming at the expected rate. The necessary changes are brought about by **MM1** to the text and **MM26** to SP6.
72. The Examination revealed a need for clarification in the Plan of its relationship to NPs, in particular with regard to the expectation that NPs must be compliant with the Local Plan and which of its polices are to be designated as 'strategic' for that purpose. This clarification is suitably achieved by **MM17** which inserts a new policy after SP2, referred to as SPX for the purpose of public consultation and this Report. This lists all the policies having a strategic bearing on neighbourhood development. SPX properly cross-refers to SP2 in terms of the settlements to which its provisions refer, including for the definition or extension of settlement boundaries. However, a qualification to SP2 giving priority to NPs over SP2 is appropriately deleted by **MM16**.

73. Aside from the question of deferment to DPDs or NPs, the Plan as submitted clearly relies too heavily upon the HCSPD to establish affordable housing contributions. These are more correctly for the Local Plan to set down, as required by NPPF paragraphs 50 and 159. It is not for this Report to appraise the HCSPD but the provisions it makes, and the representations upon it, are used to inform the discussion and recommendations under Issue 4 below concerning SP17 of this Plan on Affordable Housing. The relationship between this Plan and the HCSPD is thus regularised and any further action with respect to the HCSPD is a matter entirely for the Council.

### **Conclusions on Issue 2**

74. Subject to the several MMs enumerated above, the Plan adopts a sound overall spatial strategy and settlement hierarchy for the provision of sustainable development, chosen from reasonable alternative options, including with respect to its relationship to Development and Supplementary Planning Documents (DPDs and SPDs) and NPs.
75. For completeness: **MM9** is appropriate to include, within the criteria for SUEs, a suitable reference to the focus of development on the most sustainable locations; **MM12** and **MM13** appropriately add reference to the enhancement of green infrastructure and the protection of the viability of existing development as part of the approach to sustainable development in SP1. Consequential revisions are also required to update and correct the Policies and Inset Maps to indicate revised settlement and policy boundaries and to be consistent with the policies and text of the Plan, albeit those maps do not themselves form part of the Plan.

### **Issue 3 Housing Site Selection and Land Supply**

*Whether the Plan allocates sufficient suitable, deliverable sites in accordance with its spatial strategy to provide for a five year supply of housing land throughout the Plan period.*

#### **Interim Findings**

76. Following the first four Hearings, the overall spatial strategy of the Plan was seen as potentially sound, subject to clarification of the RSA. However, the criteria for the selection of sites remained unclear and the Council conceded that, at that time, it could not demonstrate a five year housing land supply (5YHLS) in the early years of the Plan period. The Interim Findings suggested that the Council consider either allocating additional sites or setting a stepped housing trajectory if justified in relation to the pace of delivery of SUEs.

#### **Site Selection**

77. Sites for development, in practice mainly for residential purposes, were selected from a comprehensive Strategic Housing Land Availability Assessment (SHLAA) [C.109-118].
78. An initial selection was made of sites with a capacity exceeding 100 dwellings for further assessment. This followed the aim of the sound spatial strategy, as supported by the ERSA, to promote the bulk of the development necessary for the Borough within a series of SUEs, leaving NPs to provide for development at the local level. The SUEs sought to co-locate housing, employment and supporting community facilities mainly in urban extensions, thus avoiding a

random and less sustainable distribution of new development. The chosen strategy thus focuses the bulk of additional residential and employment uses in balance with the existing main towns of Burton upon Trent and Uttoxeter. The initial selection was scored on the basis of the degree of compliance with a set of 16 selection criteria, which were reduced to 11 in the detailed assessment. This caused some confusion but was explained in the ERSA.

79. There remains much disagreement on the choice of sites but judgements with respect to a wide range of options over a broad range of selection criteria are necessarily subject to differing opinions. None of the conclusions reached on the basis of the SHLAA and reviewed in the ERSA are so inconsistent as to invalidate either the SHLAA or the ERSA as broadly robust evidence in support of the allocations.
80. Objections remain to some strategic allocations, either with respect to their detailed development criteria or to their selection as a whole, including by comparison with a range of potential additional, alternative or 'omission' sites considered during the Examination pursuant to the right of their promoters to be heard.
81. Clearly, for the Plan to be sound, it must be evident that its site allocations are suitable, available and deliverable within the Plan period. At the same time, it is not the purpose of the Examination to consider detailed matters that are capable of being resolved through good design or the provision of infrastructure that can be provided without threatening viability or delivery. Consideration of site-specific matters in the following paragraphs is therefore limited to those issues which relate to deliverability or raise other significant issues of soundness.

*College Fields, Rolleston*

- 81.1 It is concluded above, in relation to the settlement hierarchy of the Plan, that Rolleston on Dove justifies Tier 1 status. Furthermore, although the NP excludes the College Fields site, there is no evidence that its development would be subject to any planning constraint that could not be addressed in a detailed planning application. Furthermore, it is noted that the NP Examiner recommended the deletion of any protective status to the College Fields land as unjustified. On balance, the Council view is supported that the site would form a sustainable extension close to village amenities and would accord with the Plan strategy and settlement hierarchy. The allocation of the College Fields site should accordingly remain as submitted.

*Churnet Farm, Rocester*

- 81.2 Allocated by SP4 as 'land south of Rocester' for 90 dwellings, this site is currently constrained by the need to remove a heritage building within the Rocester Conservation Area to provide road access. Assuming that the site is ultimately delivered, there remains local opposition to its development on grounds of parking and road safety at the access. Local Representatives also point out that there are extant residential planning permissions in Rocester which together already exceed the housing requirements of the Plan for the village.

- 81.3 On the other hand, there is no objection to the allocation from the Highway Authority or the Environment Agency. Nor is there evidence of any planning impact that could not be resolved by imposing conventional conditions on any permission as might be appropriate, for example to secure such as off-street parking or safe road access geometry. Moreover, there is nothing to say that the numerical development requirement and allocation set an upper limit against any sustainable development proposal.
- 81.4 The site is strongly promoted by its single owner. Despite heritage objections yet to be overcome, these do not appear insurmountable and it seems likely that the site could make a significant contribution to sustainable development within the Plan period. The allocation of the Churnet Farm site should accordingly remain as submitted.

#### *Brookside*

- 81.5 This important former industrial site located close to Uttoxeter railway station is envisaged by the submitted Plan for redevelopment as a gateway to the centre of the town and the nearby race course, with potential for 150 homes as allocated by SP4. However, the Council accepts that retail uses and limited employment to consolidate businesses remaining on the land could also be included. The latter prospect might beneficially advance the delivery of the site.
- 81.6 At the Examination, the main dispute was that to require 150 dwellings in these circumstances would give rise to a relatively high density development including flats, whereas an alternative proposal to include 90 houses was considered by the promoter to be more attractive.
- 81.7 There was no evidence that the land is incapable of accommodating the allocated 150 dwellings. However the Council has since approved a scheme incorporating only 90 dwellings. Logically therefore the allocation of 150 units should be reduced to 90 dwellings by **MM22** and **MM23** to SP4.

#### *Hazelwalls*

- 81.8 There is strong local objection to this greenfield allocation for a south westerly urban extension to Uttoxeter. This stems from its impact on the rural landscape and wildlife outside the town, coupled with concerns over safe access and school provision. These concerns are heightened by the Council proposal to increase the allocation from 350 to 400 dwellings.
- 81.9 There is no evidence of planning impacts which cannot be acceptably mitigated and the allocation, enlarged to 400 units by **MM22** to SP4, essentially conforms to the spatial strategy of the Plan, as based upon the creation of SUEs to include a proportion of greenfield land.

#### *Uttoxeter West*

- 81.10 The Council proposes to increase this greenfield allocation west of the town from 700 to 750 dwellings, also by way of **MM22** to SP4. There is no evidence that any insurmountable planning impact would arise from

the development of the land and the site conforms to the Plan strategy, such that the enlarged allocation is acceptable.

*Derby Road*

81.11 The Council admits that this 10ha greenfield employment allocation north of the centre of Uttoxeter is not an obvious choice as an employment site. Representors point to recent changes to local infrastructure including road improvements at the southern end of the site, such that its consideration, at least in part, for residential use would appear logical. However, it lends itself equally to employment due to its good accessibility. If the selection of sites in the Plan to meet identified development requirements are otherwise sound, there would be no evident justification for varying this allocation to include housing. However, should planning circumstances alter over time, it would naturally be for any review of the Plan to reconsider the most appropriate role for the Derby Road site.

*Bargates Molson Coors*

81.12 This allocation comprises two key sites in central Burton upon Trent subject to SP11. There is no objection to their allocation but the Council has agreed appropriate variations to the policy wording by way of **MM33** to make clear that the two sites, whilst complementary, may come forward separately, according to practical considerations affecting the release of the land from their present uses. This change includes provision for a development brief covering both sites which does not appear to be an onerous requirement for a key site, as such documents do not constitute unwarranted additional adopted policy and can be formulated flexibly.

*Twin Rivers – Brookhay Villages*

81.13 As is made clear in the Introduction above, it is not the function of this Report to expound in any further detail on the virtues or otherwise of alternative sites to those allocated in the Plan, if it is sound as submitted. However, one potential alternative, strategic development requires mention because, exceptionally, it is expressly acknowledged in the Introductory section of the Plan at paragraph 1.56. Initially conceived as a development of two interdependent parts with a water-based leisure facility in East Staffordshire and employment and residential development in the neighbouring District of Lichfield, it was vigorously promoted in the Examination on the basis that the portion situated in East Staffordshire could proceed independently. Again, however, the site does not accord with the chosen spatial strategy and there is insufficient evidence to support an immediate review and delay to the Plan in this connection. At the same time, there is clear potential for these sites to make important contributions to future leisure, employment and residential accommodation in both the District and the Borough, as acknowledged by the Inspector in his Report on the Lichfield District Local Plan Strategy. It is therefore right that this Plan acknowledges potential of the project but, in the circumstances, the textual reference to it in paragraph 1.56 is sufficient, subject only to an updating amendment by way of AM11.

82. It is reasonable to conclude overall that, subject to the necessary modifications noted above, the selection of sites for allocation in the Plan is soundly based on robust evidence of sustainability and compliance with the spatial strategy. There is accordingly no need or justification to alter or add sites if, crucially, the allocations of the Plan as submitted are deliverable at the appropriate time to make their required contribution to maintaining the requisite 5YHLS.

**Overall and Five Year Housing Land Supply**

83. An amendment to the PPG relevant to plan making was made on 27 March 2015, under the heading of Housing and Economic Land Availability Assessment at paragraph 033. This now states that “the examination of Local Plans is intended to ensure that up-to-date housing requirements and the deliverability of sites to meet a five year supply will have been thoroughly considered and examined prior to adoption, in a way that cannot be replicated in the course of determining individual applications and appeals where only the applicant’s/appellant’s evidence is likely to be presented to contest an authority’s position”. Thus, where the evidence of the Council regarding the availability of a site to contribute to the five year housing land supply (5YHLS) is not robust or is challenged by Representors, that evidence should be tested in detail through the examination process. That is the approach adopted here.
84. The Plan aims to provide for development and supporting infrastructure for the period 2012 to 2031, a 19-year time frame well in excess of the preferred 15-year horizon set out in NPPF paragraph 157, with 16 years still remaining after the projected adoption date of October 2015, according to the latest version of the Local Development Scheme (LDS) [F.81].
85. The established national requirement to boost significantly the supply of housing is set out in NPPF paragraph 47. This requires the Council to identify and update annually a supply of specific deliverable sites to provide for five years worth of the Plan housing requirement of 613 dpa, plus a 20 per cent buffer to allow for past persistent under-delivery. In the case of East Staffordshire, it is undisputed that there has been persistent, past under performance in the delivery of housing, as concluded in a previous appeal for Red House Farm for example [F.30]. Accordingly, the Council rightly includes the 20 per cent buffer in its 5YHLS calculations.
86. NPPF paragraph 47 also requires the Council to identify a supply of specific, deliverable sites, or broad locations for growth, in at least years 6 to 10 and preferably years 11 to 15 of the Plan period.
87. On the basis of the overall strategy, found to be sound under Issue 2 above, there is no substantive evidence that the Plan cannot deliver its overall housing requirement of 11,648 dwellings by way of specific sites selected for allocation, and deliverable within the 19-year Plan period to 2031. To that extent it is clear that the Plan is positively prepared to boost significantly the Borough housing supply within an appropriate time frame in line with the NPPF.
88. However, the question which extensively exercised the Examination was whether the Council should, and could, demonstrate a 5YHLS throughout the Plan period and in the first five years of the Plan period especially.



89. The initial Council position at the start of the Examination was that, although its 5YHLS was then equivalent to some 4.4 years, it would 'be able to demonstrate a 5YHLS over the Plan period but not immediately' and that the lack of a 5YHLS was not a land supply issue but of delivery by the development industry. At the same time, the Council claimed an increasingly dynamic HLS, with the majority of Plan allocations already permitted in outline, citing progress on the preparation of the Plan as a catalyst. The Council also provided evidence of relatively short times for conversion of outline consents into full permissions, contributing to the 5YHLS.
90. However, it is now widely understood in connection with housing applications that, under NPPF paragraph 49, relevant policies for the supply of housing land are not to be considered up-to-date if the local planning authority cannot demonstrate a 5YHLS. In such circumstances, proposals become subject to the presumption in favour of sustainable development, as set down in NPPF paragraphs 7 and 14. It is therefore crucial to the soundness of the Plan that it be robustly evident that a 5YHLS can be demonstrated at all times in order for the Plan to be properly effective from the time of its adoption. Only in that way can the Plan fully reflect the terms of NPPF paragraph 150 in forming the key to delivering sustainable development that reflects the vision and aspirations of the local community, as expressed in its Strategic Objectives (SO1-12).

#### *Five Year Housing Land Supply Calculations<sup>3</sup>*

91. It was for this reason that, late in the Examination, the Council undertook a range of calculations to test the current 5YHLS for different levels of requirement. The Council now maintains that, using the 613 dpa annual Plan requirement averaged over the whole Plan period ( $11,648 \div 19$ ), the 5YHLS for the period April 2015 to March 2020 has risen to 5.18 years [F.68]. In calculating this figure, the Council includes a 20 per cent supply buffer but no windfall allowance and adds recorded under-delivery of 983 units from April 2012 to March 2015, arriving at a practical five year requirement of 4,665 ( $613 \times 5 \times 1.2 = 3678 + 983$ ). The corresponding supply figure of 4,836 units comprises 1,534 dwellings on sites with full planning permission, reduced by a ten per cent lapse rate and a total of 3,302 units on large sites with outline permission or otherwise regarded as deliverable by March 2020.
92. The inclusion of the 20 per cent buffer duly complies with NPPF paragraph 47 and the omission of windfalls to avoid any risk of double counting is commendably cautious. Moreover, the inclusion over the next five years of the whole of the shortfall resulting from under-delivery in the three years of the Plan period already elapsed properly accords with preferred 'Sedgefield' methodology. None of these aspects of the Council 5YHLS calculation methodology are questioned. Furthermore, there is no substantial challenge to the under-delivery figure of 983 units or to the discounted 1,534 dwellings on fully permitted sites, given the 10 per cent discount rate is widely accepted.
93. However, these calculations are widely challenged in subsequent representations in two respects. These are the deliverability of sites yet to

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<sup>3</sup> Figures are quoted from the Plan and written evidence ignoring insignificant discrepancies due to rounding error

gain full permission and the application of the 20 per cent buffer only to the basic requirement and not to the under-delivery element.

### *Deliverability*

94. The ability of the Council to demonstrate a 5YHLS turns on the deliverability of individual allocated sites, both in terms of realistic estimates of the dates when development is likely to commence and with respect to the number of units to be completed and occupied per year thereafter. These matters were reviewed in detail, site by site, by the Council and Representatives in connection with the revised 5YHLS calculations of April 2015 [*Addenda to PS-37, 41, 42, 43, 46, 47, 48, 49, 51, 52; F.75*]. The conclusions that follow are founded on judgements between the range of views put forward.
95. The Council has, throughout, held to an assumed rate of 40 dpa being completed on average per site, allowing that large strategic developments, such as Branston Locks of over 2,500 units, will be implemented over several sites operated by different house builders simultaneously. Developers advocate a more cautious average rate of 30 dpa per house builder. As the Council points out, the latter figure represents the recessionary rate previously recognised by the SHLAA Panel and appears modest in the current climate of economic recovery. In support of this view, several developers of sites currently under construction in the Borough, for example Efflinch Lane, Barton under Needwood, gave evidence of very buoyant demand as a potential portent of fresh applications being submitted in the near future. The Council also points to a recent increase in the volume of residential planning applications, with builders delivering well in excess of 40 dpa.
96. Council predictions of build rates have varied over the timescale of the preparation of the Plan and there is no detailed coordinated data on past delivery rates per site in the Borough. The Council view, at any particular time, is necessarily informed by the changing expectations of developers in the difficult economic climate of recent years. However, on current evidence, the 40 dpa rate assumed by the Council appears reasonable in all the circumstances, save where individual site considerations specifically warrant a different assumption.
97. In contrast, many of the estimates put forward by the Council appear over-optimistic regarding the time likely to be taken for sites to begin delivering dwellings for occupation, especially within the larger strategic allocations.
98. Developers helpfully joined together in response to the April 2015 Council 5YHLS calculations in tabulating the broad view of the development industry on the delivery of current and future housing developments in the Borough.
99. For 16 of the 28 sites considered, there was disagreement that sites would deliver the numbers of units predicted by the Council in the five years 2015-16 to 2019-2020. In the following paragraphs, the sites are judged in turn regarding their potential for delivery as part of the 5YHLS in the five years from adoption of the Plan as scheduled.
  - 99.1 *South of Branston* – the Council anticipates that, within Year 1, 2015-16, the site will deliver 50 out of 64 units already commenced on site in 2014 with two developers thereafter delivering 40 dpa each in Years 2 to 5. Developers hold to the lower figure of 30 dpa, which

- would result in a reduction of 100 units in the 5YHLS but the Council assumption appears realistic, such that no reduction in its assumed five year contribution of 370 units is necessary.
- 99.2 *Beamhill* – in the absence of reserved matters applications by two developers, the Council assumption of 80 dpa delivered in Years 3 to 5 is too optimistic and the 80 units for Year 3 should be deleted, reducing the Council assumed five year contribution by **80**, from 240 to 160 units.
- 99.3 *JCB, Pinfold Road, Uttoxeter* – there are legal and practical issues to be resolved surrounding the phasing of different elements of this mixed use development. The Council assumption that the site can deliver 40 dpa from Year 3, 2017-18 is therefore unrealistic. It is however, reasonable to anticipate the delivery of 40 dpa from Years 4 and 5, reducing the Council assumed five year contribution by **40**, from 120 to 80 units.
- 99.4 *Pirelli, Burton upon Trent* – with a required planning obligation completed and demolition work already commenced on site, the Council estimated delivery of 20 dwellings in Year 1 and 40 dpa thereafter is realistic and no reduction in its assumed five year contribution of 180 units needs to be made.
- 99.5 *Red House Farm* – with no impediment to development following the grant of planning permission at appeal, the Council assumption of 40 dpa being delivered in each of Years 2 to 4 is realistic, requiring no reduction in its estimated five year contribution of 160 units.
- 99.6 *Forest Road* – no developer is yet identified for this site, where considerable advance groundworks are required. The Council estimate of delivery of 40 dpa from Year 2 is therefore over optimistic and the view of developers that it is likely to produce 15 units in Year 3 and 30 dpa thereafter is to be preferred. The Council assumption of a five year contribution should be reduced by **85**, from 160 to 75 units.
- 99.7 *Branston Depot* – despite section 106 planning obligations pending and existing tenancies on the land until 2017, the Council assumed delivery of 75 units starting in Year 4, 2018-19, seems reasonably cautious and no reduction is necessary.
- 99.8 *Branston Locks* – by far the largest allocation in the Plan, a section 106 planning obligation has been completed but there are substantial elements of infrastructure, including bridgeworks, to be completed in advance of dwelling occupations. Accordingly, it is excessively optimistic for the Council to expect completions before 2016-17 but 40 in that year and 120 dpa between three house builders thereafter appears to be a reasonable assumption, despite the view of developers that only 150 will come forward in Years 3 to 5. The Council assumed five year contribution should be reduced by **250** from 650 to 400 units.
- 99.9 *Pennycroft Lane* – this is a relatively small site with a required planning obligation in place but with the impediment that the land is

- occupied by an operational Council depot and a requirement for ground remediation. However the Council expectation that the site will deliver its capacity of 49 units within five years seems reasonable and no reduction is necessary.
- 99.10 *West of Uttoxeter* – there is no dispute as to the likely start date for completions at this site and the Council estimate of 40 dpa being delivered from Year 2 is appropriate, requiring no reduction in its assumed five year contribution of 160 units.
- 99.11 *Churnet Farm, Land south of Rocester* – as discussed above, this site is currently controversial due to outstanding issues including a listed building to be removed in order to provide access. Therefore, this 90-unit site is unlikely to yield any completions before the end of the initial five year period in 2019-20 when the delivery of 50 units is a reasonable expectation, reducing the Council assumed five year contribution by **40**, from 90 to 50 units.
- 99.12 *Brookside Industrial Estate, Uttoxeter* – there was controversy during the Examination surrounding the Plan allocation of this key urban site solely for 150 dwellings, as compared with a proposal for 90 houses, as part of a mixed development to incorporate and consolidate existing employment users. As noted above, the scheme for 90 dwellings has since been approved. It is therefore to be expected that the site could begin to deliver completions in two years and a realistic estimate is that it will yield 30 dpa from Year 4, 2018-19, contributing 60 to the five year total and reducing the Council-estimated contribution by **30**, from 90 to 60 units.
- 99.13 *Harehedge Lane, Burton upon Trent* – construction has commenced but only 24 dwellings are approved on this site to date. The remainder are subject to appeal such that no reliance can sensibly be placed upon their delivery within the five year period to 2020. The Council-assumed five year contribution should accordingly be reduced by **96**, from 120 to 24 units.
- 99.14 *Molson Coors, Hawkins Lane, Burton upon Trent* – no application has been submitted despite Council-developer negotiations and there are yet conservation area, contamination and viability issues to be resolved. Despite the Council commitment to this town centre site, it is unrealistic to anticipate a substantial level of housing delivery before the latter end of the five year period to 2020. Accordingly the Council assumed five year contribution should be reduced by **60**, from 120 to 60 units.
- 99.15 *Hazelwalls* – although added late to the submitted Plan as a strategic allocation with strong developer support, this site is yet to become the subject of a formal planning application. Given, however, substantial local opposition discussed above, the passage of any application could be protracted, such that delivery of any completions before Year 3, 2017-18, is unlikely and a five year total of 100 is realistic. The Council figure of 170 for the five year contribution should therefore be reduced by **70**, from 170 to 100 units.

100. The total of the foregoing reductions is **751** units, and as a matter of judgement, the total assumed five year housing delivery should be reduced by this amount in any 5YHLS calculation to **4,085** units (4,836-751).

#### *Under-delivery and Buffer*

101. It is a view widely accepted, and expressed frequently with reference to the well documented Droitwich appeal decision, that any supply buffer is to be applied to the amount of under-delivery in the Plan period before it is added to the five year requirement for the purposes of calculating current 5YHLS. The Council cites a recent appeal decision by the SoS in East Cheshire, where a different approach, similar to its own, was taken but that is not directly comparable. Accordingly, a further **197** units should be added to the five year requirement, equal to 20 per cent of the recorded figure of under-delivery, raising it to **4,862** units (4665+197) or **972** dpa. On that basis the current 5YHLS in relation to the Plan requirement of 613 dpa throughout the Plan period is more correctly to be estimated as **4.2** years, albeit excluding any allowance for windfalls.

#### *Options*

102. The Council has two practical options, as contemplated in Interim Findings during the Examination. One is to adopt a stepped housing trajectory, accepting that, in order to deliver its spatial strategy based on SUEs, housing delivery in the early years of the Plan period will be reduced below the average 613 dpa and then raised above it in the remaining years, in order to meet the overall requirement as the rate of delivery from the strategic sites increases. The other is to allocate sufficient additional sites in an attempt to elevate the 5YHLS to over five years.
103. Clearly, adopting the Plan without demonstrating a 5YHLS is not a third option to be entertained because the Plan would be unsound by way of inconsistency with the NPPF and its policies for the supply of housing would not be considered up-to-date in terms of NPPF paragraph 49.

#### *Stepped Trajectory*

104. In considering a stepped trajectory, the Council put forward, as one of several alternatives, a calculation of the 5YHLS to March 2020 as 7.25 years, using a reduced figure of 466 dpa as the annual requirement for the first six years of the Plan period from April 2012 to March 2018 [F.70]. This calculation follows the same methodology as that outlined above for the 613 dpa requirement and therefore needs to be subject to the same adjustments with respect to the predicted housing delivery and the application of the 20 per cent buffer to the figure of under-delivery to date. In addition, it is noted that the Council calculation neglects to include the corresponding higher annual rate of 682 dpa for Years 4 and 5, 2018-20.
105. Reworking these figures accordingly, the under-delivery to date stands at 542 units as calculated by the Council on the basis of the reduced annual figure but requires to be increased by the 20 per cent buffer when incorporated into the five year requirement. The annual requirement for 2015 to 2018 is 466 dpa but rises to 682 for 2018-2020. The five year requirement thus becomes **3,965** dwellings (466x3x1.2+682x2x1.2+650) or **793** dpa, as compared with the revised five year supply figure set out above of **4,085** dwellings. Using

this approach, the current 5YHLS in relation to the alternative stepped Plan requirement of 466 dpa, rising to 682 dpa in Year 7, is to be estimated as **5.2** years, again excluding any allowance for windfalls.

106. There is respected legal opinion, cited by Representors, that a stepped trajectory is contrary to the NPPF and unlawful [*Appendix to PS-37 Addendum and Appendix to I.7*]. Clearly, such a measure can never properly be used simply as a device to create an impression of soundness in order to circumvent planning law and guidance. However, there is wide-ranging precedent for this approach where it is justified by an otherwise deliverable and sound spatial strategy for the Plan as a whole, as in this case.

#### *Additional Sites*

107. It is important to bear in mind that there is robust evidence that the Plan will deliver its fully assessed housing requirement within the Plan period in accordance with its spatial strategy to co-locate housing and employment mainly in self-contained SUEs. This strategy is itself robustly supported, including by way of SA, but the rate at which it can be delivered depends on the timescale over which these SUEs will come forward. The housing trajectory requires to be stepped down initially below the annualised requirement by some 24 per cent but for no more than about 2.5 years after the adoption of the Plan. Thereafter, the rate of delivery would step up to meet the annualised requirement for the remaining years of the Plan and thus ensure full delivery of the required total. It was on this ground that the Council discarded the alternative option to allocate additional sites.
108. One alternative, to enlarge major sites within the SUEs, for example Uttoxeter West as suggested by Representors, would not advance their initial delivery of house completions into the five year supply period. It is also recognised that several alternative sites appear to provide logical extensions to sites already permitted, for example at Red House Farm or Harehedge Lane. However, several such sites have been allowed due to a lack of a 5YHLS hitherto and lie outwith the Plan strategy.
109. The approach of the Council to achieve implementation of the housing strategy of the Plan by way of a stepped trajectory without the allocation of additional sites is justified in the circumstances.
110. Whilst some relatively small alternative sites promoted by Representors might soon come forward if allocated, there are important practical considerations militating against the allocation of additional sites. Further allocations could only be made after review of the selection and SA processes. In the proper spirit of localism, it is not for this Report to make ad hoc changes to the allocations of the Plan. Therefore to revisit the whole site selection process would result in a considerable period of delay during which it is likely that the Plan strategy would continue to be undermined by non-compliant sites gaining permission on grounds of housing supply shortfall. These considerations lend further justification to adopting the Plan on the basis of the stepped housing trajectory now proposed.

#### ***Conclusions on Issue 3***

111. In the present case of the ESLP 2012-2031, it is appropriate to conclude that the stepped trajectory proposed by the Council, and carried into the Plan by

way of **MM18, MM19, MM20 and MM82** to SP3, its supporting text and the Housing Trajectory, is the right pragmatic approach to be taken, save that the figures and graphical representation of the trajectory require to be amended in line with the corrected calculations above.

112. The foregoing calculation of the 5YHLS, by way of the proposed stepped trajectory, is cautiously conservative and indicative that the Council can demonstrate a sufficient HLS in the face of future planning applications and appeals, such that the housing supply policies of the Plan will be considered up to date in terms of NPPF paragraph 49. It follows that the allocations in the submitted Plan provide for sufficient suitable deliverable housing sites in accordance with its spatial strategy. Subject to the modifications identified, the Plan is sound in this respect. Accordingly, it is not necessary to consider further the 'omission' sites put forward and discussed at the Hearings, or any other alternatives.
113. It is acknowledged that circumstances will change and that this could contribute to a need for early review of the Plan, depending on its effectiveness in practice. This is already secured by MM25 to SP6, as discussed above also in connection with the DTC and Issue 1.
114. Currently however, there is no clear evidence before the Examination that planning circumstances have changed to such an extent that an immediate review of the Plan strategy is justified. On the contrary, there is adequate evidence to support the foregoing assessment of the supply of housing land based on robust and reasonable assumptions of site deliverability and the time scale of dwelling completions. Together with the housing trajectory, this provides assurance that the Plan can provide the number of houses required and acts as a useful indicator of the sources of supply, in turn to inform subsequent monitoring. The Monitoring Framework provides a basis for assessing the progress of the Plan with reference to the delivery of the allocated sites and the village development requirements, as well as any additional windfall permissions over and above the foregoing calculations.
115. In as much as the Plan is sound on current evidence in terms of its housing provisions, it deserves to succeed. That is especially given that, on the evidence of cautious predictions reviewed above, the Plan will start to bring forward well in excess of its average annual housing requirement within 2.5 years of adoption. Further substantial delay to the adoption of the Plan to review the site selection process would, on balance, be contrary to the best interests of planning, especially in the light of the WMS of 21 July.

**Issue 4      Housing Needs, Affordable Housing Provision, Exception Sites**  
*Whether the Plan makes appropriate provision for meeting housing needs and for developer contributions toward an identified requirement for affordable housing, including on Exception Sites.*

***Housing Needs***

116. **MM39 to MM42 inclusive** are required to update and clarify the provisions of the Plan for Meeting Housing Needs in SP16 and its supporting text, in particular to introduce reference to optional Building Regulations Requirement M4(2) in place of Lifetime Homes Standards. This is to bring SP16 into line with national policy following the WMS of 25 March 2015 which covered the

introduction of the new system of national technical standards on housing in conjunction with an optional Building Regulation, which can be triggered by a planning permission.

### **Affordable Housing**

117. National policy affecting local plan provisions for affordable housing changed several times during the course of the Examination. It was initially relevant that the chapter of the PPG on Planning Obligations was amended on 28 November 2014, and again updated on 27 February 2015, to state that affordable housing and tariff style planning obligations should not be sought from developments of 10-units or less, or from developments of five units or less in designated rural areas. The WMS of 25 March 2015 confirmed that this amendment amounted to a change to national planning policy. Most recently however, these amendments have been overturned in the High Court and the relevant PPG paragraphs withdrawn. Sufficient evidence was put forward with respect to affordable housing provision, with or without the former restriction applying, such that no further public consultation was necessary, notwithstanding this reversal of national policy.
118. NPPF paragraph 47 requires the Plan to meet the full objectively assessed need for both affordable and market housing. The SHMA [C.1] duly analyses the Borough need for affordable housing, concluding that the largest contributor to that need is current overcrowding. The current need for new affordable housing is quantified as 112 dpa, or about 18 per cent of the calculated OAHN, which is in turn equal to the average annual Plan requirement of 613 dpa for all new housing. The Council therefore regards the delivery of the requisite affordable housing requirement as achievable within the Plan period without any further increase in the overall Plan requirement.
119. The Viability Study (VS) [C.14] uses accepted methodology and input data to conclude that greenfield urban extensions and greenfield village development sites can provide up to 40 per cent affordable housing, well within the margins of viability, with half being provided off-site by way of a calculated commuted payment of £40,000 per unit [F.37]. Urban brownfield sites can generally provide far less affordable housing due to the widely varying additional costs of site preparation. On average a 25 per cent contribution is supported.
120. The SHMA estimate of need is criticised by Representors on grounds that, compared with a previous study, it distributes the affordable housing requirement over the whole plan period, instead of the first five years, and discounts a large proportion of recorded overcrowding on the assumption that many residents living in overcrowded conditions could nevertheless afford their own home. However it would not be practical to expect the Plan to meet the need for affordable housing in its entirety in the first five years of the Plan period from 2012 and there is no clear evidence to confirm that the SHMA otherwise underestimates the need due to overcrowding.
121. The VS is also questioned by Representors with respect to input data on costs of construction and developer planning obligations as well as construction time and abnormal costs. However, building costs are derived from the Building Costs Information Service rates (BCIS), as an accepted source of such information, and the allowance for planning obligations and assumed build out rates appears to reflect past local experience. Abnormal costs, mainly



applicable to brownfield land, can only practically be assessed site by site. It is to be expected that construction costs may have increased since the date of the VS but the same is true of house selling prices. On balance, the VS appears to give a reasonable assessment of viability at the level of setting policy thresholds, subject to flexibility in the assessment of the viability of individual planning proposals, particularly those on brownfield land. It follows that there is no evident need to increase the overall housing requirement and supply in relation to affordable housing need.

122. It is on the foregoing basis that SP17, as submitted, requires all market-led residential developments of 4 or more dwellings to provide an average 25 per cent contribution as affordable housing, subject to site-specific viability assessment and the availability of subsidy. This is reasonably intended to deliver affordable dwellings on as many development sites as possible and appropriately includes 13 per cent off-site by commuted payment for urban strategic sites. This is in order to redistribute provision to actual locations of need. However, details of the application of SP17 are deferred to the HCSPD.
123. This approach was unsound on submission because it relied upon the non-statutory HCSPD for affordable housing provisions which are more properly for the statutory local plan in the light of NPPF paragraphs 50 and 159. Moreover, the inclusion within SP17 of the unqualified average 25 per cent contribution is simplistic and unacceptably vague. It is also misleading because, for the full average need to be met over the Plan period, contributions of some 40 per cent will be required on allocated sites that remain to be approved, when the actual affordable housing yield of sites permitted to date is taken into account.
124. House building Representatives regard the practical need for a 40 per cent contribution from future developments inequitable when compared with the much lower rates agreed in existing planning permissions. That concern is understandable but it is fair that contributions should be sought on the basis of current evidence or project-specific viability assessments. That is notwithstanding that there is inevitably practical difficulty in calculating viability before land prices are finalised and the potential for additional work on submission to delay the determination of applications.
125. The Council accepts that the Plan should be more specific in relation to contribution thresholds and rates and accordingly now proposes differential contribution rates set at 25 per cent for previously developed urban sites, 33 per cent for urban greenfield sites and 40 per cent elsewhere, all subject to alternative rates where supported by site-specific viability evidence. These changes, supported by the VS, introduce the necessary clarity in setting policy for affordable housing in terms of NPPF paragraph 50, whilst maintaining appropriate flexibility, and are given effect by **MM43, MM44 and MM46 to MM48 inclusive** to SP17 and its supporting text. In order to take account of the recent reversal of the PPG on contribution thresholds, MM48 is duly modified and MM45 is not taken up from the original versions that were subject to public consultation.

### ***Exception Sites***

126. With respect to Exception Sites, **MM49** to the supporting text appropriately clarifies that, where a NP identifies a residential site outside a settlement

boundary, that does not preclude it from consideration as an Exception Site under SP18.

### **Glossary**

127. **MM83 to MM90 inclusive** are also appropriate to make the Glossary of Terms at Appendix 4 to the Plan document consistent with the foregoing changes.

### **Issue 5 Infrastructure**

*Whether the Plan makes appropriate provision based on robust evidence to bring forward the infrastructure necessary to support development allocated in the Plan at the appropriate time, with particular reference to Highways and Transportation, Healthcare and Education facilities.*

### **General**

128. There is robust and largely unchallenged evidence that the infrastructure required in support of the development required by the Plan can be viably provided in a timely manner by way of developer contributions and other sources of public funding. This evidence is contained in the Infrastructure Audit and Delivery Plan (IDP) [C.15] and the VS [C.14]. **MM30** rightly commits the Council to five yearly review of the IDP to ensure its continued relevance.

### **Highways and Transportation**

129. Extensive transportation studies undertaken on behalf of the Council during the preparation of the Plan have established that no major new highway infrastructure is necessary to accommodate the traffic predicted to be generated by the development for which the Plan provides. Instead, the Integrated Transport Study of April 2014 confirms that, with respect to highway infrastructure, the Plan should focus upon traffic management and junction improvements, in particular on the A50 at Uttoxeter and along the A38 south and west of Burton upon Trent.
130. There is no substantial challenge to this strategy overall and there is substantial progress to date in this regard on several approved key road schemes. For example, by early 2015 improvements were complete, or had substantially commenced, at Denstone and at Harehedge Lane, Burton upon Trent, and Growth Fund finance is secured for the A38 Branston Interchange scheme to commence in 2016-17.
131. However, there is justifiable concern that, due to new development, certain local routes within the wider network are likely to become subject to additional traffic impacts that should be addressed at policy level as a basis for their proper mitigation and control. These concerns are addressed by **MM61 to MM63 inclusive** to ensure the effectiveness of SP35 and its supporting text with respect to accessibility and sustainable transport.

### **Healthcare Facilities**

132. The need for additional healthcare facilities in conjunction with planned new development is identified in the IDP and its provision is governed by SP7, SP22 and SP34. Together, these policies provide for the health and wellbeing of local communities and for the necessary facilities within the SUEs of the Plan.

133. With specific regard to the latter, the major developments already approved in principle, West of Uttoxeter and at Branston Locks and Beamhill, are all subject to completed or pending planning obligations to comply with the healthcare requirements of the Plan.
134. Only **MM27** to SP7 and **MM60** to SP34 are necessary to the soundness of these policies by introducing due reference to the potential to expand existing healthcare facilities within SUEs to meet the needs identified by the IDP.

### ***Education Facilities***

135. The need for new education facilities within the Borough, including new primary schools and an additional secondary school, is identified in the IDP, based on co-operation with Staffordshire County Council as Local Education Authority (LEA). However there has been substantial uncertainty regarding the precise level of requirement and, in particular, concerning a suitable location for a new secondary school.
136. Due provision is made in SP7 for new education capacity within the SUEs subject only to a necessary clarification by way of **MM28** that the provision will need to relate to the established three tier system in Uttoxeter. This aim of SP7 is carried forward in SP10 which makes provision for education infrastructure across the Borough as a whole.
137. SP10 includes the expectation that new primary schools will be located in named SUEs and there is now evidence of good progress towards new and expanded primary school provision to serve new development.
138. In contrast, it was not practical for the submitted Plan to include a specific allocation for a secondary school, due largely to a lack of suitable urban sites. It is now established that a new secondary school will be required to serve increasing demand for school places west of Burton upon Trent and there is ongoing progress towards its provision.
139. To ensure the full effectiveness of SP10, it is necessary to amend its provisions for primary schools to clarify that in Uttoxeter there will be expansion of existing first schools as well as a new school within the SUE west of the town.
140. It is important to ensure sufficient flexibility to avoid precluding any suitable and accessible greenfield site for additional schools, and a new secondary school in particular, even those detached from settlement boundaries, given a known lack of suitable urban sites . This is achieved by way of additions to the wording and supporting text of SP10 itself by **MM31** and **MM32** in terms that school sites, ultimately chosen in conjunction with the LEA on evidence of need, will be accessible for the need they are intended to serve. Despite concern that such proposals could still be constrained by the terms of SP8 on development outside settlements, SP8 is itself adequately flexible in its criteria for permitting them in appropriate circumstances.

### ***Further Modifications***

141. For completeness, **MM6** to the text of Part 2 of the Plan is necessary to add due reference to necessary social and community infrastructure.

## **Issue 6 Other Policy Considerations**

*Whether the detailed provisions of the Plan are appropriate with respect to Employment, Retail, Tourism, Sport and Leisure Development, Gypsy and Traveller Accommodation and Development Management and whether the Plan document is presented with sufficient clarity.*

### **Employment**

142. There is no substantial dispute that, based on the ELR, the Borough currently enjoys a sufficient range of good quality sites for its employment needs extending to a total of some 400ha of land. It is also evident that, by way of SP3, SP5 and SP7, the Plan broadly provides for an adequate quantity of additional suitable land, co-located with residential allocations in the SUEs to the two main towns, to support the expansion of employment in line with the spatial strategy.
143. Specifically, 20ha of employment land is allocated at Branston Locks west of Burton upon Trent and 10ha at Uttoxeter West, both subject to planning applications which the Council has resolved to approve. A further 10ha of land is allocated for employment use at Derby Road, north of central Uttoxeter. The latter allocation is the subject of an alternative proposal for partial residential development considered above under Issue 3 but it is there concluded that the employment allocation should stand.
144. To ensure reasonable flexibility and its effective application, SP5 on the distribution of employment growth requires to be clarified by way of **MM24** to allow for compatible employment generating development alongside the primary office, light and heavy industry and storage and distribution uses.
145. Otherwise, most concern regarding the provisions of the Plan in connection with employment relates to development in rural areas, the subject of SO8: Rural Economy. Here a reference to 'local distinctiveness' is appropriately deleted by **MM4** as unnecessarily complicating the promotion of rural employment.
146. Employment development outside settlement boundaries is subject to SP8 in conjunction with SP14 on the rural economy. SP8 is already subject to MM29 as described above under Issue 2 in connection with the spatial strategy. As modified, SP8 incorporates changes to ensure that the degree of constraint on rural development is justified.
147. Similarly, **MM35** and **MM36** provide necessary clarification to SP14 and its supporting text to distinguish between industrial estates, such as former military camps, and employment sites elsewhere which are subject to SP8.
148. A further change is necessary for soundness by way of **MM34** to SP13 on Burton upon Trent and Uttoxeter Existing Employment Land Policy. This modification removes undue impediment to suitable major job creating investment proposals merely because they may not be located on existing employment land and, appropriately, reduces this consideration to just one factor to be taken into account.

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**Retail**

149. The hierarchy of town centres and their management are respectively the subject of SP20 and SP21, whilst SP22 provides for supporting local communities in terms of the facilities needed in villages.
150. The strategy of the Plan for retail development is supported by a Retail and Leisure Study based on a logically defined Overall Catchment Area (OCA). This encompasses parts of neighbouring Districts, taking into account a prior household survey [C.19]. Retail floorspace requirements in the Borough are based on a measured 70 per cent market share within East Staffordshire itself. There is no evidence to question that this strategy is positively aligned to the development requirements of the Plan for new housing. However, **MM50 to MM54 inclusive** are necessary to the effectiveness of SP20 and its supporting text to provide clarification of the 70 per cent apportionment of the total OCA floor space as a 'minimum' requirement for the Borough.
151. There is little dissent with respect to the provisions of SP20 for retail development in the main towns in line with SO6. However, in order for the Plan to be sound, it is necessary to ensure consistency between SP21 and SP22 regarding the type of retail use provided in Local Centres and at the same time to define more clearly the nature of retail and other community facilities subject to SP22.
152. Therefore, given the proportionately high level of retail demand in Tier 1 villages especially, it is reasonable to delete the exclusive reference in SP21 to 'convenience' shopping to bring the terms of the policy inline with SP22, which contemplates new facilities appropriate to the local community. It is also necessary to add text clarifying the range of community facilities to which SP22 refers, to include local shops together with such as venues for sports and meetings.
153. Finally it is appropriate to add criteria to SP22 to state that new community facilities should be proportionate to the community they will serve and that they may be located outside but adjacent to the settlement boundary, albeit subject to SP8 on development outside settlements.
154. These necessary soundness changes are brought into effect by **MM55** to SP21 and **MM56** and **MM57** to SP22 and its supporting text. For clarity, MM57 is slightly amended from the consultation version to refer to locations 'outside but adjacent to settlements'. These modifications also incorporate other detailed clarification, including an apt revision to the title of SP22 to 'Supporting Communities Locally'.
155. The designation of shopping frontages in local centres was also raised in the hearings as a measure to aid resisting the loss of local village shopping. However, this consideration is covered generally in SP22 and the identification of specific retail frontages is a matter for NPs to address.

**Tourism, Sport and Leisure**

156. Tourism and Leisure development is governed by SP15 which sets criteria for new and improved existing tourism and cultural facilities. Outdoor and indoor sport are respectively the subject of SP32 and SP33. The Plan is criticised, with some degree of justification, for failing to put forward any tourism or

sport strategy, with SP15 and SP32-33 merely providing for development management. At the same time, the economy of East Staffordshire is not heavily dependent on tourism in comparison with other employment sectors and there is evidence that SP32-33 will lead to the management of existing, and provision of necessary new sports facilities, in a manner broadly supported by Sport England. However, future review of the Plan would benefit from consideration of an express strategy for tourism and leisure as part of the policy framework for the consideration of large scale individual projects, such as the developing Barton Marina complex or the projected Brookhay Villages schemes.

157. Meanwhile, the Plan can be made sound for adoption by reducing the level of constraint imposed by SP15 on tourism and leisure developments, especially in the countryside. This is achieved by **MM37** and **MM38** whereby SP15 provides not only for new 'built' tourism development but to any new tourism use outside settlements with good accessibility and no adverse impacts. An unnecessary requirement to demonstrate that the development cannot reasonably be located in an existing settlement or building is also removed, properly leaving proposals to be considered on merit. A further **MM2** to the Vision for Burton upon Trent appropriately adds 'leisure' as an aspect of its regional status.
158. With respect to blue infrastructure and water-based recreation as a component of tourism and leisure development, **MM65** to Detailed Policy 10 is required to ensure due consideration of the aims of the Central Rivers Initiative in partnership with the Council, particularly in connection with large scale developments in the Trent Valley Corridor.

### ***Gypsy and Traveller accommodation***

159. SP19 provides criteria for the assessment of proposals for sites for residential and mixed use occupation by gypsies, travellers and travelling showpeople. These criteria are essentially consistent with the NPPF, the associated revised Planning Policy for Traveller Sites and with the other policies of the Plan.
160. SP19 appropriately includes the contingency provision that the Council will identify individual sites if a need becomes evident in the future. The supporting text acknowledges that this could arise from qualifying gypsy or traveller households currently occupying conventional dwellings or from those presently accommodated outside the Borough. Meanwhile, there is no evidence of need within East Staffordshire for additional gypsy and traveller accommodation such as would require the Plan to allocate specific sites in order to be sound. The provisions of the Plan for gypsy and traveller accommodation are thus sound as submitted.

### ***Development Management***

161. Several of the strategic policies of the Plan also cover aspects of development management. It is uncontroversial that, in order for these provisions of the Plan to be sound on adoption, modifications are required to bring them into line with current national policy and PPG.

### *Biodiversity*

162. SP29 relates to biodiversity. **MM58** to SP29 is required for the policy to express proper protection to European, national and locally designated sites in the established terms of national policy. This is to ensure that development having a direct or indirect adverse impact upon protected sites will not be permitted unless, in brief, there is no less harmful alternative site for the development and that overriding benefits would result and that mitigation is provided.

### *Landscape*

163. SP30 refers to locally significant landscape and **MM59** to SP30 is necessary to state effectively that development decisions will be informed by the current Landscape Assessment for Staffordshire with applicants demonstrating that the scheme will reflect existing landscape character.

### **Document Presentation**

164. As submitted, the effectiveness of the Plan document is unacceptably diminished by poor presentation which renders it difficult to use. There is a degree of overlap between strategic and detailed provisions, a lack of paragraph numbers and no clear overall index. These shortcomings are resolved to an acceptable degree by **MM10**, **MM11** and **MM64** adding paragraph numbers and indexes.

### **Assessment of Legal Compliance**

#### ***Statement of Community Involvement***

165. Submissions were made late in the Examination that further interim findings should be published and further oral sessions should be held to ensure a fair hearing following the exchange of representations, including the MM consultation, which took place after the oral sessions of the Examination were completed. This was with reference to the proposal during the Examination for a stepped housing trajectory and to the amended PPG, published also during the Examination, advising that site deliverability to meet the 5YHLS be thoroughly considered and examined prior to adoption.
166. However, in accordance with practice now established, the MMs for consultation arose only from oral or written discussion during the Examination, as explained in the Introduction above. The proposal for a stepped trajectory emerged from Interim Findings following the first four strategic Hearing sessions and was available for public discussion. The trajectory is justified in terms of the Plan strategy in the foregoing assessment of soundness. The revised PPG was also known to all Examination participants. Substantial evidence of site deliverability was provided by the Council and Representors, including in connection with 5YHLS calculations. The latter were themselves subject to additional public consultation, the results of which are taken fully into account above.
167. Accordingly, no claim was made out that there was insufficient opportunity within the Examination for a fair hearing on any aspect of the soundness of the Plan as now recommended for adoption. Further Interim Findings and further

Hearings were not necessary and would have led to unwarranted protraction of the Examination process which has, in practice, been consistent with the SCI.

168. It is further claimed within some local communities that public consultation on the Plan has been inadequate. However, there is no evidence that the Council has failed to comply with the SCI, in particular in direct liaison with local communities via Parish Councils.

### ***Sustainability Appraisal***

169. The chronology of the submission of the several iterations of the SA documents (RSA, ERSA and ERSA Addendum), and public representations upon them, is set out in the Introduction to this Report.
170. Although the RSA accompanied the Plan on submission for examination, public consultation upon it was, at that time, still ongoing. As a result the RSA was criticised in terms that it did not comply with statutory procedure. It was also criticised on grounds that it failed to assess all reasonable options for the overall spatial strategy and for the identification of suitable sustainable sites for residential development.
171. It is regrettable that the Council saw fit to submit the Plan for examination before public consultation upon the RSA was complete. This led to some disquiet that its considerations were retrospective.
172. There is no doubt that the RSA lacked explanation of the ultimate choice, in effect, of a hybrid combination of two sub options for the strategic distribution of development and for its assessment criteria for the original sites for consideration and their later comparison.
173. Crucially though, the subsequent ERSA, put forward for consultation during the Examination was modified to provide these explanations. Notwithstanding continuing criticism by Representors, the ERSA with its MM Addendum now provides an adequately objective sustainability audit of the preparation and modification of the Plan and performs its practical function as a central part of a robust evidence base in support of the Plan and the MMs now recommended.



**Other Aspects of Legal Compliance**

174. Otherwise my examination of the compliance of the Plan with the legal requirements is summarised in the table below. I conclude that the Plan meets them all.

<b>LEGAL REQUIREMENTS</b>	
Local Development Scheme (LDS)	The East Staffordshire Local Plan 2012-2031 is identified within the approved LDS June 2015 [F.81], which sets out an expected adoption date of October 2015. The content of the Plan and timing are compliant with the LDS.
Statement of Community Involvement (SCI) and relevant regulations	Public consultation has been compliant with the requirements of the adopted SCI of September 2013, including with respect to the consultation on the post-submission proposed Main Modifications.
Sustainability Appraisal (SA)	SA has been carried out, including revision following the pre-submission consultation and again during the Examination in response to representations and Interim Findings by the Inspector and with respect to the Schedule of Main Modifications. SA of the Plan is adequate overall.
Appropriate Assessment (AA)	The Habitats Regulations AA Screening Report of October 2013, in effect updated by the ERSA, sets out why AA is not necessary, taking account of ongoing work by the Council, in conjunction with the Cannock Chase SAC Partnership.
National Policy	The Plan is consistent with national policy except where indicated and modifications are recommended.
Sustainable Community Strategy (SCS)	Satisfactory regard has been paid to the SCS.
2004 Act (as amended) and 2012 Regulations.	The Plan complies with the Act and the Regulations.

## **Overall Conclusion and Recommendation**

175. The Plan has a number of deficiencies in relation to soundness for the reasons set out above which mean that I recommend non-adoption of it as submitted, in accordance with Section 20(7A) of the 2004 Act. These deficiencies have been explored in the main issues set out above.
176. The Council has requested that I recommend Main Modifications to make the Plan sound and capable of adoption. I conclude that, with the recommended Main Modifications set out in the Appendix to this Report, the East Staffordshire Borough Council Local Plan 2012-2031 satisfies the requirements of Section 20(5) of the 2004 Act and meets the criteria for soundness in the National Planning Policy Framework.

*B J Sims*

Inspector

*Note*

*This Report is accompanied by an Appendix containing the Main Modifications*