



Strategic Planning Research Unit
A specialist team within DLP Planning Ltd

For and on behalf of
Lagan Homes

Charnwood Local Plan Consultation of Sustainability Appraisal Addendum

Land at Gorse Hill, Anstey

**Prepared by
Strategic Planning Research Unit
DLP Planning Ltd
Sheffield**

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Prepared by:	Megan Wilson BSc (Hons) MSc MRTPI CIHCM Associate Director
Checked by:	Jon Goodall MA (Cantab) MSc MRTPI Director
Approved by:	Jon Goodall MA (Cantab) MSc MRTPI Director
Date: November 2023	Office: Sheffield

Strategic Planning Research Unit

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1.0 INTRODUCTION

- 1.1 This response to the consultation on the Sustainability Appraisal Addendum (SAA) (EXAM57) in respect of the Charnwood Local Plan (CLP) 2021-37 Examination has been prepared by the Strategic Planning Research Unit ('SPRU') of DLP Planning Ltd on behalf of Lagan Homes. SPRU has previously been instructed to appear at the Examination on behalf of Lagan Homes.
- 1.2 This representation outlines Lagan Homes' comments in respect of the Sustainability Appraisal Addendum currently undergoing a period of public consultation. It also sets out the assessment of Lagan's interests at Gorse Hill (summarised below) as a reasonable alternative relevant to meeting Leicester's Unmet Need as part of the ongoing plan-making process.
- 1.3 As an objective exercise in terms of assessing reasonable alternatives through the Sustainability Appraisal (SA) and SAA currently subject to consultation, the plan-making process should reflect potential contributions to sustainable development that outweigh the Council's reasons to reject the site. The relevant assessment criteria have not been applied to consider bringing this site forward to provide for a range of benefits while avoiding areas of potential ecological harm.
- 1.4 Lagan had previously taken a longer-term view on promotion of the site and are still in the process of demonstrating the most appropriate means of addressing potential identified constraints. More recently, preparation and submission of an application has become an alternative but effective means for our client to establish how the site can be sustainably delivered. This has been undertaken in-tandem within the context of the ongoing plan-making process increasingly acknowledging the potential for growth within the LUA to which the site could contribute.
- 1.5 This representation should also be read alongside previous representations to the Regulation 19 consultation (PSLP/162), submitted by Geoffrey Prince Associates Ltd on behalf of Cawrey Homes, in respect of the Local Plan and should be considered in the context of support for the Local Plan. The site in which these representations related, is now being promoted by Lagan Homes.

Background

- 1.6 DLP submitted Matter 1-3 Resumed Hearing Statements on behalf of Lagan Homes in January 2023 and attended the hearing session on behalf of the client. Throughout the Examination we have on behalf of our client emphasised the role of the Leicester Urban Area (LUA) to make provision for part of Leicester's unmet needs in the most sustainable location. The Council has subsequently proposed Main Modifications that would specify the importance of this part of the Plan Area, and which would reflect that our client's interests at Gorse Hill fall within the LUA boundary.
- 1.7 Within this context the assessment of our client's interests has been materially and substantially affected by the publication of the Council's Sustainability Appraisal Addendum ('SAA') (EXAM57) following submission of the abovementioned Supplementary Written Hearing Statement(s). The scope of work for the SAA has been defined and undertaken without the agreement of the Inspectors and prior to discussion at the resumed Hearings. In light of the ongoing uncertainty on the scale and approach to delivery of additional supply required to address the contribution towards unmet needs this is directly at odds with the Inspectors' Initial Findings (EXAM 55 pp.4).
- 1.8 Any further assessment of our client's site, notwithstanding its location within the LUA, has been precluded by the approach to the SAA process and contrary to legal requirements and the objectives of achieving sustainable development.

- 1.9 During the lengthy course of the Examination, Lagan Homes has submitted an outline planning application at land at Gorse Hill, Anstey for up to 80 dwellings (P/22/2132/2 – validated January 2023). As the application has progressed and following informal discussions with the Council's Ecologist, the scheme has evolved to address in principle the biodiversity requirements identified through detailed ecological surveys.
- 1.10 Potential amendments to the proposals have been identified, subject to further detailed information being submitted and subject to further consultation. This is demonstrated on the revised Development Framework at Appendix 1, which shows a much-reduced development area, with the site now expected to deliver 40no. residential dwellings together with considerable ecological enhancements and public open space.
- 1.11 Lagan Homes are a privately owned SME Housebuilder based in Banbury and operating across the Midlands. Promotion of the site responds to the financial and operational barriers typically faced by SME housebuilders in terms of securing opportunities for development on larger allocated sites. By extension the site would increase and diversity opportunities for delivery.

2.0 PROCEDURAL MATTERS

- 2.1 According to correspondence from the Council requesting feedback on the additional evidence, all those who were consulted during the Regulation 19 Pre-Submission Local Plan stage are being notified about the 'new documents' (listed below) consultation.
- 2.2 Whether this indicates that all individuals are welcome to provide feedback on this new material is unclear. If so, should this additional consultation be incorporated into a revised LDS and the Council be required to demonstrate that it has complied with its SCI about this consultation? Alternatively, is the consultation just open to those who are currently involved in the EIP?
- 2.3 With specific reference to the SAA, it is noted that the SAA was produced in December 2022, shortly before the deadline for the submission of initial Hearing Statements. It is our understanding that the SAA was sent to the LP EiP Inspectors on 16th January 2023, but was not uploaded onto the Examination portal until 2nd February 2023, and in any event definitively not available before the deadline for supplementary statements to be submitted (also 16 January 2023). This provided no opportunity for submissions to reflect the new evidence adduced.
- 2.4 Indeed, this matter has been raised by a number of interested parties, with Paul Tucker KC, acting on behalf of Pegasus, providing written advice (EXAM60 and EXAM60b) in respect of the additional evidence. This concluded that in order for the wider process to be just and fair, and so as to negate the potential risk of judicial review, additional consultation was necessary.
- 2.5 In response to this, the Council instructed Richard Humphreys KC to respond (EXAM60A). Whilst some of the dates and processes, as set out above were disputed in the note, the advice confirmed that further consultation would be necessary and in accordance with fair process and legal principles.
- 2.6 It is noted that the Inspectors have previously raised concerns that the methodology for the SAA was not consulted upon before the Council undertook the work.
- 2.7 The Inspectors in their 'Next Steps' letter dated 23rd May 2023 (EXAM71) confirmed a requirement for additional consultation on the following additional evidence base documents;
- Transport Strategies (EXAM32a);
 - Viability Assessment (EXAM32);
 - The Sustainability Appraisal Addendum (EXAM57);
 - Approach to Housing Land Supply (EXAM56);
 - Completions/Monitoring
- 2.8 Notwithstanding the above queries in respect of the scope of the consultation, we support the decision to undertake a statutory period of consultation. Given the scale of the additional information published and subsequently subject to further consultation some 9 months after initial discussion at the Matter 1-3 Hearing sessions in February we would invite the Inspectors to consider the need for additional hearing sessions.
- 2.9 Within this context there has been no 'sound' resolution of matters raised by the Inspectors in EXAM55 in relation to the scale of the increase in supply required, particularly given those issues are compounded by the Council's latest assessment of supply on adoption (5.16 years – EXAM58D) and the foreshortened plan period on adoption. Practically the scope for the SAA should have been agreed after the resumed Hearings, undertaken in the intervening period and given consideration to a greater increase in supply, prior to final discussion.

3.0 LAND AT GORSE HILL, ANTSEY (SITE PSH2)

3.1 This section considers to the background to consideration of our client’s land as part of the plan-making process and the latest evidence for the site that would fall to be reconsidered within the scope of the SAA had this been undertaken in a sound and legally compliant way.

a) Land at Gorse Hill - Background to Assessment as a Reasonable Alternative

3.2 For the purposes of the plan-making process the land at Gorse Hill encompasses site reference PSH002 identified within the SHELAA. The site is considered within the Development Strategy and Site Section Process (TP-2) and subject to assessment in the Sustainability Appraisal for the submission version Plan at Appendix H (SD-6). The site is compared with site options at Anstey/Glenhill (comprising part of the LUA) in Table 6.2 of the main SA Report (SD-5) (summarised in Figure 1 below).

Figure 1. Sustainability Appraisal Assessment Findings – Site PSH2

Table 6.2 - Summary of housing site options assessment (Anstey / Glenfield)

AECOMID	Client Map No	Site Address	Settlement	Site Area (ha)	Landscape	Biodiversity	Water Pollution	Water quality	Flood Risk	Land and soil	Air quality	Transport	Wind Energy	Historic environment	Regeneration	Access to greenspace	Access to Healthcare	Employment land	Proximity to key routes	Access to Primary School	Access to Secondary School	Access to Convenience Store	Access to Leisure facilities	Mineral Safeguarding Areas
AECOM036	SH9	Hollow Road	Anstey	0.30	Green	Green	Grey	Grey	Grey	Green	Green	Green	Green	Green	Green	Green	Green	Red	Green	Green	Green	Green	Green	Green
AECOM123	PSH2	Land West of Gorse Hill	Anstey	4.58	Yellow	Yellow	Grey	Grey	Grey	Green	Green	Green	Green	Green	Green	Green	Green	Green	Green	Green	Green	Green	Green	Green
AECOM124	PSH297	237 Bradgate Road	Anstey	1.27	Green	Green	Grey	Grey	Grey	Green	Green	Green	Green	Green	Green	Green	Green	Green	Green	Green	Green	Green	Green	Green
AECOM129	PSH144	Land at Gynsill Lane & Anstey Lane	Anstey Glenfield	20.43	Green	Green	Grey	Grey	Grey	Green	Green	Green	Green	Green	Green	Green	Green	Green	Green	Green	Green	Green	Green	Green
AECOM165	SH4	Albion Street/Rosebery Road	Anstey	0.28	Green	Green	Grey	Grey	Grey	Green	Green	Green	Green	Green	Green	Green	Green	Red	Green	Green	Green	Green	Green	Green
AECOM200	PSH387	High Leys Farm / Manor Farm	Anstey	5.82	Green	Green	Grey	Grey	Grey	Green	Green	Green	Green	Green	Green	Green	Green	Green	Green	Green	Green	Green	Green	Green
AECOM201	PSH388	High Leys Farm / Manor Farm	Anstey	21.84	Green	Green	Grey	Grey	Grey	Green	Green	Green	Green	Green	Green	Green	Green	Green	Green	Green	Green	Green	Green	Green
AECOM250	PSH389	Land off Groby Road	Anstey	20.18	Green	Green	Yellow	Grey	Grey	Green	Green	Green	Green	Green	Green	Green	Green	Green	Green	Green	Green	Green	Green	Green
AECOM262	PSH460	Park View Nursery Site off Gynsill Lane	Anstey	12.14	Green	Green	Grey	Grey	Grey	Green	Green	Green	Green	Green	Green	Green	Green	Green	Green	Green	Green	Green	Green	Green
AECOM263	PSH482	Fairhaven Farm	Anstey	25.06	Green	Green	Grey	Grey	Grey	Green	Green	Green	Green	Green	Green	Green	Green	Green	Green	Green	Green	Green	Green	Green

Source: SD-6 Appendix H May 2021

3.3 The conclusions of the Sustainability Appraisal do not identify the potential for significant adverse effects under any domain. Without prejudice to wider commentary on positive effects that should be attributed to Gorse Hill corresponding to its classification within the LUA and proximity to other proposed allocations the SA does not support rejecting this location from potential options for site selection.

3.4 The SA considers the site’s potential effect on biodiversity consistent with a ‘Category D’ rating and some potential harm to biodiversity. A Category D rating also applies to the conclusions of the Ecological Assessment Report informing site assessment. Category D is used to define:

“Sites containing either a high proportion of priority habitat or botanically diverse habitat; or, contains potential for/evidence of protected species. Unlikely to achieve sufficient on site mitigation to make development acceptable but it may be possible if the developable area is significantly restricted. There may be risks of ecological harm associated with position in landscape.”

3.5 The conclusions within the Ecological Assessment are also consistent with the 2020

SHELAA conclusions for site PSH2 that identify “*No known irresolvable physical/environmental constraints*” (EB-DS-1a and Anstey Settlement proformas).

- 3.6 The Council’s grounds for excluding Site PSH2 stem from Appendix C6 of the Development Strategy Topic Paper identifying sites it is claimed cannot be mitigated under an ‘Ecology Scenario’. This is informed by Appendix D which simply states ‘avoid’ development of the site. This does not alter the site’s Grade D rating (as opposed to Grade E which identifies a lack of mitigation options in the table following paragraph 4.17).
- 3.7 Appendix 2 to the Council’s Ecological Assessment (EB-ENV-12) that informs paragraph 4.18 of the Topic Paper to suggest no mitigation options exist for the site further confirms no new survey information was obtained to support the Council’s conclusion and also provides the same Grade D (rather than Grade E) rating. Moreover, it is confirmed the Council’s assessment is informed by previous consultee responses provided to pre-application reference P/18/11/31 and that nonetheless only part of the site meets selection criteria for designation as a LWS.
- 3.8 It is clearly the case that this information is dated and that comments on a specific pre-application submission do not represent positively prepared testing of options for mitigation or amendments to the developable area to accommodate identified constraints. The Council’s reasons for excluding the site from the plan-making to-date are wholly unjustified.
- 3.9 Moreover, under the single criterion employed used to exclude the site previously it wholly falls within a category of reasonable alternatives that should be reconsidered as part of options to boost delivery, meet a shortfall in supply, and address Leicester’s unmet needs in a sustainable way.
- 3.10 In paragraphs 3.9-3.10 of our client’s original Matter 1 Statement and paragraph 4.4 of its Matter 2 Hearing Statement we identify reasons that the testing of development strategy options has not sought to maximise capacity within the Glenfield/Anstey area up to the level where potential adverse effects are potentially identified in the Council’s evidence base.
- 3.11 The options tested do not acknowledge the range of benefits and community infrastructure to be delivered as part of growth identified in the submission version Plan. The Council’s own Sustainability Appraisal Framework does not find significant potential adverse effects for our client’s site PSH2. Under the Council’s own assessment criteria, the site falls to be considered on its own merits with a proportion of the site being identified as potentially developable land within the LUA boundary, with the remainder available for ecological mitigation and enhancement while avoiding areas of greatest potential harm. This is the starting point beyond which the site would contribute towards the wider objectives of achieving sustainable development within the LUA.
- 3.12 It is significant that notwithstanding further potential capacity for development at locations within the LUA including Glenfield/Anstey none of the appraisal criteria and indicators within the SAA have been updated to reflect proximity to meeting Leicester’s unmet needs or scope for cumulative benefits. While this may not have been necessary in a Plan not making provision for Leicester’s unmet needs it is essential for assessing the revised scope of the housing requirement. The scope for positive effects under the population, local economy and climate change should be increased for sites within the LUA.
- 3.13 It is also the case that under the Biodiversity domain most relevant to the site’s exclusion from development strategy options previously the SA Framework actively encourages measures such as increased habitat connectivity and access for the community which it has been demonstrated can be achieved on our client’s site and complement growth identified in the submission version Local Plan (see extract in Figure 2 below).

Figure 2. SA Framework Biodiversity Assessment Criteria

SA objectives	Appraisal Criteria	Potential Indicators
<p>2. Biodiversity and nature conservation - Protect and enhance biodiversity, habitats and species</p>	<ul style="list-style-type: none"> - Protect and enhance designated sites including SSSIs, LNRs and LWSs. - Protect and enhance priority habitats and species. - Contribute to the protection and creation of new BAP habitats. - Avoid habitat fragmentation and increase connectivity of habitats. - Enhance community engagement with biodiversity. - Encourage the protection and provision of green and open spaces. 	<ul style="list-style-type: none"> - Condition of designated sites. - Planning/applications refused/granted in designated sites, green wedges and wildlife corridors. - Percentage of land designated as nature conservation sites as a result of Local Plan policies. - Completed development that has resulted in the loss or creation/restoration of BAP habitats.

Source: EXAM57

3.14 Faced with a reassessment of alternatives to provide for part of Leicester’s unmet needs in a sustainable and deliverable way it is plainly not the case that the Development Strategy justification for the rejection of site options should preclude the reassessment of alternatives within the LUA boundary. A reassessment of all site options within the LUA boundary plainly falls within the scope of the SAA.

b) Summary of Development Potential Reflecting Biodiversity and Habitat Conservation

3.15 It is clear from the above that the principal concern in respect of the site, save for secondary education provision, which is to be addressed through allocation HA43, related to Biodiversity.

3.16 Lagan Homes have submitted an outline planning application at land at Gorse Hill, Anstey for up to 80 dwellings (P/22/2132/2). It is only via the submission of this application and the accompanying extensive technical survey work that the precise ecological constraints have been able to be identified. The submission of a planning application has also demonstrated that there are no other technical barriers to the site being delivered.

3.17 As the application has progressed, informal discussions have been undertaken regarding how the ecological constraints could be mitigated. In principle, the reduction in the overall developable area, so that the site would now deliver around 40 no. units, and a robust ecological management strategy for the remainder of the site appears to be the most appropriate solution. The revised Development Framework at Appendix 1, demonstrates how this could be achieved. Further detailed work to support this solution would need to be considered by the Council through the application process.

3.18 The suggested amendments reflect use of the northern portion of the site for residential purposes and enhancements to the southern edge of the site that give rise to additional biodiversity, ecological and public benefits, with long-term management and enhancement of the site proposed as part of the application.

3.19 Save for some minor comments from the LHA, all of which have been addressed in the latest submissions, no statutory consultees have raised any concerns or objections in respect of

development of the site.

- 3.20 As we have set out on behalf of our client the site's proposed inclusion in the LUA, and the clear benefits of meeting Leicester's unmet housing needs in an area with shared characteristics and strong transport and wider infrastructure links with the city, necessitate that it is fully considered as part of the plan-making process.

4.0 SUSTAINABILITY APPRAISAL ADDENDUM

a) Failure to Update the Assessment Framework Relating to Leicester's Unmet Needs

- 4.1 We consider that the failure to adequately assess reasonable alternatives as part of the SAA is concerning and in terms of soundness this does not indicate a positively prepared approach or consistency with national policy.
- 4.2 This also raises queries of legal compliance regarding the SA process itself and there are some parallels with similar ongoing issues with the Shropshire Local Plan. The Inspectors in their latest letter to the Council (ID36 (Oct 2023) – copy at Appendix 2) have indicated serious concerns regarding the Sustainability Appraisal process including the relationship between the justification for site selection and whether these are consistent with criteria for assessing reasonable alternatives.
- 4.3 In similar circumstances to Charnwood, Shropshire Council has, at an advanced stage of the Plan making process, agreed to plan for some of the unmet needs arising from the Black Country. The Inspectors, in their Interim Findings letter dated 15 February 2023 (ID28 – Copy at Appendix 3)\, found sound the Council's approach to identifying the housing and employment land needs derived within Shropshire itself.
- 4.4 Principally, concerns by objectors and the Inspectors relate to the assessment of sites to meet the agreed apportionment of the Black Country's unmet housing and employment land needs. Within the February 2023 Interim Findings Letter the Inspectors had therefore advised the Council of the following;

Paragraph 22 *"if following the additional SA work, the Council chooses to pursue the same growth option as before then it follows that the housing and employment land requirements will increase, and more sites will be required. Consideration will also need to be given to the distribution of development since accommodating some of the unmet needs may result in more sites being required in the part of Shropshire nearest the Black Country. It would therefore be helpful if, once the Council has carried out the additional SA work, the proposed strategy in relation to the housing and employment land requirement is set out in the topic paper requested at paragraph 12 above. The Plan should also make clear what the Council's strategy is, through main modifications'.*

- 4.5 The Council's approach to addressing this has been to seemingly absorb the unmet needs of the Black Country in its own housing requirement as originally proposed. This is distinct from Charnwood's proposed contribution towards part of Leicester's unmet need forming part of the housing requirement additional to local housing need calculated using the standard method. However, the implications for whether the approach to addressing the total housing requirement proposed continues to be informed by an appropriate strategy identified by the Sustainability Appraisal process and considering relevant SA objectives are common to both circumstances.
- 4.6 Consideration of whether those requirements have been met in Charnwood should reflect the Shropshire Inspectors' conclusion of the assessment of reasonable alternative sites in the context of proposed contributions towards unmet needs. Indeed, in the most recent October 2023 letter setting out conclusions on shortcomings identified for the Shropshire Local Plan the Inspectors state;

Paragraph 15. *"The SA does not appear to properly assess reasonable alternative sites to meet the unmet needs of the Black Country. Clearly sites to meet the agreed unmet needs of the Black Country are likely to be most appropriately located close to the Council's administrative boundary with the Black Country authorities. Whilst the Council identify specific sites to meet both the housing*

and employment needs of the Black Country the sites which have been selected are sites that underwent SA assessment to meet the needs of Shropshire as a whole and not the specific geographical needs of the Black Country”.

- 4.7 The Examination of the Shropshire Local Plan is now subject to a pause whilst the Inspector’s consider the scope of additional work required, and actually if indeed, additional work could address the significant shortcomings in respect of the assessment of sites.
- 4.8 Aligned with paragraph 15 of the above Shropshire Local Plan Inspectors’ letter the same approach must be taken by Charnwood Council. The failure to assess a full range of reasonable alternatives and simply intensify the sites identified as part of the assessment of sites to meet the needs of Charnwood is insufficient and unjustified. The SAA should have undertaken a comprehensive assessment of all reasonable alternatives capable of accommodating the unmet need arising from Leicester and particularly for sites within the LUA.
- 4.9 This flows into criticisms relevant to our client’s interests regarding the very narrow selection of reasonable alternatives set out in the SAA. The SAA essentially rules out the reassessment of sites such as Gorse Hill, notwithstanding its changing relationship with the scope of the Plan and addressing Leicester’s unmet housing need as set out below.
- 4.10 The preceding Section 3 of this representation sets out a brief overview and update in respect site-specific considerations for the assessment land at Gorse Hill, Anstey as a reasonable alternative to be considered in this context.

b) Option 2 - Failure to Adequately Define the Scope and Selection or Rejection of Additional Site Options

- 4.11 The scope and approach to undertaking the SAA in respect of defining and testing Option 1 (intensification) and Option 2 (additional sites) is not justified. The approach is not legally compliant in terms of thoroughly testing all reasonable alternatives, assessing options on a like-for-like basis and providing reasons for selecting and rejecting assessment options based on the objectives assessed.
- 4.12 Within Table 4.2 of EXAM57 specifying the scale of additional supply required without consultation or agreement from the Inspectors surround the scope of the SAA is contrary to the findings within EXAM55. Option 2 specifies an increased quantum of additional supply to be identified (1,272 units versus 524 units in Option 1) only because Option 1 seeks to rely on inclusion of a windfall allowance.
- 4.13 Without prejudice to the extensive soundness concerns identified with the Council’s justification for a windfall allowance at the Matter 7 Hearing session, and its implications for ensuring a boost in supply, the starting point of testing different scales of additional growth is an unbalanced assessment of adverse effects potentially attributable to Option 2. Simply no weight can be placed on assessment findings such as those for soils below (EXAM57 pp. 48) where it is evident that windfall could also be included for Option 2 or separately other reasonable alternatives could have been selected resulting in a lesser level of potential adverse effects.

“The new sites proposed fall within mostly Grade 3 land, with only site PSH120 potentially involving Grade 2 land. The overall scale of additional allocations is higher for this option (taking windfall out of the equation), and therefore this approach will exacerbate the significant negative effects identified in the submitted Plan.”

- 4.14 The issues with the Council’s approach are compounded by the failure to justify or even

clearly set out the rationale for assessing specific additional sites under Option 2. The Council has further not specified how these additional site options would comprise the delivery of the Council's pre-defined total for additional supply required (1,272 dwellings).

- 4.15 Table 4.1 indicates that additional sites have been identified at Shepshed, Loughborough and the LUA, broadly corresponding to the 'variable' components illustrated at Figure 4.3 and suggesting only 6 additional site options were considered reasonable alternatives. This does not include our client's land at Gorse Hill (site PSH2). No specific list is provided and nor is the LUA boundary shown in Figure 4.3. No reasons (or even summary reasons) are provided to continue to reject site options that were ruled out previously but taking account of the requirement for further iterative testing against the update scope of the SAA. This is contrary to the principles for Sustainability Appraisal outlined within relevant Caselaw. All rejected options, and particularly those within the LUA, should have been specified by the SAA document.
- 4.16 The SAA lacks even a summary of assessment outcome for those sites that were included in Option 2, precluding an understanding of why they are first selected for re-testing or the basis for rejection on a site-by-site basis. Not all potential additional sites are discussed individually in the assessment findings for each objective. Where references are provided PSH120 (Thurcaston) and PSH467 (Loughborough) can be read-across the with Development Strategy Topic Paper (TP-2) as options that passed all the scenario criteria but were nonetheless not taken forward. However, the sites comprise 308ha and 39ha respectively and both together could potentially accommodate far in excess of 1,272 dwellings although their scale potentially requires consideration of delivery.
- 4.17 It is not, however, the case that all Option 2 sites from the SAA were those simply not taken forward previously – for example PHS495 in Shepshed was ruled out due to its distance from the settlement. The reinforces the justification that all previous site options should have been set out and reassessed.
- 4.18 In summary the composition and assessment findings for Option 2 cannot be supported. While it is correct that this Option maximises potential positive effects for housing delivery through additional supply these effects would be emphasised by assessing and selecting a range of smaller site options and setting out specific delivery expectations of any larger sites (plus any windfall allowance that in reality applies equally to all scenarios). Other potential positive effects for the local economy and infrastructure would further be emphasised by adjusting the assessment criteria to reflect the selection of additional sites within the LUA. Selecting a wider range of additional sites would provide a corresponding opportunity to reduce potential adverse effects in other domains (for example by enhancing ecological connectivity).

c) Option 1 – Failure to Objectively Assess Effects of Intensification Only

- 4.19 Our client considers that the identification of additional land should be considered fundamental to addressing an increase in the housing requirement. Whilst the densification of allocated land, such as HA43, is noted allocating a variety of sites of various sizes, particularly within the LUA, maximises the prospect of prompt delivery at the commencement of the Plan period upon adoption.
- 4.20 Placing additional weight on sites to deliver at a higher density than that consistently tested previously carries considerable risks. Indeed, as confirmed in the 'CBC-Confirmation Statements Regarding Site Intensification' (EXAM64) site HA43 would, under the proposed strategy, see a 19% increase in allocated capacity. Whilst the site is being developed by multiple parties, it is noted that in respect of the element of the site to be brought forward by Davidsons, the revised capacity would provide for 408 new dwellings, whilst the original assessment of capacity by both the developer and the Council was a maximum capacity of

343 dwellings.

- 4.21 Whilst confirmation of agreement to the intensification is provided by the acting agent on 3rd February 2023, it is clear that the scale of intensification has not been subject to comprehensive testing by either the Council or the developer and the weight to be afforded to the agreement to increase capacity should be carefully considered.
- 4.22 The SAA confirms in the 'Option 1 – Implications of site intensification' section that the majority of sites identified involve relatively small amounts of growth which are unlikely to have and major impacts on matters such as landscape. However, the SAA notes that in settlements including Anstey the scale of intensification is greater and as such there is the potential for wider harmful impacts.
- 4.23 With specific reference to ecology, the SAA notes that the intensification of sites provides no measures to enhance ecological connectivity and value. As is set out in the section below, the allocation of the land at Gorse Hill, further to positive ongoing engagement with County Ecologists, could provide significantly enhanced, publicly accessible land that enhances ecological connectivity within close proximity to Anstey and functionally forming part of the LUA.
- 4.24 It should be noted that whilst we have some reservations in respect of the intensification of proposed allocations, particularly HA43, we fundamentally support and consider that the Council have evidenced the decision to address part of Leicester's unmet needs in locations well-related to the LUA. Indeed, it remains fundamental that any unmet needs are addressed in areas with strong and demonstrated relationships with the area in which the unmet needs arise from.
- 4.25 The SAA confirms explicitly that Anstey is a highly sustainable location for growth and shares excellent transport links with Leicester. What is not clear is whether this influenced the selection of reasonable alternatives and whether this relationship should support the rejection of site options ruled out previously. It is not appropriate state the assessment of produces a default conclusion of positive effects based on the strategy within the submitted Plan to support growth at Anstey.
- 4.26 The scope of the Local Plan has been changed by the proposed contribution to part of Leicester's unmet needs. The relative findings on positive effects should be revisited within the SAA giving greater weight to the sustainability credentials of this part of the Plan Area and scope to meet needs close to where they arise. Considering the potential of intensification of proposed site allocations within this context should only be undertaken alongside a thorough reassessment of all reasonable alternative site options.
- 4.27 In this context we continue to support the proposed modification that would see our client's land interests at Gorse Hill form part of an amended LUA boundary.

d) Relationship with Updated Transport, Viability and Delivery Evidence

- 4.28 Aligned with the elongated and disjointed approach to identifying need and supply relating to the agreed apportionment of Leicester's unmet need in Charnwood it is unclear how the SA process, which concluded in the SAA dated December 2022, was influenced by the outcome of the newly developed and published transport strategies. We would have anticipated to be consulted on a more recent version of the SA that specifically included the implementation of the three new transport strategies that are now being offered. It is crucial that the SA remains an iterative process.
- 4.29 A critical analysis of the selected development strategy and the potential cumulative effects of the more dispersed approach to new housing allocations appear to be part of the County

Council's reasoning in the transport strategies for the high level of developer contributions needed.

- 4.30 Nonetheless, the SAA has been written before the Council determined which strategy is to be adopted and the relevance of any updated information on strategic priorities including transport, as stated in the document at paragraph 7.4. Therefore, there are elements of the Council's current justification for intensification of allocation and continuation of the selected preferred strategy that fall outside of the scope initially defined (without consultation or agreement from the Inspectors) for the SAA process.
- 4.31 To meet some of Leicester's unmet needs the Plan must, nevertheless, provide an explanation for the Council's approach. This will require Main Modifications, which must include references to the evidence base, including the SA and SAA, to evidence the rationale and methodology.
- 4.32 Policies aimed at densifying and expanding existing sites appear to have been selected to address the issue of partially meeting Leicester's unmet needs, but the allocation of new sites was disregarded, without sufficient justification.
- 4.33 We suggests that the SAA should have taken into account any potential differences in transport consequences from each alternative. All the new evidence must come together in a logical package that thoroughly describes the strategy and any recommended adjustments to the Local Plan that are being made in light of the new evidence.
- 4.34 As an example, the scope for the SAA should also ensure alignment with the rationale for the additional Transport Strategy information subsequently published by the County Council and proposed strategic for mitigation including the approach to developer contributions. The lack of earlier consultation and failure to agree the scope of the SAA with the Inspectors prior to undertaking the work to reassess reasonable alternatives in this part of the Plan Area has materially affected the outcome of the process.
- 4.35 While the allocation of additional land, such as our client's land, would increase potential sources and developer contributions and could enhance the prospect of the infrastructure considered necessary to deliver the Council's preferred strategy being achieved this is precluded by ruling out the reassessment of previously rejected site options.
- 4.36 The SA and/or the Plan should provide a clearer explanation of the Council's rationale for the reasoning behind supporting the densification of existing allocation in respect of the associated viability and infrastructure needs. Ultimately, the SAA as drafted fails to demonstrate that the selected strategy does not jeopardise the Plan's deliverability or soundness.

5.0 CONCLUSIONS

- 5.1 This response to the consultation on the Sustainability Appraisal Addendum (SAA) in respect of the Charnwood Local Plan (CLP) 2021-37 Examination has been prepared by the Strategic Planning Research Unit ('SPRU') of DLP Planning Ltd on behalf of Lagan Homes.
- 5.2 DLP submitted Matter 1-3 Resumed Hearing Statements on behalf of Lagan Homes in January 2023 and attended the hearing session on behalf of the client. Throughout the Examination we have on behalf of our client emphasised the role of the Leicester Urban Area (LUA) to make provision for part of Leicester's unmet needs in the most sustainable location. The Council has subsequently proposed Main Modifications that would specify the importance of this part of the Plan Area, and which would reflect that our client's interests at Gorse Hill fall within the LUA boundary.
- 5.3 Within this context the assessment of our client's interests has been materially and substantially affected by the publication of the Council's Sustainability Appraisal Addendum ('SAA') (EXAM57) following submission of the abovementioned Supplementary Written Hearing Statement(s).
- 5.4 Lagan Homes have submitted an outline planning application at land at Gorse Hill, Anstey for up to 80 dwellings (P/22/2132/2). As the application has progressed, and further to informal discussions with Leicestershire County Council Ecologists, as demonstrated on the revised development framework at Appendix 1, the site is now expected to deliver 40no. residential dwellings, combined with ecological enhancements.
- 5.5 Regarding principally the Sustainability Appraisal Addendum (EXAM57) ('SAA') these representations outline that in respect of a number of procedural matters the approach taken by the Council has prejudiced the ability of representors to comment upon the revised evidence base in a timely manner. Indeed, we are further concerned that the methodology for the SAA was not consulted upon and has resulted in an assessment that fails to fully consider reasonable alternatives to meet Leicester's unmet housing need.
- 5.6 Lagan Homes welcome the opportunity to now provide further representations in respect of the additional evidence produced. However, further concerns relate to significant new evidence in the form of Transport Strategies that has been published post the SAA. A further assessment, in light of significant new evidence should be considered. The SA process must remain an iterative process.
- 5.7 It is essential that the Council recognise that identifying land to meet their own needs bears differently upon relevant Sustainability Appraisal objectives and assessment criteria (and outcomes) than conclusions required to support an appropriate strategy that also includes a contribution towards part of Leicester's unmet needs. The scope for the SAA therefore incorporates other sustainability considerations. These principles are reinforced by the ongoing experience of plan-making in Shropshire.
- 5.8 The failure to assess a full range of reasonable alternatives and simply intensify the sites identified as part of the assessment of sites to meet the needs of Charnwood is insufficient and unjustified. The SAA should have undertaken a comprehensive assessment of all reasonable alternatives capable of accommodating the unmet need arising from Leicester and particularly for sites within the LUA.
- 5.9 Failure to assess reasonable alternatives and rely upon densification of sites carries not only considerable risks to delivery but also fundamentally fails address the justification for the selected strategy in light of the proposed contribution towards part of Leicester's unmet needs.
- 5.10 We welcome the recognition and proposed amendment through modification to include our

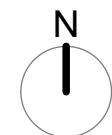
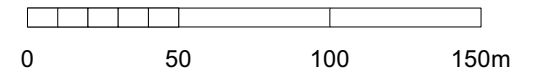
client's land at Gorse Hill in the identified LUA boundary and fundamentally support the recognition that the LUA is the most appropriate and justified location to meet unmet housing and employment needs from Leicester.

- 5.11 We encourage the Council to undertake additional reasonable alternative testing of sites in the revised LUA which considers the latest available information available in respect of the development potential of each respective site.
- 5.12 Finally, given the significant additional evidence available, we consider it entirely appropriate that representors are invited to attend and provide verbal evidence in respect of the SAA as a supplementary hearing session in due course.

APPENDIX 1 11086-FPCR-ZZ-ZZ-DR-L-0001 P14 ILLUSTRATIVE GORSE HILL
DEVELOPMENT FRAMEWORK



NOTES
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- KEY**
- Site Boundary 4.57 ha
 - Residential Development (c. 40 Dwellings @ 45dph) 0.88 ha
 - Access Point (Refer to highway access)
 - Main Street
 - Secondary Street

- Green Infrastructure 3.69 ha**
- Existing Vegetation
 - Existing Vegetation To Be Removed
 - Amenity Green Space 0.16 ha
 - Natural and Semi Natural Green Space 3.30 ha
 - Planted Earthworks/bunds up to 3m in height with 2.5m acoustic fence
 - Play Space (LEAP & LAPs) 0.05 ha
 - Drainage Basin 0.18 ha

**APPENDIX 2 SHROPSHIRE LP ID36-SUBSTANTIVE LETTER TO COUNCIL FOLLOWING
PRE-ACTION PROTOCOL LETTER**

ID36

Shropshire Council. Examination of Shropshire Local Plan 2016-2038

Inspectors: Louise Crosby MA MRTPI, Carole Dillon BA (Hons) MRTPI and Nick Palmer BA (Hons) BPI MRTPI

Programme Officer: Kerry Trueman

Tel: 07582 310364, email: programme.officer@shropshire.gov.uk

Mr West
Planning Policy
Shropshire Council
PO BOX 4826
Shrewsbury
SY1 9LJ

4 October 2023

Dear Mr West

Shropshire Local Plan Examination - CPR Part 54 and Pre-Action Protocol

1. Thank you for your letter dated 23 August 2023 (GC39) in reply to our letter of the same date (ID35). We are also in receipt of your letter to Aardvark Planning Law dated 14 September 2023 (GC40) and we have seen their response (OD005). The purpose of this letter is to provide our view in relation to the letter from Aardvark Planning Law dated 15 August 2023, addressed to the Treasury Solicitor on behalf of The Secretary of State for Levelling Up, Housing and Communities (OD004). Our letter will focus particularly on the Grounds set out in paragraphs 15 to 27 (inclusive) and the Council's Additional Sustainability Appraisal Report – July 2023 (SA).

Ground 1 – Jurisdictional Issues

2. In our Interim Findings letter dated 15 February 2023 (ID28) we found that the Council's approach to identifying the housing and employment land needs derived within Shropshire itself to be sound. The housing need is different to the housing requirement figure of 30,800 homes and 300ha of employment land identified in policy SP2. In our letter we did not say that the housing requirement figure for Shropshire was sound. This clear distinction is important. However, that does not mean that we do not have some concerns with some of the work undertaken by the Council.
3. The housing requirement figure in policy SP2 is based on the Local Housing Need figure (LHN) assessed in 2020 and a High Growth Option tested through

the original Sustainability Appraisal. The employment land figure is also based on a High Growth option.

4. Planning practice guidance provides advice on when strategic policy-making authorities should assess their housing need figure for policy-making purposes. This says that *'strategic policy-making authorities will need to calculate their local housing need figure at the start of the plan-making process. This number should be kept under review and revised where appropriate'*. It adds *'however, local housing need calculated using the standard method may be relied upon for a period of 2 years from the time that a plan is submitted to the Planning Inspectorate for examination'*¹.
5. The plan was submitted to the Planning Inspectorate for examination on 3 September 2021. So, whilst the plan was submitted for examination just over 2 years ago this was not the case when the SA was carried out in July 2023. We did not indicate in our letter in February that it would be appropriate to take account of the most up to date local housing need figure in carrying out the additional work.
6. Moreover, even when housing need figures based on LHN become more than 2 years old during an examination there would have to be particular circumstances to require a review. This is because updating housing need figures during an examination can result in a great deal of consequential changes which have the potential to significantly delay the examination and the plan being found sound. We are not currently aware that these circumstances exist here.
7. From what we have read it seems that the Council have retained the 2020 LHN figure as the baseline but then adjusted what they consider to be a high growth option having regard to the 2023 LHN calculation of housing need which has reduced by 8%. The mixing of these figures is confusing, but as we understand it the Council have chosen to proceed with High Growth (variation 1) which results in the same figures as policy SP2 but effectively reduces the homes to meet Shropshire's need to be able to meet some of the unmet needs of the Black Country. Looking at annual housing requirement figures this is more akin to the Moderate Growth option in the original SA than the High Growth Option.
8. In terms of employment land, the SA seems to assess the reasonable options under the same headings as for housing and again the Council have decided that the High Growth (variation 1) option is appropriate based on their planning judgment. This reduces the amount of employment land

¹ Paragraph: 008 Reference ID: 2a-008-20190220

being required to meet the needs of Shropshire despite being labelled the High Growth (variation 1).

9. Our initial findings letter did not ask the Council to review its own housing requirement figure, but instead to assess through further SA work the implications of meeting the needs of Shropshire as well as some of the unmet needs of the Black Country (1500 homes and 30ha of employment land) Shropshire Council has agreed to accommodate through the duty to cooperate.
10. Paragraph 22 of our February letter says, *'if following the additional SA work, the Council chooses to pursue the same growth option as before then it follows that the housing and employment land requirements will increase, and more sites will be required. Consideration will also need to be given to the distribution of development since accommodating some of the unmet needs may result in more sites being required in the part of Shropshire nearest the Black Country. It would therefore be helpful if, once the Council has carried out the additional SA work, the proposed strategy in relation to the housing and employment land requirement is set out in the topic paper requested at paragraph 12 above. The Plan should also make clear what the Council's strategy is, through main modifications'*. Whilst our letter refers to potentially assessing different growth options as part of the SA work, it does not invite the Council to review the baseline growth options for Shropshire itself.
11. Indeed, the SA assessment of housing requirement reasonable options seems overly complicated. We are unsure why there are variations on the high growth option. It would have been much simpler to keep the existing high growth figure (plus the adjustment for the additional years), reflecting Shropshire's own needs, in the SA and then add in the unmet needs of the Black Country.
12. We have found the SA and housing and employment topic paper overly complicated and confusing. It is not clear why one growth option was preferred over another, based on the outcomes of the updated SA work. This is in part because the SA does not reach clear conclusions based on its results. Whilst we are not suggesting this was the Council's intention it would clearly be inappropriate to retrofit the SA to suit predetermined housing and employment land requirements.
13. Section 20(7C) of the Planning and Compulsory Purchase Act 2004, says that an Inspector has the power to recommend modifications to make a plan sound. The purpose of the modification process is to enable changes to be made to a plan which is defective, but which can, properly, be overcome by further work. The process is not to enable Councils to propose a different approach to matters which have already been promoted as sound and

found to be so by an Inspector. The Planning Inspectorate's Examination Procedure Guide² at paragraph 1.5 advises that *'there is no provision in the legislation which allows the LPA to replace all or part of the submitted plan with a revised plan during the examination'*. The introduction to this guide states, *'the main modifications must relate directly to the reasons why the Inspector has found the plan unsound or legally non-compliant'*. There seems to be very limited evidence to justify the reduction in the housing and employment land requirement for Shropshire, itself, which we did not ask the Council to review in our February letter (ID28).

Ground 2 - Improper Purpose

14. As alluded to above the SA does not assess the impact of accommodating the agreed unmet needs of the Black Country in addition to Shropshire's own housing and employment needs. Instead, it appears to have looked to absorb those needs into its own requirement which is precisely what we were concerned about in our letter in February. As the plan proposes to meet some of the unmet needs of the Black Country, it is necessary for the SA to appraise reasonable alternative options for achieving this against sustainability objectives. We will then consider the outcome of that work, and the consultation comments on it, to determine whether meeting the needs is an appropriate strategy.

Ground 3 – Sustainability Appraisal

15. The SA does not appear to properly assess reasonable alternative sites to meet the unmet needs of the Black Country. Clearly sites to meet the agreed unmet needs of the Black Country are likely to be most appropriately located close to the Council's administrative boundary with the Black Country authorities. Whilst the Council identify specific sites to meet both the housing and employment needs of the Black Country the sites which have been selected are sites that underwent SA assessment to meet the needs of Shropshire as a whole and not the specific geographical needs of the Black Country.
16. This appears to be confirmed in paragraph 9.31 of the SA as it says, *'With regard to the identification of sites, it was concluded that a comprehensive process was undertaken to identify sites for consideration within the site assessment process undertaken to inform the identification of proposed allocations within the draft Shropshire Local Plan'*.
17. The site selected to meet the unmet employment needs of the Black Country is in the Green Belt. The Council do not appear to have assessed whether there would be reasonable alternative sites either not in the Green

² [Procedure Guide for Local Plan Examinations - GOV.UK \(www.gov.uk\)](https://www.gov.uk/guidance/procedure-guide-for-local-plan-examinations)

Belt or in the Green Belt but with less Green Belt harm in the same geographical location.

18. The recent Green Belt Topic paper (GC30) says at paragraph 9.19, *'Consistent with paragraph 141 of the NPPF, before concluding that exceptional circumstances existed, consideration of all other reasonable alternatives was undertaken. This is comprehensively documented within paragraphs 8.64-8.87 of the Green Belt Revised Exceptional Circumstances Statement (EV051)'*. It appears from this that the Council have relied upon evidence from December 2020 (GC30) which was undertaken when the Council were just looking to meet its own housing and employment land needs.
19. Also, Stage 3 of the SA, when assessing sites P26 Amended and P26 Amended v2 says in the reasoning section of these sites that *'Whilst the sites size and location (proximity and connectivity to the Black Country) could mean that it is an appropriate location to meet cross-boundary needs arising in the Black Country, it is considered that there are other non-Green Belt locations/more appropriate locations to accommodate the proposed contributions to unmet needs forecast to arise within the Black Country'* (our emphasis). However, the Council are intending to release sites in Shifnal (SHF018b and SHF 018d) to accommodate the employment needs of the Black Country. These sites are in the Green Belt.
20. At paragraph 9.42 of the SA the Council seem to say that at stage 3 of the SA process they will consider and identify sites that are suitable to meet the identified unmet accommodation needs of the Black Country and therefore stage 3 of the SA and site assessment process will be subject to a comprehensive update. However, this comprehensive update does not appear to have taken place and reasonable alternative sites in the Green Belt have not been considered as far as we can see.
21. In addition, the updated SA confirms that stage 2b which filters sites based on availability, size and strategic suitability has not been updated. We find this illogical as matters such as size and strategic suitability are in our view matters of importance when looking to identify a site or sites to meet a different need i.e., that of the Black Country.
22. In summary, the SA should contain, among other things, the likely effects of the implementation of the plan and the reasonable alternatives, including cumulative effects, mitigating measures, uncertainties and risks as well as the reasons for selecting the proposals in the plan and rejecting the alternatives and then conclusions and recommendations as well as implementation and monitoring measures.

Conclusion

23. We have written this letter in response to the points made in Aardvark's letter to the Treasury Solicitor. However, the principles we have indicated that need to be followed in the SA work obviously apply equally to other sites, not just those of interest to Aardvark.
24. In order to remedy the shortcomings set out above the Council will need to carry out additional SA work and where necessary the Housing and Employment Topic Paper and Green Belt Topic Paper. Can the Council please provide a timescale for carrying out this additional work.
25. We are not inviting comments from any representors to our letter. Should the Council have any questions please direct them through the programme officer.

Louise Crosby, Carole Dillon and Nick Palmer

Examining Inspectors

**APPENDIX 3 SHROPSHIRE LOCAL PLAN ID28 INSPECTOR'S INTERIM FINDINGS LETTER
15 FEBRUARY 2023**

ID28

Shropshire Council. Examination of Shropshire Local Plan 2016-2038

Inspectors: Louise Crosby MA MRTPI, Carole Dillon BA (Hons) MRTPI and Nick Palmer BA (Hons) BPI MRTPI

Programme Officer: Kerry Trueman

Tel: 07582 310364, email: programme.officer@shropshire.gov.uk

Mr West
Planning Policy
Shropshire Council
PO BOX 4826
Shrewsbury
SY1 9LJ

15 February 2023

Dear Mr West

Inspectors' Interim Findings following stage 1 hearings sessions

1. Set out below are our interim findings in relation to a number of matters following the stage 1 hearing sessions in July last year and January this year. Some of these findings require the Council to do additional work and some are just confirming Main Modifications (MMs) that were agreed at the hearings and other matters that were discussed, such as updating the evidence base.

Duty to Cooperate (DtC)

2. Following the hearing sessions, we wrote to you on 26 July 2022 (ID17) asking for you to provide more information in relation to the DtC and the activities that took place in relation to this prior to the submission of the Plan for examination.
3. We have now received this and had a chance to consider it and hear from the Council and representors on the matter at a further hearing session on 17 January 2023. Consequently, we can confirm that we are satisfied that the Council has met the legal duty set out in Section 33A of the Planning and Compulsory Purchase Act 2004 (as amended), in so far as it imposes a duty on a local planning authority to co-operate with other local planning authorities, the County Council and prescribed bodies or other persons by engaging constructively, actively and on an ongoing basis in relation to the preparation of a development plan document so far as relating to a strategic matter to maximise the effectiveness of the activity of plan preparation. Therefore, the examination can proceed.

Next Steps

4. Before we proceed to stage 2 hearing sessions there are a number of matters where we consider more work is necessary to make the plan sound and these are set out below. We have also taken this opportunity to set out our thoughts on other matters which we said we would give further thought to at stage 2 of the examination.

Plan Period

5. During the matter 1 hearing session the Council agreed to consider whether the Plan period and Local Housing Needs Assessment should be aligned along with any implications of doing so, including those relating to the Housing Requirement set out in policy SP2 and the supply of sites identified in Policies S1 to S21. Please advise what stage the Council have reached with this.

Saved Policies

6. During the matter 3 hearing session the Council agreed to review the means by which the necessary SAMDev policies would be “saved” to ensure that they will, as intended, remain extant for Development Management purposes should the Plan be adopted. Can you please provide further information on how the Council intends to do this, along with any necessary MMs.

Gypsy and Traveller Transit Site Provision

7. During the matter 5 hearing session the Council agreed to provide a cabinet report and minutes regarding new transit site provision for the Gypsy and Travelling community. Can this please be placed on the examination website.
8. Also, as part of the matter 5 hearing session, the Council provided an updated position in respect of the need and supply of pitches. Using this data can the Council please update Table 7.9 and the GTAA conclusion and executive summary as an addendum to the 2019 GTAA Update – Final Report. The Plan’s relevant supporting text should be reviewed in view of this.
9. The Council will be aware of the judgment *Lisa Smith v SSLUHC* [2022] EWCA Civ 1391 of 31st October 2022, regarding the interpretation of the Planning Policy for Traveller Sites and the application of that policy to Gypsies and Travellers who have ceased to pursue nomadic lifestyles. Can the council please consider whether, in light of this judgment, they wish to review the traveller site needs in the GTAA, and if not, the justification for this?

Unmet Housing and Employment Land Needs of the Association of Black Country Authorities (ABCA) and Policy SP2

10. The Council has identified the need for housing in the County as being 28,750 homes (1430 dwellings per annum) over the Plan period, based on the ‘high growth scenario’ and 300 ha of employment land based on a ‘balanced employment growth scenario’, as set out in the Sustainability Appraisal and Site Assessment Environmental Report, dated December 2020 (SA). The housing

requirement figure in policy SP2 is around 30,800 homes (1400 dwellings per annum) and the employment land requirement is around 300ha. The increase in the total quantum of housing is to take account of the different time period. The annual requirement is virtually the same. However, it is the Council's intention that the Plan should provide 1,500 new homes and 30ha of employment land over the plan period in order to help address a need for housing and employment land in the Black Country, that would otherwise not be met. We consider the question of this unmet need further below.

11. At the hearings, the Council suggested that these 1,500 new homes and 30ha of employment land is accounted for within the aforementioned housing and employment land requirement in policy SP2. We cannot see how. They are not mentioned in the SA and form no part of the growth scenarios considered therein. Consequently, we are concerned that there has been a conflation of housing need and housing requirement and also employment land need and employment land requirement – but these are two distinctly different things.
12. You will appreciate that we need clarity on this point, and the Plan itself must also be equally clear. We therefore ask that the Council provides us with a Topic Paper that unambiguously sets out the need for housing over the plan period and the local plan's housing requirement and the same for employment land. On the face of it, it seems to us that the latter is likely to be the sum of Shropshire's housing/employment need plus the 1,500/30ha homes/employment land relating to unmet need in the Black Country – whatever the case may be, these requirement figures should be made clear in the Plan, through a main modification to policy SP2.
13. This strategic issue crosscuts a number of important matters, including the Plan's development requirements, spatial distribution, Green Belt release and site allocations. As such, it has resulted in a great deal of discussion during the hearing sessions to date. The Council's approach to identifying the housing and employment land needs derived within Shropshire itself is sound. In principle, the Council's intention to address some of the Association of Black Country Authorities (ABCA) unmet needs (1500 homes and 30ha of employment land), aligns with the spirit of the DtC. It is clear that the Council and the ABCA authorities are all content with this contribution and this is set out in a Statement of Common Ground (SoCG), signed prior to the submission of the Plan for examination. We recognise that there is a lack of any prescribed formula in national planning policy for calculating any uplift to Shropshire's housing need to meet some of this externally derived unmet need.
14. Since the initial stage 1 hearings the joint plan making arrangements for the ABCA Councils have materially changed as these four separate councils are now preparing individual plans. The councils are all individually preparing their respective evidence bases, but utilising some of the existing joint evidence that has already been prepared. As a consequence, their anticipated adoption dates will be later than that of the previously proposed joint plan. Despite this new plan making context, there is no reason before us to find that the identified unmet needs in the Black Country area will disappear.

15. However, we are mindful that confirmation of the exact quantum requires the examination of these plans which is some time away and other councils will also be assisting in meeting some of the unmet needs since it is not and should not be the sole responsibility of Shropshire Council to meet all of ABCAs unmet needs for housing and employment land. This would be highly unlikely in any event given the emerging scale of unmet need, the Green Belt constraint within Shropshire, particularly in the part closest to the boundary with ABCA areas and also the AONB constraint in the southern part of the plan area. Nonetheless it remains an important strategic cross boundary matter that should not be deferred.
16. It is clear is that the unmet housing and employment needs being accommodated in Shropshire is the starting point as there is agreement to revisit the unmet need with a view to providing further assistance once the local plans for the ABCA councils have been examined and adopted. As set out above this is likely to be a number of years away given the stage they are currently at.
17. However, it was not until a point between the Regulation 18 and 19 stages of the plan making process that the Council agreed to accommodate 1500 dwellings and 30ha of employment land to support the unmet needs emerging in the ABCA area. This was after most of the evidence base had been completed, including the SA.
18. Regulation 12 of The Environmental Assessment of Plans and Programmes Regulations 2004 requires that an environmental report for the purpose of the regulations must identify, describe and evaluate the likely significant effects on the environment of implementing the plan policies and of the reasonable alternatives, taking into account the objectives and geographical scope of the plan. The SA will need to show how these requirements have been met as well as recording the wider assessment of social and economic effects.
19. We are concerned that the objectives and geographical scope of the Plan changed when the Council agreed to accommodate some of the unmet needs of the Black Country, but unfortunately the SA was not revisited. The SA is based on meeting only the needs of Shropshire. It tested different housing and economic growth options as well as different distribution options, but these were all based on just meeting the needs of Shropshire.
20. Further SA work therefore needs to be undertaken to assess the likely effects of the proposed strategy – which is based on meeting Shropshire’s housing and employment needs and contributing towards unmet needs from the Black Country. In carrying out this work, consideration also needs to be given to the selection of the preferred strategy when judged against reasonable alternatives. For example, by testing a scenario which includes the originally envisaged ‘high growth scenario’ and a contribution towards unmet housing needs.
21. If the intention is to contribute towards the unmet need from the Black Country, then for effectiveness this distinction needs to be set out in the housing and employment land requirements in the Plan. In doing so the Council will also

need to consider which site or sites in the Plan will be identified to meet that need. This also needs to be subject to sustainability appraisal to reflect the objectives and geographical scope of the Plan.

22. If, following the additional SA work, the Council chooses to pursue the same growth option as before then it follows that the housing and employment land requirements will increase, and more sites will be required. Consideration will also need to be given to the distribution of development since accommodating some of the unmet needs may result in more sites being required in the part of Shropshire nearest the Black Country. It would therefore be helpful if, once the Council has carried out the additional SA work, the proposed strategy in relation to the housing and employment land requirement is set out in the topic paper requested at paragraph 12 above. The Plan should also make clear what the Council's strategy is, through main modifications.
23. Given the Council were planning on releasing Green Belt land to meet its own needs, it seems unlikely that the unmet needs of the Black Country could be met without the release of Green Belt land. Can the Council please provide a revised Green Belt Topic Paper setting out the exceptional circumstances for releasing Green Belt land to meet its own needs and as a separate exercise the exceptional circumstances for releasing land to meet the unmet needs of the Black Country.
24. Great importance is placed on Council's having up to date plans by national planning policy. As set out above there is a requirement to carry out additional work on the SA and to produce topic papers and some main modifications to the Plan once the SA work is complete and there a clear way forward. This is likely to require a pause in the examination whilst the work is undertaken. Once the work has been undertaken, we will take a view on whether we consider further public consultation is required. The need to carry out this additional work will delay the examination and adoption of this Plan. However, we are unable to identify an alternative remedy that would avoid such a delay unfortunately. The additional work we have identified is necessary for us to find that the Plan is sound.
25. Regardless of the outcome of this work, it is likely that there will be a further request from the individual Black Country authorities in the future to meet some more of the unmet needs, but this could be dealt with by way of an early review trigger built into policy SP2 or by relying on the statutory 5-year review process set out in the Framework. We would welcome the Council's formal views on these alternative approaches.
26. Furthermore, we note that the related indicators and targets set out in the Plan's monitoring framework only focus on delivery within the Plan area against the Plan's overall proposed development requirements. In addressing some of the unmet needs of ABCA then the Plan's performance in doing so needs to be monitored. A failure to do this would undermine the effectiveness and therefore soundness of the Plan's approach to meeting housing and employment needs. The monitoring framework will need to be reviewed in light of this concern.

27. Any changes to the Plan as a result of the above will need to form the basis of Main Modifications which should be submitted to the examination.

Habitat Regulations Assessment

28. The matter of the River Clun and nutrient neutrality was discussed at the hearings in July. Shortly after the hearings the Government issued a Written Ministerial Statement (WMS) entitled '*Statement on improving water quality and tackling nutrient pollution*'. The Council's letter of 16th September 2022 (GC16) addresses the WMS. This suggests that the WMS may alter the position of Natural England and the Environment Agency on this matter. Can the Council please approach these organisations with a view to preparing updated SoCG. Once this is done can the Council advise on the implication of the latest position for the Plan and whether any outstanding issues could be dealt with by MMs.

Green Belt – RAF Cosford

29. The Council's Green Belt Topic Paper sets out the exceptional circumstances for the release of land from the Green Belt. This includes 214.2 ha of land at RAF Cosford which is a strategic site in the Plan (policy S21). The Council proposes to inset RAF Cosford in the Green Belt, in recognition of its existing and future operational areas and requirements. Para 7.18 of the Plan says that this will enable numerous and complementary development opportunities and that in turn these will complement and facilitate delivery of the Economic Growth Strategy for Shropshire and the objectives of the Plan.
30. One of these development opportunities is the development of the Midlands Air Ambulance Charity headquarters, however we understand that this now has planning permission despite it being in the Green Belt, demonstrating that this was not a barrier to development. The RAF base has grown and developed over many years and is now also home to the RAF Museum Cosford. There is no evidence before us to demonstrate that the site's Green Belt status has in anyway prevented it being developed in a manner consistent with its use as an RAF base or indeed related activities such as training facilities and domestic accommodation.
31. Paragraph 143(b) of the Framework which advises that when defining Green Belt boundaries, plans should not include land which it is unnecessary to keep permanently open. However, it seems that the site has large areas of undeveloped land which, if developed, could harm openness of the surrounding Green Belt land. It would also make it more difficult for the Council to control future non-military related development on the site as other general development management policies would apply.
32. To summarise, we find that exceptional circumstances do not exist to justify the removal of this site from the Green Belt. Consequently, the Council will need to draft a MM to ensure that this site remains within the Green Belt and make any necessary map changes.

Infrastructure Delivery Plan (IDP) and Strategic Funding Statement (SFS)

33. We still have some concerns about the gaps in the IDP and would urge the Council to treat this as a living document and aim to keep populating it when new figures become available.
34. In terms of the SFS, as set out at the hearings this should be forward facing rather than backward looking. The PPG advises that *“this should set out the anticipated funding from developer contributions, and the choices local authorities have made about how these contributions will be used. At examination this can be used to demonstrate the delivery of infrastructure throughout the Plan-period”*¹. Can the Council please provide a timescale for updating the SFS.

Five-year Housing Land Supply

35. The Council has requested that we confirm their 5-year housing land supply as part of the examination of the Plan policies. However, the PPG² advises that, among other things, *“when confirming their supply through this process, local planning authorities will need to be clear that they are seeking to confirm the existence of a 5-year supply as part of the plan-making process and engage with developers and others with an interest in housing delivery”*. Crucially, the Council have confirmed that they did not do this and therefore we cannot confirm the 5-year housing land supply through the local plan examination process.
36. In addition, the matter of 5-year housing land supply will be considered at stage 2 of the examination once we have examined the site allocations in the Plan. We still have serious doubts over whether we can fully consider this matter and come to a conclusion on whether the Council have a 5-year supply of housing land given that many of the sites the Council are relying on are allocated in the SAMDev plan and therefore are not before us.

Housing Requirement

37. The housing requirement in the Plan is expressed as ‘around’ 30,800 new homes and the employment land as ‘around’ 300ha. In our view these development requirements should be expressed as definitive minimum figures for both monitoring and effectiveness.

Specialist Housing/Older Persons Housing

38. Paragraph 62 of the Framework requires that the size, type and tenure of housing needed for different groups in the community should be assessed and reflected in planning policies, including older people. The Council’s evidence shows that there is a much higher number of older people residing in the Plan area than the national average.

¹ Paragraph: 059 Reference ID: 61-059-20190315

² Paragraph: 010 Reference ID: 68-010-20190722

39. Whilst there is a requirement within policy DP1 to provide older persons housing on sites of 50 dwellings or more, the amount that will need to be provided is not quantified and it is also not clear why the threshold of 50 dwellings has been chosen. The PPG advises that “*plan-making authorities should set clear policies to address the housing needs of groups with particular needs, such as older and disabled people. These policies can set out how the plan-making authority will consider proposals for the different types of housing that these groups are likely to require. They could also provide indicative figures or a range for the number of units of specialist housing for older people needed across the plan area throughout the plan period (our emphasis)*”³.
40. Whilst the PPG advises that Council’s ‘could’ provide indicative figures, we consider that as there is clear evidence of a higher-than-average need for such accommodation in this particular instance, either the policy should include indicative figures, or the Plan should contain a specific policy to deal with specialist housing.
41. Also, neither this Plan, nor the SAMDev plan appear to make any provision for this sector of the community, by allocating land for specialist housing or requiring it to be provided in some of the larger allocations. This would be another positive way in which the Council could address this matter. Please can the Council give some further consideration to this important matter.

Policy SP4 – Sustainable Development

42. The Council agreed during the hearings that they would introduce a MM to delete policy SP4 from the Plan and instead rely on national planning policy to ensure that development in the district is sustainable. This needs to be included in the list of MMs.

Policy SP5 – High-Quality Design

43. The Council agreed to look at the wording of policy SP5 and whether it should contain a reference to the National Design Guidance. Can the Council please confirm if they have done this and what the outcome was. Any changes will need to be set out as a MM.

Policy SP6 – Health and Wellbeing

44. A discussion took place at the hearings regarding criterion 5a. of this policy and whether it should refer to ‘improved’ health facilities and criterion 10 and its requirement for a Health Impact Assessment for all major development proposals. The Council agreed to give the wording in these 2 criteria further consideration. Can you please confirm the outcome of this and whether any MMs are being advanced as a result.

³ Paragraph: 006 Reference ID: 63-006-20190626

Policy SP10 – Managing Development in the Countryside

45. It was agreed during the hearings that this policy wording needs to clarify that it does not apply to sites in the countryside that are allocated for development in this Plan or any other adopted development plan. This revised policy wording will need to be set out in as a MM.

Policy SP12 Shropshire Economic Growth Strategy

46. We do have some concerns about the effectiveness of this policy as a great deal of it seems to be more of a vision rather than a strategic policy. Can the Council please review this policy in the context of the advice in relation to strategic policies set out in paragraphs 20 to 23 of the Framework. Proposed changes will need to be set out as MMs.

Policy SP13 – Delivering Sustainable Economic Growth and Enterprise

47. It was agreed at the hearings that the text box 'Figure SP13.1', should be incorporated into policy SP13. This will need to be included as a MM.

Strategic Settlements and Sites

48. We have set out our concerns above regarding the removal of the RAF Cosford site from the Green Belt. We have no further comments to make on policy S21 or policy S20 which relate to the former Ironbridge Power Station site.
49. Turning to Tern Hill and policy S19, we have concerns about the deliverability of the affordable housing that would be required in connection with the development of this proposed site allocation given the evidence set out in the Council's Viability Study 2020 (EV115.01) and the fact that the trajectory shows that 400 of the 750 proposed dwellings will be delivered after the Plan period.
50. This also leads us to find that there is a lack of evidence to demonstrate that this proposed allocation will be capable of supporting the necessary infrastructure and services planned. Given the site's location away from any main settlements, it is important that it contains a range of services to limit trips by private car. Therefore, we require evidence which demonstrates that the appropriate necessary infrastructure would be delivered at the appropriate stages in the delivery of this site to serve its occupants.
51. Finally, as discussed in detail at the relevant hearing session we have some concerns about the vagueness of some of the policy wording in policy S19. The Council agreed it would look at this with a view to improving its precision and certainty for the benefit of developers and local residents. These changes should be advanced as MMs.

Strategic Flood Risk Assessment

52. The issue of whether the Council's Strategic Flood Risk Assessment (SFRA) was up to date in terms of hydraulic modelling and fluvial flood risk was raised at the relevant hearing session. It was agreed that the Council would provide a note of clarification regarding the methodology and data relied upon and whether any updating is necessary. Also, the Council should review whether the SoCG with the Environment Agency needs to be updated in view of this.

Local Development Scheme

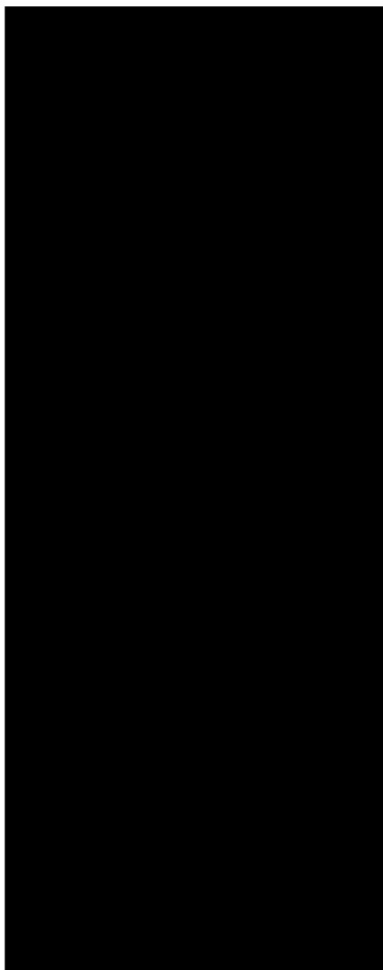
53. During the matter 1 hearing session the out of datedness of the Local Development Scheme (LDS) and the reasons for that were discussed. We would be obliged if the Council would keep the LDS under review and arrange an update. A note to this effect should be placed on the Council's examination website to inform web users of this.

Overall Conclusions

54. For the reasons set out above, as things stand, the development strategy set out in the Plan is unsound and further work and main modifications will be required to progress the examination. We appreciate that there is a lot in our letter for the Council to consider. Therefore, we have not set a deadline for a response. However, it would be helpful if you could provide an indicative timescale for a response. When you respond in full to our letter can you please also provide a timetable for the additional work that is required for soundness.
55. Once we have a timescale for any additional work, we can then agree some provisional dates for the stage 2 hearings. At these hearings it is likely we will first need to re-consider some of the stage 1 matters as then the development management policies in the plan and the site allocations.
56. The Council and participants should be aware that the above comments do not represent our full findings on these matters, which shall be set out in our final report having considered any representations made in response to further public consultation and/or further hearing sessions which may be required in due course.
57. We are not inviting comments to this letter from representors, they will be given an opportunity to comment on the above matters in due course, either through representations to consultation organised by the Council, through hearing statements, appearing at hearing sessions or through the opportunity to comment on MMs.
58. Should the Council require any further clarification on any of the above matters you can contact us through the Programme Officer.

Louise Crosby, Carole Dillon and Nick Palmer

Examining Inspectors



RTPI
Chartered Town Planner

